LOK SABHA

REPORT OF THE SELECT COMMITTEE ON THE INCOME-TAX BILL, 2025

Eighteenth Lok Sabha

Lok Sabha Secretariat, New Delhi
July, 2025/Ashadha, 1947 (SAKA)

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REPORT OF THE SELECT COMMITTEE ON THE INCOME-TAX BILL, 2025

(EIGHTEENTH LOK SABHA)

Presented to Lok Sabha on 21.07.2025

LOK SABHA SECRETARIAT

NEW DELHI

JULY, 2025/ASHADHA, 1947 (SAKA)

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	INDEX	
PART	**CONTENT**	**PAGE No.**
	Composition of the Select Committee	ii
	Introduction	iv-vi
	REPORT	
Chapter I	Genesis of the Income-Tax Bill, 2025 and highlights of examination by the Select Committee of Lok Sabha	1-14
Chapter II	Clause by Clause Examination of the Income-Tax Bill, 2025	15-3603
Chapter III	Consolidated Observations/Recommendations of the Committee	3604-3792
	APPENDICES	
I.	Motion in Lok Sabha for reference of the Bill to the Select Committee	3793-3794
II.	List of Memoranda received from Members of Parliament	3795
III.	List of Memoranda received from various Stakeholders	3796-3815
IV.	Minutes of the Sittings of the Select Committee	3816-3943
V.	Notes/Minutes of Dissent received from the Members of the Select Committee	3944-3960
ANNEXURE		
BILL AS REPORTED BY THE SELECT COMMITTEE		3961-4575

COMPOSITION OF THE SELECT COMMITTEE ON THE INCOME-TAX BILL, 2025

Shri Baijayant Panda - Chairperson

MEMBERS

Lok Sabha

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Eatala Rajender
8. Shri Vishnu Dayal Ram
9. Shri Mukeshkumar Chandrakaant Dalal
10. Shri P P Chaudhary
11. Shri Shashank Mani
12. Shri Bhartruhari Mahtab
13. Shri Naveen Jindal
14. Shri Anurag Sharma
15. Shri Deepender Singh Hooda
16. Shri Benny Behanan
17. Shri Vijayakumar Alias Vijay Vasanth
18. Dr. Amar Singh
19. Adv Gowaal Kagada Padavi
20. Md. Rakibul Hussain
21. Shri Lalji Verma
22. Adv Priya Saroj
23. Ms Mahua Moitra
24. Dr. Kalanidhi Veeraswamy
25. Shri Daggumalla Prasada Rao
26. Shri Kaushalendra Kumar
27. Shri Arvind Ganpat Sawant
28. Smt. Supriya Sule
29. Shri Ravindra Dattaram Waikar
30. Shri N K Premachandran
31. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	Director
3.	Ms. Miranda Ingudam	Director
4.	Shri Nilendu Kumar	Deputy Secretary
5.	Shri T. Mathivanan	Deputy Secretary
6.	Smt. Vandana Pathania Guleria	Deputy Secretary
7.	Ms. Shanta Banerjee Datta	Under Secretary
8.	Ms. Kiran Bhargava	Under Secretary
9.	Shri Dhruv	Under Secretary
10.	Ms. Yugma Malik	Under Secretary
11.	Shri Manish Kumar	Committee Officer
12.	Shri Inam Ahmed	Committee Officer
13.	Shri Raghvendra Dixit	Committee Officer
14.	Ms. Abhiruchi Srivastava	Assistant Committee Officer
15.	Ms. Divya Rai	Assistant Committee Officer
16.	Ms. Fanny S.M.	Assistant Committee Officer
17.	Shri Manjeet Mukal	Assistant Committee Officer
18.	Shri Pradeep Arisham	Assistant Committee Officer
19.	Shri Rahul Deo Karan	Senior Secretariat Assistant
20.	Shri Naveen Punia	Secretariat Assistant
21.	Shri Vijay Singh	MTS Grade II

INTRODUCTION

I, the Chairperson of the Select Committee on the Income-Tax Bill, 2025 to which "The Income-Tax Bill, 2025" was referred, having been authorized by the Committee to submit the Report on their behalf, present this Report with the Bill as reported by the Select Committee annexed thereto.

2. The Income-Tax Bill, 2025 was introduced in Lok Sabha on the 13th February, 2025. The Motion for reference of the Bill to a Select Committee of the House was moved in Lok Sabha on the same day by the Minister of Finance and Corporate Affairs. (Appendix-I)

3. As per the motion moved in the House, the Select Committee was to make a Report by the first day of the next session (i.e. Monsoon Session, 2025).

4. The statement of objects and reasons of the Bill clearly states that as a result of amendments, the basic structure of the Income-tax Act, 1961 has been overburdened and language has become complex, increasing cost of compliance for taxpayers and hampering efficiency of direct-tax administration. Therefore, the Income-Tax Bill, 2025 has been prepared to make the law concise, lucid and easy to read and understand. The mandated function of a Select Committee on a Bill is to go through the text of the Bill, clause-by-clause, in order to see that the provisions of the Bill bring out clearly the intention behind the measure, that there will be no procedural defect in its working, that the Bill does not offend provisions of the existing law and that the object proposed to be achieved is adequately brought out.

5. Keeping in view the importance of the Bill and its wide ranging implications, the Committee decided to invite memoranda to obtain the views from experts/industry associations/organizations/stakeholders on the provisions of the aforesaid Bill. With a view to give the widest publicity in receiving stakeholders' suggestions, the Select Committee had publicized its advertisement through various modes. Firstly, it was publicized through a scrolling ticker display on Sansad TV for inviting suggestions/memoranda from various stakeholders. A letter addressed to all the Chartered Accountants' Associations from all States/Union Territories was also sent through email on 09.04.2025 calling for the suggestions. Further, a press communiqué inviting memoranda was also issued on electronic media on 17.04.2025 for two weeks through the Press and Public Relations Wing, Lok Sabha Secretariat which was also disseminated through Social Media Platforms of Lok Sabha viz. LSS Facebook page and LSS "X" handle. The same was published in several prominent English language newspapers including The Economic Times, Financial Express, Asian News International (ANI), Deccan Herald, Hindustan Times and The Print. It was also published in Hindi newspapers including Dainik Bhaskar, Dainik Jagran and Hindustan Delhi. Further, it was uploaded on the Committee homepage on Digital Sansad website.

The Committee received 334 memoranda/suggestions/notes in total (including 02 received after adoption), through both physical and digital mode (Appendix-II). All the memoranda were circulated to the Members of the Committee. The same were also sent to the nodal Ministry i.e. Ministry of Finance (Department of Revenue) and their comments were obtained. Important points raised/suggestions made by the experts/stakeholders and the replies thereon from the nodal Ministry were examined, discussed, considered and suitably incorporated in the Report.

6. The Committee held 36 Sittings wherein, they heard the views/suggestions of the representatives from various experts/stakeholders, Ministry of Finance (Department of Revenue), Ministry of Law and Justice and held detailed internal discussions.

7. The Committee also undertook a Study Visit to Bengaluru and Mumbai from 13th to 17th May, 2025 wherein discussions with 28 experts/stakeholders/other concerned organizations were held to obtain their views on the provisions of the aforesaid Bill.

8. The Committee held detailed internal deliberations and completed consideration of Clause-by-Clause of the Bill at their 35th Sitting held on 07th July, 2025. The Bill, as reported by the Select Committee, is appended after the Report as Annexure.

9. The Committee, in their 36th Sitting held on 16th July, 2025 considered and adopted the draft Report and authorized the Chairperson to present the Report on their behalf. The Committee also decided that one copy of the proceedings of the sittings of the Committee and two copies each of the memoranda received by the Committee on the Bill from various quarters may be placed in the Parliament Library after the Report has been presented to Parliament, for reference of the Members of Parliament.

10. The Committee have in the process of examination of the Bill come across all sorts of views for and against the Bill and to synthesize and harmonize them to a standard acceptable to a majority, if not all, has undoubtedly been a daunting task which it could perform with the active cooperation, sustained support and untiring efforts of one and all involved in the process, especially the Members of the Select Committee, for which they truly deserve special commendation. I extend my sincere thanks to all the Members of the Select Committee.

11. The Committee take this opportunity to express our deep appreciation to the officials of the Ministry of Finance (Department of Revenue) and also the officials of the Ministry of Law and Justice for providing their valuable inputs during the deliberations of the Select Committee in connection with examination of the Bill. The Committee also wish to express their sincere thanks to the representatives of experts/stakeholders who appeared before the Committee and candidly presented and submitted their free and frank views about the impact of various provisions of the Bill.

12. The Committee have been able to accomplish their stated mandate within the stipulated time. During the course of extensive hearings, a large number of suggestions were received by the Committee. All such suggestions, which were within the scope of mandate of the Committee, were discussed and analysed in detail while finalizing Recommendations of the Committee. There were many suggestions, which were beyond the scope of the mandate of the Committee. All such suggestions may later be evaluated and considered on merits in appropriate forums.

13. The Secretarial assistance to the Committee was provided by the Lok Sabha Secretariat and a special Cell had been created for this purpose. The Committee would also like to acknowledge and place on record the appreciation of the Committee to the sincere and devoted efforts made by the Officers of Lok Sabha Secretariat in facilitating smooth conduct of all the Sittings of the Select Committee and for preparing the draft Report of the Committee within the stipulated time.

BAIJAYANT PANDA
CHAIRPERSON,
SELECT COMMITTEE OF LOK SABHA TO
EXAMINE THE INCOME-TAX BILL, 2025

NEW DELHI
16th July, 2025
25 Ashadha, 1947(Saka)

REPORT

CHAPTER-I

GENESIS OF THE INCOME-TAX BILL, 2025 AND HIGHLIGHTS OF EXAMINATION BY THE SELECT COMMITTEE OF LOK SABHA

Introduction

1.1 The Income-Tax Bill, 2025 (Bill No. 24 of 2025) was introduced in Lok Sabha on the Thursday, 13th February, 2025. The Motion for reference of the Bill to a Select Committee of the Lok Sabha was moved in Lok Sabha by Smt. Nirmala Sitharaman, the Minister of Finance and Corporate Affairs. The motion was adopted in Lok Sabha on the same day with the instructions to make a report by the first day of the next Session (i.e. Monsoon Session, 2025). Accordingly, the Select Committee of Lok Sabha consisting of 31 Members from Lok Sabha under the Chairpersonship of Shri Baijayant Panda was constituted to examine the Bill and make a report.

1.2 The Income-Tax Bill, 2025 seeks to consolidate and make the law relating to income tax, concise, lucid, easy to read and understand. According to the Statement of Objects and Reasons of the Bill as introduced in Lok Sabha, the Income-tax Act passed in 1961 has been subjected to numerous amendments since its passage more than sixty years ago. As a result of these amendments, the basic structure of the Income-tax Act has been overburdened and language has become complex, increasing cost of compliance for taxpayers and hampering efficiency of direct-tax administration. Tax administrators, practitioners and taxpayers have also raised concerns about the complicated provisions and structure of the Income-tax Act.

Therefore, the Government in the Budget Speech dated the 23rd July, 2024 announced that a time bound comprehensive review of the Income-tax Act, 1961 would be undertaken to make the Act concise, lucid, easy to read and understand. Accordingly, the Income-Tax Bill, 2025 has been prepared which proposes to repeal and replace the Income-tax Act, 1961.

Background of the Bill

1.3 The Income-tax Act, 1961 replaced the Income Tax Act of 1922 following the recommendations of the Law Commission in 1958 and the Direct Tax Administration Enquiry Committee. Historically, the tax policy in India has not been just about raising revenue but also about achieving other socio-economic objectives, viz. augmenting savings, promoting exports, ensuring a balanced economy, achieving social justice etc. Following this philosophy, over the decades, several exemptions/ deductions were introduced by amending the Act, such as deductions for export income, industries in specified areas/specified sectors, expenditure made for rural development and so on.

1.4 Over time, these exemptions not only led to a significant erosion of the tax base, but also generated litigation, increased administrative costs and compliance burdens. Such sector-specific, region-specific incentives, profit-based incentives etc. introduced from time to time, have themselves been subject of revisions. The sheer number of amendments speaks for itself. The Act has undergone nearly 4000 amendments, in the form of changes through the annual Finance Act for more than sixty years and 19 specific Taxation Laws Amendment Bills. While constant evolution has preserved the vitality of the Act, it has also rendered it rather voluminous and intricate. Besides, it was written in traditional legal language, which maybe challenging for a common person to comprehend. It uses long-winded sentences with several provisos, explanations etc. For instance, Section 9 (Income deemed to accrue or arise in India) has 21 explanations and 17 provisos; Section 10 (Incomes not included in total income) has 90 explanations and 134 provisos; and Section 10(23C), which provides for tax exemptions for certain educational and medical institutions, alone has more than 20 provisos and 20 explanations. Over time, amendments and additions have resulted in a structure that is fragmented and difficult to navigate. The difficulty is compounded by the existence of several redundant provisions that are no longer operational.

1.5 In this backdrop, tax administrators, taxpayers and Industry set up and professional Associations alike have expressed concerns about the multi-layered

statutory framework of the Income Tax Act. Therefore, simplifying its language and format has become essential for the tax system to effectively serve as a reliable, equitable and efficient foundation of India's fiscal framework.

1.6 Since 2014, the direct tax administration and the Income-tax Act have undergone a series of sequential and incremental changes, resulting in changes in tax administration, provisions for incentives and exemptions and tax rates. In 2015, while presenting the Budget, the Finance Minister laid down the plan for the gradual reduction in corporate tax rate with the phasing out of deductions/exemptions. Subsequently, new tax regimes were introduced, faceless assessment and appeals became operative and in several cases of tax exemptions, the sunset clauses were provided. Further reforms related to rationalizing of TDS provisions, plugging of specific loopholes, introduction of general anti-avoidance rules, promoting digital economy, improving provisions for charitable entities, nudging voluntary compliance were brought in.

1.7 The series of reforms introduced in the Income Tax over the last several years have laid the foundations of a simple and stable tax policy. These sequential reforms rendered unnecessary, the requirement of any fundamental reform in the content of the existing tax policy and set the context for the final stage of reforms in the statute aimed at simplifying the language and structure of the law, eliminating redundancies and providing certainty to taxpayers. This was announced by the Finance Minister in her Budget speech in July 2024:

> *"I am now announcing a comprehensive review of the Income-tax Act, 1961. The purpose is to make the Act concise, lucid, easy to read and understand. This will reduce disputes and litigation, thereby providing tax certainty to the taxpayers. It will also bring down the demand embroiled in litigation. It is proposed to be completed in six months."*

1.8 Following this announcement, a comprehensive review was undertaken by the Central Board of Direct Taxes (CBDT) and as a result, the Bill was introduced in Parliament.

Objectives of the Bill

1.9 The present exercise of simplification of the law, through the Income-Tax Bill, 2025, has been undertaken, with the following broad objectives:

a) Simplifying the language of the Act, that is easy to read and understand;

b) Reducing the volume of the Act;

c) Consolidating existing law, as amended to date, into a concise document;

d) Creating easy to understand formulae and tabular structures where feasible, for computation of tax for income of various natures, eliminating the complexities that have crept in regarding certain areas over the years due to multiple provisos and explanations;

e) Elimination of redundancies in sections and chapters;

f) Maintaining continuity in taxation principles with no major tax policy changes or tax rate changes; and

g) Introducing tax reforms through -

i) Bringing clarity in the Act, without any structural or policy change. The long-settled principles of taxation was not being disturbed, however, the latest amendments to be incorporated in the new Bill;

ii) Comparing and learning from global best practices to create a tax statute that balances need for clarity with certainty; and

iii) Laying down a clear path for phasing out deductions.

Methodology followed by the Ministry of Finance (Department of Revenue) while drafting the Income-Tax Bill, 2025

1.10 For a comprehensive review of the Act, a Core Committee at the apex level, headed by an Officer of the rank of Chief Commissioner of Income Tax, was

constituted. Various Sub-Committees (initially 14 but eventually expanded to 26) consisting of around 150 Officers across the hierarchy were constituted to identify gaps in the existing Act and to bring in better understanding of various aspects of the functioning of the existing framework.

1.11 A comprehensive consultative process was undertaken for the simplification exercise. A total of 20,976 online suggestions for simplification and removal of redundancies were received, analysed and relevant suggestions were categorized into policy-related, language simplification, removal of redundant or obsolete provisions, etc. Meetings with industry and professional associations were held and field-level brainstorming sessions were held within the Income Tax Department, towards this exercise.

1.12 At the international level, consultations were held with some of the taxation authorities that had undertaken similar exercise in the recent past, viz. the Australian Tax Office and Treasury and the United Kingdom's Office of Tax Simplification. Several Video Conferences (VCs) were held with these tax authorities to understand the quantum of volumes they started with and where they are now in terms of the number and size of volumes. Also, inputs from the relevant verticals within the Department, administering different aspects and areas of taxation, were received and analysed.

1.13 The documents prepared in 2009 and 2019 were also referred, while undertaking the exercise. International and national guidance material such as 'Drafting Guide for Simplification of Laws' issued by Legislative Department, Ministry of Law and Justice, was studied for simplification of legal language.

1.14 A three-pronged strategy was adopted for simplification:-

(i) Minimizing intricate words or phrases to enhance clarity;

(ii) Eliminating redundant and repetitive provisions to improve readability; and

(iii) Structuring provisions logically through tabular forms to ensure ease of reference.

1.15 A meticulous process was followed in drafting the new Income-Tax Bill, 2025. The process began with the preparation of individual Chapter-wise drafts. These drafts were then rigorously reviewed by a dedicated Sub-Committee, focusing on both the accuracy of the content and the completeness of the provisions presented. Following this review, the corrected drafts were thoroughly examined by the Tax Policy and Legislation (TPL) wing of CBDT (Central Board of Direct Taxes), which had its capacity augmented in December 2024 to handle this significant undertaking. The next stage involved the vetting of Bill by the Department of Legal Affairs (DOLA) in close coordination with the Drafting Committee to ensure legal soundness and consistency. Finally, based on the feedback received during the vetting process, all necessary corrections and revisions were incorporated into the final draft of the Bill. The Bill was introduced by the Finance Minister in Lok Sabha on 13th February, 2025.

Simplification and rationalization achieved through the Income-Tax Bill, 2025

1.16 The following has been the qualitative and quantitative outcome of this simplification exercise.

a) Quantitative outcome: The exercise resulted in a substantial reduction in the volume of the Act. The reduction achieved in terms of number of words, chapters, sections and through the use of tabular formats and formulae is summarized below:-

Item	**Existing Income-tax Act, 1961**	**Proposed in the Income-Tax Bill, 2025**	**Change (Reduction/Addition)**
Words	512,535	259,676	Reduction: 252,859 words
Chapters	47	23	Reduction: 24 chapters
Sections	819	536	Reduction: 283 sections
Tables	18	57	Addition: 39 tables
Formulae	6	46	Addition: 40 formulae

b) Qualitative outcome: The language has been simplified making the document easy to read and understand. The existing law, as amended to date, has been consolidated in a concise document. The drafting style of the new Bill is straightforward and clear, making the provisions easier to understand. Redundancies and need for cross-referencing between Sections and Chapters have been eliminated. Greater clarity has been brought in the Act without any structural or policy changes and without disturbing the long-settled taxation principles. A significant aspect of the Bill is the introduction of the concept of 'tax year' (as unit period of taxation), replacing 'previous year' and 'assessment year'. The timelines and computation in the Bill are now with reference to the tax Year for which the income is liable to be taxed. All provisos (about 1200) and explanations (about 900) have been removed. Sub-sections and Clauses have been used, instead of relying on provisos and explanations for exceptions and carve-outs. Structural rationalization has been carried out by consolidation of provisions into self-contained Chapters and using table and formula format, where feasible, thereby improving readability and enhancing clarity for the taxpayers and stakeholders. Continuity in taxation principles has been ensured by simplifying the law without disturbing settled principles and jurisprudence.

Release of Answers to Frequently Asked Questions (FAQs)

1.17 To keep the taxpayers and stakeholders informed and engaged about the scope of the Bill and the nature of simplification proposed for specific areas, exhaustive FAQs have been released by the Income Tax Department, along with Section-wise mapping. These FAQ documents attempt to address the general queries that the taxpayers and stakeholders may have on the scope, nature and impact of the changes proposed to be brought about through the Income-Tax Bill, 2025. These answers, inter alia, includes the compelling reasons for simplification efforts to bring about not only linguistic simplifications but structural rationalization in the Income-Tax Bill, 2025 to make it 'concise, lucid, easy to read and understand' based on international experience. The ground rules are set for the simplification exercise by improving the readability and enhanced clarity of the Bill; following the principles of Tax Certainty with a view to minimize the scope of litigation; embedding the transition mechanism in Clause 536 to

preserve the legitimacy of pending disputes, protect taxpayer entitlements, and provide a structured pathway for tax enforcement, etc.

Some specific examples of simplification and rationalization in the Income-Tax Bill, 2025 vis-à-vis the provisions of Income-tax Act, 1961

1.18 **TDS/TCS Provisions**: The Income-Tax Bill, 2025 significantly simplifies the TDS/TCS provisions. The number of sections has been drastically reduced from 69 in the Income-tax Act, 1961 to just 13 in the Bill. Readability and comprehension have been enhanced through the use of clear and concise tables. Specifically, 43 sections of TDS provisions have been consolidated into three tables, categorizing them by "residents," "non-residents," and "any person." Furthermore, the conditions for no tax deduction have been consolidated into a single, easy-to-reference table. The revised provisions also incorporate proposals from the Finance Bill, 2025, resulting in rationalized rates and thresholds.

1.19 **Provisions related to Salaried Taxpayers**: The revised Act provides a self-contained code for salaried employees. While chargeability remains within the Act, the valuation of perquisites, along with their conditions and exceptions, has been moved to the Rules. Deductions for gratuity, commutation of pension, leave encashment and retrenchment/Voluntary Retirement Scheme (VRS) compensation are now conveniently located within the Salary chapter, presented in a tabular format. The salary limit for non-taxability of perquisites will be prescribed by the rules.

1.20 **Removal of Redundant Provisions**: A comprehensive review of the Income Tax Act identified and eliminated approximately 90 redundant sections and sub-sections. Three entire chapters, along with numerous sections and a schedule, were deemed outdated and removed. This included provisions related to Fringe Benefits, which ceased to apply from Assessment Year 2010-11; Section 10A - Special provision in respect of newly established undertakings in free trade zone, etc., no longer applicable from Assessment Year 2012-13; and Section 10(33) – an exemption for income arising from the transfer of a capital asset, specifically units of the Unit Scheme,

1964, a transitional provision for the scheme that became irrelevant after Assessment Year 2002-03.

1.21 **Provisions related to Non-Profit Organizations (NPOs**): In the Income-tax Act, 1961, the provisions related to NPOs were scattered at different places in the existing Act in Sections 11, 12, 12A, 12AA, 12AB, 13, 115BBC, 115BBI, 115TD, 115TE, 115TF and the provisions related to approval are under the first and second provisos to Section 80G(5). These have been simplified and consolidated into one Chapter. All the provisions related to registered Non-Profit Organisations (NPOs) have now been arranged in Part B of Chapter XVII titled "B.—Special Provisions for Registered Non-Profit Organization" of the new Bill.

1.22 The proposed Bill is a comprehensive legislative effort aimed at focusing on four primary pillars viz. simplification of language, litigation reduction, compliance reduction and elimination of redundant provisions.

Methodology adopted by the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025

1.23 Taking cognizance of the fact that the Income-Tax Bill, 2025 (Bill No. 24 of 2025) spanning over 600 pages, 536 Clauses, XXIII Chapters and XVI Schedules envisages to repeal and replace the Income-tax Act, 1961, which would impact multiple stakeholders across multiple sectors, the Committee in their first Sitting with the representatives of the Ministry of Finance (Department of Revenue) held on 24th February, 2025 decided to invite Memoranda containing views/suggestions from experts/industries/ associations/organizations/stakeholders on the provisions of the Bill through Sansad TV scroll. Subsequently, for a wider outreach, a letter dated 09th April, 2025 addressed to all the Chartered Accountants' Associations from all States/Union Territories was sent through email calling for Suggestions/Memoranda on the provisions of the Bill giving a time of two weeks.

Thereafter, a Press Communiqué inviting Memoranda was also issued on electronic media on the 17th April, 2025 through the Press and Public Relations (PPR) Wing, Lok Sabha Secretariat which was also disseminated through Social Media

Platforms of Lok Sabha viz. LSS Facebook page and LSS "X" handle giving a time of two weeks. The same was covered in several prominent English and Hindi language newspapers including The Economic Times, Financial Express, Asian News International (ANI), Deccan Herald, Hindustan Times, The Print, Dainik Bhaskar, Dainik Jagran and Hindustan Delhi.

In response to that, total 288 Memoranda were received by the Committee, which were tabulated and forwarded to the Ministry of Finance (Department of Revenue) in four Batches (i.e. Batch-I, II, III and IV containing 277, 93, 762 and 180 suggestions, respectively totaling to 1,312) to obtain their views. Out of which, 285 suggestions were accepted by the Ministry wherein 84 are substantive suggestions and remaining 201 are drafting corrections. A total of 68 Stakeholders appeared before the Select Committee for Oral Evidence.

1.24 From amongst the Stakeholders who have requested in their written Memoranda for deposition before the Select Committee and also those suggested by Members of the Committee, an exhaustive list of Representatives/Stakeholders/Domain Experts cutting across both National level and Mid level Industry Associations/individual tax practitioners; Related Ministries of Govt. of India; Commissioners of Income Tax (CITs); Retired Income Tax Officers; Non-Profit Organisations (NPOs), etc. was drawn up for taking oral evidences during which written submission and Power-Point Presentations (PPTs) in a prescribed format were presented before the Select Committee. Thereafter, after their depositions, Post-Evidence Replies on the queries posed by the Members of the Select Committee were also furnished which were circulated to the Members of the Select Committee. The Select Committee also sought written replies on specific issues from concerned Ministries/Departments for more clarity on the issues raised by the Domain Experts/Stakeholders during their deposition.

1.25 For seeking wider consultation, the Committee also undertook a Study Visit to Bengaluru and Mumbai from 13th to 17th May, 2025 wherein discussions with Domain Experts/Stakeholders/individual tax practitioners/ other concerned organizations were held to obtain their views on the provisions of the Bill.

1.26 The List of Stakeholders/Experts examined by the Select Committee during the 36 Sittings in New Delhi and hearings on tour totaling to 127 hours is reproduced as under:-

Sl. No.	Date	Name of the Organisation/ Stakeholder/Ministry/Experts	Venue
1	24.02.2025	Ministry of Finance (Department of Revenue)	New Delhi
2	06.03.2025	ICAI (Institute of Chartered Accountants of India)	
3	06.03.2025	EY (Ernst & Young)	
4	12.03.2025	FICCI (Federation of Indian Chambers of Commerce and Industry)	
5	12.03.2025	CII (Confederation of Indian Industry)	
6	19.03.2025	Madras Chambers of Commerce, ASSOCHAM and PHD Chamber of Commerce	
7	27.03.2025	The All India Federation of Tax Practitioners, Income Tax Appellate Tribunal Bar Association	
8	03.04.2025	Taxcompaas Advisors Private Limited and BMR Legal Advocates.	
9	16.04.2025	Institute of Cost Accountants of India (ICMAI)	
10	16.04.2025	Institute of Company Secretaries of India (ICSI)	
11	17.04.2025	Ministry of Corporate Affairs (MCA) and National Financial Reporting Authority (NFRA)	
12	17.04.2025	Bharat Web3 Association	
13	24.04.2025	US-India Strategic Partnership Forum (USISPF) and Export Promotion Council for Export Oriented Units (EOUs) & Special Economic Zones (SEZs) [EPCES]	
14	24.04.2025	Ministry of Commerce and Industry and Ministry of Electronics and Information Technology (MeitY)	

15	25.04.2025	Azim Premji Foundation	New Delhi
16	25.04.2025	Federation of Indian Micro and Small & Medium Enterprises (FISME) and National Small Industries Corporation (NSIC)	
17	25.04.2025	Ministry of Micro, Small & Medium Enterprises (MSME) and National Institute for Micro, Small and Medium Enterprises (ni-msme).	
18	02.05.2025	Vaish Associates Advocates and Reina Legal	
19	02.05.2025	Economic Laws Practice and Ved Jain & Associates	
20	02.05.2025	Shri Jayant G. Pendse (former Member, CBDT) and Asia Pacific Real Assets Association Limited (APREA)	
21	08.05.2025	Life Insurance Corporation of India (LIC) and General Insurance Corporation of India (GICRe)	
22	08.05.2025	Dawat-E-Hadiyah and Prajapita Brahma Kumaris Ishwariya Vishwa Vidyalaya	
23	08.05.2025	Shri Harpreet Singh Ajmani, Advocate and Ms. Parul Jolly	
24	09.05.2025	Regional IT Commissioners (North, South, East, West, North-East and Central Regions), Shri V.K. Gupta (Retired IRS) and Shri G.C. Srivastava (Retired IRS)	
25	09.05.2025	SBI SC ST Employees Welfare Association North East Circle	
26	13.05.2025	NASSCOM and BCIC (Bangalore Chamber of Industry and Commerce)	Bengaluru
27		Singhvi Dev & Unni LLP.	
28		NNMS Law Chambers and H C Khimcha & Co.	
29		Shreya Rao and Associates and Driti Advisors	
30		FKCCI and Independent Tax Practitioners (Chythanya K K and K R Girish)	

31	14.05.2025	KSCAA (Karnataka State Chartered Accountant Association and ICTPI (Institute of Chartered Tax Practitioners India)	Bengaluru
32		Representatives of Income Tax Department	
33	14.05.2025	Independent Tax Practitioners (Shri T V Mohan Das Pai and Shri S Krishnan)	
34	15.05.2025	Visit to Central Processing Centre (CPC)	
35	16.05.2025	Bombay Chamber of Commerce and Industry (BCCI); Bombay Chartered Accountants Society (BCAS); and Independent Income Tax Practitioner (Shri R P Acharya)	Mumbai
36		IMC Chamber of Commerce and Industry; Chamber of Tax Consultants; and Independent Income Tax Practitioner (Shri C. Ananthan)	
37		TP Ostwal and Associates; CNK and Associates LLP; and Independent Income Tax Professional (Shri Chirag Wadhwa)	
38		Representatives of Income Tax Appellate Tribunal (ITAT) Bar Association, Mumbai and Shri R S Sanghai (Tax Expert)	
39	17.05.2025	Representatives of Income Tax Department	
40	26.05.2025	Ministry of Finance (Department of Revenue)	New Delhi
41	27.05.2025	Ministry of Finance (Department of Revenue)	
42	04.06.2025	Ministry of Finance (Department of Revenue)	
43	05.06.2025	Ministry of Finance (Department of Revenue)	
44	09.06.2025	Ministry of Finance (Department of Revenue)	
45	10.06.2025	Ministry of Finance (Department of Revenue)	
46	16.06.2025	Ministry of Finance (Department of Revenue)	
47	17.06.2025	Ministry of Finance (Department of Revenue)	
48	02.07.2025	Internal Deliberations	
49	07.07.2025	Internal Deliberations	
50	16.07.2025	Consideration and adoption of the Draft Report and Bill as reported by the Select Committee on Income-Tax Bill, 2025	

1.27 In the process of examination of the Bill, the Committee obtained Background Notes, Written Replies, Post-Evidence Replies, Information, Clarification, Detailed Notes and other requisite documents from the Ministry of Finance (Department of Revenue). The Committee took the Oral Evidences of the representatives of Ministry of Finance (Department of Revenue) and Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) on the Suggestions/Memoranda received from various Stakeholders on the provisions of the Bill during eight (08) Sittings of the Select Committee held on 26.05.2025, 27.05.2025, 04.06.2025, 05.06.2025, 09.06.2025, 10.06.2025, 16.06.2025 and 17.06.2025. Detailed internal deliberations of the Select Committee were also held on 02.07.2025 and 07.07.2025 to discuss the provisions of the Bill. The Committee adopted the draft Report and the amended Bill during the 36th Sitting held on 16.07.2025. The Committee received 334 memoranda/suggestions/notes in total (including 02 received after adoption), through both physical and digital mode (Appendix-II).

1.28 Thus, based on the written and oral depositions of both official and non-official Witnesses, inputs gathered during the Study Visits and from large number of Memoranda received from various Stakeholders and also from the Members of the Select Committee, the Committee have examined the Bill exhaustively and given their considered views as enumerated in the succeeding Chapter-II which deal with the Clause-by-Clause examination of the amendments proposed in the Bill.

1.29 The Committee have been able to accomplish their stated mandate within the stipulated time. During the course of extensive hearings, a large number of suggestions were received by the Committee. All such suggestions, which were within the scope of mandate of the Committee, were discussed and analysed in detail while finalizing Recommendations of the Committee. There were many suggestions, which were beyond the scope of the mandate of the Committee. All such suggestions may later be evaluated and considered on merits in appropriate forums.

1.30 The Bill as reported by the Select Committee is placed at Annexure to the Report.

CHAPTER – II

CLAUSE BY CLAUSE EXAMINATION OF THE INCOME-TAX BILL, 2025

Chapter I – Preliminary

Clause 1 – Short title, extent and commencement

1.1 Provision proposed in the Income-Tax Bill, 2025

(1) This Act may be called the Income-tax Act, 2025.
(2) It extends to the whole of India.
(3) Save as otherwise provided in this Act, it shall come into force on the 1st April, 2026.

1.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Short title, extent and commencement.

1. (1) This Act may be called the Income-tax Act, 1961.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1962.

1.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 1 of the Bill seeks to provide for title, extent and commencement of theIncome-tax Act, 2025. The new Act is proposed to be effective from the 1st April, 2026. The clause corresponds to section 1 of the Act. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

1.4 Examination by the Committee

The representatives of the Ministry of Finance briefed the Committee on the objective of introducing the Income-Tax Bill, 2025, and outlined the drafting approach adopted, as follows:

> "*I would request permission to give an overview of various taxpayer friendly reforms that have been undertaken over the last ten years or so to provide a backdrop for the Income-Tax Bill, 2025. In the recent years, the Ministry has been a facilitator in bringing a path-breaking reforms in corporate taxation, personal taxation, taxation of capital gain and trusts, and has also made efforts to encourage culture of trusts based voluntary compliance with emphasis on minimising intrusive methods of tax administration. Sir, in 2019, a faceless scheme for assessment was brought in as a new mechanism for making assessment by eliminating*

personal interface between the assessing officer and the assessee optimising the use of resources through functional specialisations and introducing team based assessment. Based on this experience, in 2020, faceless appeals scheme was notified to eliminate human interface in the appellate function of the department at the level of commissioner of Income Tax Appeals. Sir, a new form 26AS was introduced which contains all the information of deduction, collection of tax at source, specified financial transaction, payment of taxes, demand, refund, pending proceedings etc which enables the taxpayers to file their returns correctly and in case any discrepancy is observed, the taxpayer has an opportunity to file revised return based on the additional information. The time period given to him to do revision has been enhanced recently, Sir.

In order to enable the taxpayer to file his returns smoothly, prefilled income tax return forms have also been provided to the taxpayer.

Sir, in 2020, Vivaad Se Vishwas scheme was introduced and almost 1.15 lakh cases were settled under it and drawing from its experience and success, a direct tax vivaad se vishwas scheme 2024 has also been notified.

Further, for reducing litigation and to give an impetus to dispute resolution of small taxpayers, Dispute Resolution Committee has been constituted. Here, however, we agree that much still needs to be done to fully operationalise it.We have also increased the thresholds for the Department to file appeals in order to reduce unnecessary litigation. We are also trying to see that if a case of question of law is already pending before a forum, we would withhold filing of further appeals till that question of law is settled.

Coming to the Income-Tax Bill 2025, the Government had announced comprehensive review of the Income-Tax Act last year. As a consequence of the said review, this Income-Tax Bill, 2025 has been introduced in the Lok Sabha in February, 2025. The purpose behind the introduction of the Income-Tax Bill is to simplify the existing Income-Tax Act 1961 to make it concise, lucid, easy to read and understand.

The simplification exercise was guided by three core principles: textual and structural simplification for improved clarity and coherence, no major tax policy changes to ensure continuity and certainty and no modification of tax rates for preserving predictability for the taxpayers. Therefore, while drafting the Income-Tax Bill, a three-pronged approach was adopted. One was eliminating intricate language to enhance readability, then removing redundant and repetitive provisions for better navigation and reorganising sections logically to facilitate ease of reference. While undertaking the simplification exercise, conscious attempt has been made to minimise the scope of ambiguity, which may lead to differing interpretations and consequent litigation."

1.5 Observations/Recommendations of the Committee

The Committee note the justification provided by the Ministry and find that the date of commencement to be the only change in the provision.The Committee, therefore, accept the provision of the clause in its entirety, with no change in its extent.

Clause No. 2– Definitions

2.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(1) “accountant” shall have the meaning assigned to it in section 515(3)(b);

(2) “Additional Commissioner” means a person appointed to be an Additional Commissioner of Income-tax under section 237(1);

(3) “Additional Director” means a person appointed to be an Additional Director of Income-tax under section 237(1);

(4) “advance tax” means the advance tax payable as per Chapter XIX-C;

(5) “agricultural income” means—
(a) any rent or revenue derived from a land which is situated in India and is used for agricultural purposes;
(b) any income derived from such land by—
(i) agriculture; or
(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or
(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (ii);
(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind of any such land with respect to which, or the produce of which, any process mentioned in sub-clause (b)(ii) or (b)(iii) is carried on, where such building—
(i) is on or in the immediate vicinity of such land and that land is assessed to land revenue in India, or is subject to a local rate assessed and collected by officers of the Government as such, or where the land is not so assessed to land revenue or subject to a local rate, it is not situated in any area as specified in clause (22)(iii)(A) or (B); and
(ii) is required as a dwelling house, or as a store-house, or other out-building, by the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land;
(d) any income derived from saplings or seedlings grown in a nursery,
but shall not include—
(i) the income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or (b); or
(ii) any income arising from the transfer of any land referred to in clause (22)(iii)(A) or (B);
(6) “amalgamation”, in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one

company (the company or companies which so merge being referred to as the amalgamating company, and the companies and the company with which they merge or which is formed as a result of such merger being referred to as the amalgamated company) in such a manner that—
(a) all the property of the amalgamating company or companies immediately before the amalgamation become the property of the amalgamated company by virtue of the amalgamation;
(b) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;
(c) the shareholders holding not less than three-fourths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,
otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company;

(7) “annual value”, in relation to any property, means its annual value as determined under section 21;

(8) “Appellate Tribunal” means the Appellate Tribunal constituted under section 361;

(9) “approved gratuity fund” means a gratuity fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(10) “approved superannuation fund” means a superannuation fund or any part of a superannuation fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(11) “assessee” means a person by whom any tax or any other sum of money is payable under this Act, and includes—
(a) every person in respect of whom any proceeding under this Act has been taken—
(i) for the assessment of his income or of the loss sustained by him or refund due to him; or
(ii) for the assessment of the income of any other person in respect of which he is assessable, or of the loss sustained by such other person or refund due to such other person;
(b) every person who is deemed to be an assessee under this Act;
(c) every person who is deemed to be an assessee in default under this Act;

(12) “Assessing Officer” means—
(a) the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer, who is vested with the relevant jurisdiction by

virtue of directions or orders issued under section 241(1) or (2) or (3), or any other provision of this Act; or
(b) the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, who is directed under section 241(5)(b) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

(13) “assessment” includes reassessment and recomputation;

(14) “Assistant Commissioner” means a person appointed to be an Assistant Commissioner of Income-tax or a Deputy Commissioner of Income-tax under section 237(1);

(15) “Assistant Director” means a person appointed to be an Assistant Director of Income-tax or a Deputy Director of Income-tax under section 237(1);

(16) “average rate of income-tax” means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income;

(17) “block of assets” means a group of assets falling within a class of assets comprising of—
(a) tangible assets, being buildings, machinery, plant or furniture;
(b) intangible assets, being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession, in respect of which the same percentage of depreciation is prescribed;

(18) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(19) “books or books of account” includes ledgers, day-books, cash books, account-books or other books, whether kept—
(a) in written form; or
(b) in electronic or any digital form, or on cloud based storage, or on any electromagnetic data storage device, such as floppy, disc, tape, portable data storage device, external hard drives, or memory cards; or
(c) as print-outs of data stored in electronic or digital form or on storage devices mentioned in sub-clause (b);

(20) “business” includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(21) “business trust” means a trust registered as—
(a) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or
(b) a Real Estate Investment Trust under the Securities and Exchange Board of India

(Real Estate Investment Trusts) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992;

(22) “capital asset” means—
(a) property of any kind held by an assessee, whether or not connected with his business or profession;
(b) any securities held by a Foreign Institutional Investor or held by an investment fund specified in section 224(10)(a) which has invested in such securities as per the regulations made under the Securities and Exchange Board of India Act, 1992;
(c) any unit linked insurance policy issued on or after 1st February, 2021 to which exemption under Schedule II (Table: Sl. No. 2) does not apply,
but does not include—
(i) any stock-in-trade, other than the securities referred to in sub-clause (b), consumable stores or raw materials held for business or profession;
(ii) personal effects;
(iii) agricultural land in India, not being a land situated—–
(A) in any area comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or
(B) in any area within the distance as specified in column C of the following Table, measured aerially from the local limits of any municipality or cantonment board referred to in item (A) and having population as referred to in column B of the said Table:—

Sl. No.	**Population of municipality or cantonment board**	**Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than**
1.	More than 10,000 but less than 1,00,000	Two kilometres
2.	1,00,000 and above, but less than 10,00,000	Six kilometres
3.	10,00,000 and above	Eight kilometres

(iv) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 as notified by the Central Government,
where,—
(A) “Foreign Institutional Investor” shall have the meaning assigned to it in section 210(6)(a);
(B) “personal effects” means any movable property (including wearing apparel and furniture) held for personal use by the assessee or any dependent family member, but excludes—
(I) jewellery, which includes—
(a) ornaments made of gold, silver, platinum, or any other precious metal or any alloy of such precious metals, with or without precious or semi-precious stones, and whether or

not worked or sewn into any wearing apparel;
(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;
(II) archaeological collections;
(III) drawings;
(IV) paintings;
(V) sculptures; and
(VI) any work of art;
(C) "population" shall mean the population according to the last preceding census of which the relevant figures have been published before the first day of the tax year;
(D) "property" includes any rights in or in relation to an Indian company, including rights of management or control or any other rights; and
(E) "securities" shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956;

(23) "charitable purpose" includes—
(a) relief of the poor;
(b) education;
(c) yoga;
(d) medical relief;
(e) preservation of environment (including watersheds, forests and wildlife);
(f) preservation of monuments or places or objects of artistic or historic interest;
(g) the advancement of any other object of general public utility;

(24) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax or a Director General of Income-tax or a Principal Chief Commissioner of Income-tax or a Principal Director General of Income-tax under section 237(1);

(25) "child", in relation to an individual, includes a step-child and an adopted child of that individual;

(26) "Commissioner" means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under section 237(1);

(27) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Income-tax (Appeals) under section 237(1);

(28) "company" means—

(a) any Indian company; or
(b) any body corporate incorporated by or under the laws of a country outside India; or
(c) any institution, association or body which is or was assessable or was assessed as a company under the Income-tax Act, 1961 (43 of 1961), as it stood immediately before its repeal by this Act (hereinafter referred to as the Income-tax Act, 1961), for any assessment year so referred to in that Act; or

(d) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by order of the Board to be a company for such period as specified in such declaration;

(29) “Company in which the public are substantially interested” means,—

(a) a company owned by the Government or the Reserve Bank of India or in which at least 40% of the shares of the company are held (individually or collectively) by the Government or the Reserve Bank of India or a corporation owned by that bank; or
(b) a company which is registered under section 8 of the Companies Act, 2013 (18 of 2013); or
(c) a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, the Board by order declares it to be such a company for the period as specified in the declaration; or
(d) a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 406 of the Companies Act, 2013 (18 of 2013), to be a Nidhi or Mutual Benefit Society; or
(e) a company, wherein shares (excluding those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by, one or more co-operative societies; or
(f) a company which is not a private company as defined in the Companies Act, 2013 (18 of 2013), and the following conditions are fulfilled:-

(i) shares in the company (not being shares entitled to a fixed rate of dividend, with or without a further right to participate in profits) were, as on the last day of the relevant tax year, listed in a recognised stock exchange in India as per the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;

(ii) shares in the company (not being those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by—

(A) the Government; or

(B) a corporation established by a Central Act State Act or Provincial Act; or

(C) any company to which this clause applies or any subsidiary company of such company, if the entire share capital of such subsidiary company has been held by the parent company or by its nominees throughout the tax year,

and in respect of an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, the expression “not less than 50%” shall be read as if the expression “not less than 40%” had been substituted;

(30) “convertible foreign exchange” means foreign exchange which is treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law;

(31) “co-operative bank” shall have the same meaning as specified in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(32) “co-operative society” means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law in force in any State or Union territory for the registration of co-operative societies;

(33) “currency” shall have the same meaning as assigned to it in section 2(h) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(34) “demerged company” means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;

(35) “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 230 to 232 of the Companies Act, 2013 (18 of 2013), by a demerged company of its one or more undertakings to any resulting company in such a manner that—
(a) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;
(b) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;
(c) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger, except in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013 (18 of 2013);
(d) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis, except where the resulting company itself is a shareholder of the demerged company;
(e) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger, otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;
(f) the transfer of the undertaking is on a going concern basis;
(g) the demerger is as per the conditions, if any, notified under section 116(7) by the Central Government,
where,—

(i) “undertaking” shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity;

(ii) “liabilities relatable to the undertaking”, referred to in sub-clause (b), shall include—

(A) the liabilities which arise out of the activities or operations of the undertaking;

(B) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(C) the amount “N”, as computed below, in cases other than those referred to in item (A) or (B), —

$$N=K\times(ML)$$

where,—

K= the amount of general or multipurpose borrowings of demerged company;

L= the value of the assets transferred in a demerger; and

M= the total value of the assets of such demerged company immediately before the demerger;

(iii) any change in the value of assets consequent to their revaluation shall be ignored for determining the value of the property referred to in sub-clause (c);

(iv) the splitting up or the reconstruction of any authority or a body constituted or established under a Central Act or State Act or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if it fulfils such conditions as the Central Government may, by notification, specify;

(v) the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if it has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as the Central Government may, by notification, specify;

(vi) the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if it has been made to transfer any asset of the demerged company to the resulting company and the resulting company—

(A) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorised under the Companies Act, 2013 (18 of 2013) or any other applicable law governing such public sector companies; and

(B) fulfils such other conditions as the Central Government may, by notification, specify in this behalf;

(36) “Deputy Commissioner” means a person appointed to be a Deputy Commissioner of Income-tax under section 237(1);

(37) “Deputy Director” means a person appointed to be a Deputy Director of Income-tax under section 237(1);

(38) “director” and “manager”, in relation to a company, shall have the same meanings as respectively assigned to them in sections 2(34) and (53) of the Companies Act, 2013 (18 of 2013);

(39) “Director General or Director” means a person appointed to be a Director General of Income-tax or a Director of Income-tax, under section 237(1), and includes a Principal Director General or a Principal Director or an Additional Director or a Joint Director or a Deputy Director or an Assistant Director;

(40) “dividend” includes—

(a) any distribution by a company of accumulated profits, capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;
(b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;
(c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;
(d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits whether capitalised or not;
(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise),—

(i) as an advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, with or without a right to participate in profits) holding not less than 10% of the voting power; or

(ii) as an advance or loan to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (herein referred to as the said concern); or

(iii) made on behalf, or for the individual benefit, of any such shareholder,

to the extent to which the company in either case possesses accumulated profits;
(f) any payment by a company on purchase of its own shares from a shareholder as per section 68 of the Companies Act, 2013 (18 of 2013),
but does not include—

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

(ii) any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

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

(iv) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company);

(v) any advance or loan between two group entities, where,-

(A) one of the group entity is a "Finance Company" or a "Finance Unit"; and

(B) the parent entity or principal entity of such group is listed on stock exchange in a country or territory outside India other than the country or territory outside India as specified by the Board in this behalf,

where,—

(A) "accumulated profits" for the purposes of—

(I) sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses;

(II) sub-clause (c), shall include all profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law in force, include any profits of the company before three successive tax years immediately preceding the tax year in which such acquisition took place;

(B) in respect of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation;

(C) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company;

(D) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the tax year, beneficially entitled to not less than 20% of the income of such concern;

(E) for the purposes of sub-clause (v),—

(I) "Finance Company" and "Finance Unit" shall have the same meaning as respectively assigned to them in regulation 2(1)(e) and (f) of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and is set up as a global or regional corporate treasury centre for undertaking treasury activities or treasury services as per the relevant regulations made by the International Financial Services Centres Authority established under section 4 of the said Act;

(II) "group entity", "parent entity" and "principal entity" shall be such entities which satisfy such conditions as prescribed in this behalf;

(41) “document” includes an electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000 (21 of 2000);

(42) “domestic company” means an Indian company as defined in clause (53), or any other company, which for its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income;

(43) “electoral trust” means a trust so approved by the Board as per the scheme made by the Central Government;

(44) “fair market value”, in relation to a capital asset, means—

(a) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and
(b) where the price referred to in sub-clause (a) is not ascertainable, such price as determined in the manner, as prescribed;

(45) “firm” shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include a “limited liability partnership” as defined in section 2(1)(n) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(46) “foreign company” means a company which is not a domestic company;

(47) “foreign currency” shall have the same meaning as assigned to it in section 2(m) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(48) “hearing” includes communication of data and documents through electronic mode;

(49) “income” includes—

(a) profits and gains;
(b) dividend;
(c) voluntary contributions received by—
    (i) a registered non-profit organisation; or
    (ii) an association referred to in Schedule III (Table: Sl. No. 23); or
    (iii) any University or other educational institution or any hospital or other institution referred to in Schedule III (Table: Sl. No. 19); or
    (iv) an electoral trust;
(d) the value of any perquisite or profit in lieu of salary taxable under sections 17 and 18;
(e) any special allowance or benefit, other than perquisite included under sub-clause (d), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;
(f) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by

him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

(g) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company, either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or that person;

(h) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in section 303(1)(c) or (d) or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being herein referred to as the beneficiary) and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;

(i) any sum chargeable to income-tax under—

(A) section 26(2)(b) or (c) or (d) or section 38 or 95;

(B) section 26(2)(e) or (g);

(j) the value of any benefit or perquisite taxable under section 26(2)(f);

(k) any capital gains chargeable under section 67;

(l) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed as per section 55 or any surplus taken to be such profits and gains as per Schedule XIV;

(m) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;

(n) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(o) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;

(p) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(q) any sum referred to in section 26(2)(h);

(r) the fair market value of inventory referred to in section 26(2)(j);

(s) any sum referred to in section 92(2)(k) or (l);

(t) any sum of money referred to in section 92(2)(h);

(u) any sum of money or value of property referred to in section 92(2)(m);

(v) any compensation or other payment referred to in section 92(2)(j);

(w) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, in cash or kind, to the assessee other than—

(i) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per sections 39(1)(d) and (3); or

(ii) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government;

(x) any other income referred to in section 2(24) of the Income-tax Act, 1961 (43 of 1961),
where,—

(A) “card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;

(B) “Keyman insurance policy” shall have the same meaning as assigned in Schedule II. (Table: Sl. No.2);

(C) “lottery” includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner, under any scheme or arrangement, called by any name;

(50) “Income Computation and Disclosure Standards” means such standards as notified under section 276(2);

(51) “Income-tax Officer” means a person appointed to be an Income-tax Officer under section 237(1);

(52) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;

(53) “Indian company” means a company formed and registered under the Companies Act, 2013 (18 of 2013) and includes—

(a) company formed and registered under any law relating to companies formerly or currently in force in any part of India; or
(b) corporation established by or under a Central Act or State Act or Provincial Act; or
(c) institution or association or body which is declared by the Board to be a company under clause (28),
the registered or principal office of which is in India;

(54) “Indian currency” shall have the same meaning as assigned to it in section 2(k) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(55) “infrastructure capital company” means a company which makes investments by acquiring shares or providing long-term finance to—

(a) any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(4) or 80-IAB(1) of the Income-tax Act, 1961 (43 of 1961); or
(b) an undertaking developing and building—
(i) a housing project referred to in section 80-IB(10) of the Income-tax Act, 1961 (43 of 1961); or

(ii) a project for constructing a hotel of not less than three star category as classified by the Central Government; or

(iii) a project for constructing a hospital with at least one hundred beds for patients;

(56) “infrastructure capital fund” means a fund operating under a trust deed registered under the Registration Act, 1908 (16 of 1908) established to raise monies by the trustees for investment by acquiring shares or providing long-term finance to enterprises or undertakings referred to in clause (55);

(57) “Inspector of Income-tax” means a person appointed to be an Inspector of Income-tax under section 237(1);

(58) “insurer” means an insurer, being an Indian insurance company, as defined under section 2(7A) of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;

(59) “interest” means interest payable in any manner for moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes service fee or any other charges for the moneys borrowed or debt incurred or for any credit facility that has not been utilised;

(60) “interest on securities” means—

(a) interest on any security of the Central Government or a State Government;

(b) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central Act or State Act or Provincial Act;

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

(62) “Joint Commissioner” means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under section 237(1);

(63) “Joint Commissioner (Appeals)” means a person appointed to be a Joint Commissioner of Income-tax (Appeals) or an Additional Commissioner of Income-tax (Appeals) under section 237(1);

(64) “Joint Director” means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under section 237(1);

(65) “legal representative” shall have the same meaning as assigned to it in section 2(11) of the Code of Civil Procedure, 1908 (5 of 1908);

(66) “liable to tax”, in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;

(67) “long-term capital asset” means a capital asset which is not a short-term capital asset;

(68) “long-term capital gain” means capital gains arising from the transfer of a long-term capital asset;

(69) “manufacture”, with its grammatical variations and cognate expressions, means a change in a non-living physical object or article or thing—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;

(70) “maximum marginal rate” means the rate of income-tax (including surcharge on income-tax) applicable in relation to the highest slab of income for an individual, association of persons or, as the case may be, body of individuals, as specified in the Finance Act of the relevant year;

(71) “non-banking financial company” shall have the same meaning as assigned to it in section 45-I(f) of the Reserve Bank of India Act, 1934 (2 of 1934);

(72) “non-resident” means a person who is not a “resident”, and for the purposes of sections 161,174 and 312, and includes a person who is not ordinarily resident as per section 6(13);

(73) “notification” means a notification published in the Official Gazette and the expression “notify” with its grammatical variations and cognate expressions shall be construed accordingly;

(74) “partner” shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include—

(a) any person who, being a minor, has been admitted to the benefits of partnership; and

(b) a partner of a limited liability partnership as defined in section 2(1)(q) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(75) “partnership” shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include a “limited liability partnership” as defined in section 2(1)(n) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(76) “Permanent Account Number (PAN)” means a unique number consisting of ten alphanumeric characters, allotted by the Assessing Officer to a person for the purpose of identification under this Act, and includes a Permanent Account Number allotted under the new series;

(77) “person” includes—

(a) an individual;

(b) a Hindu undivided family (HUF);

(c) a company;

(d) a firm;

(e) an association of persons or a body of individuals, whether incorporated or not;

(f) a local authority; and

(g) every artificial juridical person, not falling within any of the preceding sub-clauses,

whether or not such an association of persons or a body of individuals or a local authority or an artificial juridical person was formed or established or incorporated with the object of deriving income, profits, or gains;

(78) “person of Indian origin” means an individual who or either of his parents or any of his grand-parents, was born in undivided India;

(79) “person who has a substantial interest in the company”, in relation to a company means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits, carrying not less than 20% of the voting power;

(80) “prescribed” means prescribed by rules made under this Act;

(81) “Principal Chief Commissioner” means a person appointed to be a Principal Chief Commissioner of Income-tax under section 237(1);

(82) “Principal Commissioner” means a person appointed to be a Principal Commissioner of Income-tax under section 237(1);

(83) “Principal Director” means a person appointed to be a Principal Director of Income-tax under section 237(1);

(84) “Principal Director General” means a person appointed to be a Principal Director General of Income-tax under section 237(1);

(85) “principal officer”, with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body; or
(b) any person connected with the management or administration of the local authority, company, association or body upon whom the Assessing Officer has served a notice of his intention of treating him as the principal officer thereof;

(86) “profession” includes vocation;

(87) “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) and a bank included in the category “other public sector banks” by the Reserve Bank of India;[1]

(88) “public sector company” means any corporation established by or under any Central Act or State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013);

(89) “public servant” shall have the same meaning as assigned to it in section 2(28) of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023);

(90) “rate or rates in force” or “rates in force”, in relation to a tax year, for the purposes of—

(a) (i) computing the income-tax chargeable under section 316(5) or 317(2) or 319 or 320(2); or
(ii) deducting income-tax under sections 392(1) to (6) from income chargeable under the head “Salaries”; or under section 393(1) [Table: Sl. No.8(iii)]; or
(iii) computing the advance tax payable under Chapter XIX-C in a case not falling under section 207 or 194(1)(Table: Sl. No. 1) or 194(1)(Table: Sl. No. 6) or 214 or 307 or 308 or 311; or
(iv) deducting tax under section 393(1)[Table: Sl. No. 1(i)], [Table: Sl. No. 5(i)], [Table: Sl. No. 5(ii)], [Table: Sl. No. 5(iii)] and (Table: Sl. No. 7) or in section 393(3)(Table: Sl. No. 1), (Table: Sl. No. 2) and (Table: Sl. No. 3),

means the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year;

(b) computing the advance tax payable under Chapter XIX-C in a case falling under section 207 or 194(1)(Table: Sl. No. 1) or 194(1)(Table: Sl. No. 6) or 214 or 307 or 308 or 311 the rate or rates specified in the said respective section, or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year, whichever is applicable;

(c) deducting tax under section 393(2)(Table: Sl. No. 6), (Table: Sl.No. 7), (Table: Sl. No. 8), (Table: Sl. No. 9) and (Table: Sl. No. 17), the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 159(1), or an agreement notified by the Central Government under section 159(2), whichever is applicable;

(91) “recognised provident fund” means a provident fund which has been and continues to be recognised by the approving authority as per Part A of the Schedule XI, and includes a provident fund established under a scheme framed under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952):

(92) “recognised stock exchange” means a recognised stock exchange as referred to in section 2(f) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions, as prescribed, and notified by the Central Government for this purpose;

(93) “regular assessment” means the assessment made under section 270(10) or 271;

(94) “relative”, in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual;

(95) “Reserve Bank of India” means the Bank constituted under section 3(1) of the Reserve Bank of India Act, 1934 (2 of 1934);

(96) “resident” means a person who is resident in India as per section 6;

(97) “resulting company” means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;

(98) “scheduled bank” shall have the same meaning as assigned to it in section 2(e) of the Reserve Bank of India Act, 1934 (2 of 1934);

(99) “Securities and Exchange Board of India” shall have the same meaning as assigned to it in section 2(1)(a) of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(100) “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant tax year;

(101)(a) “short-term capital asset” means a capital asset held by an assessee for not more than twenty-four months immediately preceding the date of its transfer;

(b) in respect of the following capital assets:-
(i) security listed in a recognised stock exchange in India; or
(ii) unit of the Unit Trust of India;
(iii) units of an equity-oriented fund; or
(iv) zero-coupon bonds,
the provisions of sub-clause (a) shall have effect, as if for the words “twenty-four months”, the words “twelve months” had been substituted;
(c) in determining the period for which capital asset is held by the assessee-
(A) there shall be excluded the period subsequent to the date on which the company goes into liquidation;
(B) there shall be included,-
(I) the period for which the asset was held by the previous owner referred to in section 73(1) (Table: Sl. No. 1), for a capital asset which becomes the property of the assessee in the circumstances mentioned in said section;
(II) the period for which the share or shares in the amalgamating company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(f);
(III) the period for which the share or shares held in the demerged company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger;
(IV) the period for which the person was a member of a recognised stock exchange in India immediately before such demutualisation or corporatisation, for a capital asset, being trading or clearing rights of a recognised stock exchange in India, acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India;
(V) the period for which the person was a member of a recognised stock exchange in India immediately before such demutualisation or corporatisation, for a capital asset being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India;

(VI) the period for which the share or shares were held by the assessee, for a capital asset being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in section 70(1)(zi);
(VII) the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(zj);
(VIII) the period for which the preference shares were held by the assessee, for a capital asset being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(zb);
(IX) the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(zk);
(X) the period for which the original unit or units in the main portfolio were held by the assessee, for a capital asset being a unit or units in a segregated portfolio referred to in section 73(1) (Table: Sl. No. 11);
(XI) the period for which such gold was held by the assessee before conversion into the Electronic Gold Receipt, for a capital asset being Electronic Gold Receipt issued in respect of gold deposited as referred to in section 70(1)(y);
(XII) the period for which such Electronic Gold Receipt was held by the assessee before its conversion into gold for a capital asset being gold released in respect of an Electronic Gold Receipt as referred to in section 70(1)(y);
(C) there shall be reckoned,-
(I) the period from the date of its conversion or treatment, for a capital asset referred to in section 26(2)(j);
(II) the period from the date of allotment of a share or any other security (herein referred to as the financial asset), for a capital asset being such financial asset subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset;
(III) the period from the date of the offer of the right to subscribe to any financial asset which is renounced in favour of any other person by the company or institution, as the case may be, making such offer, for a capital asset, being such right;
(IV) the period from the date of the allotment of a financial asset allotted without any payment and on the basis of holding of any other financial asset, for a capital asset being such financial asset;
(V) the period from the date of allotment or transfer of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), for a capital asset being such specified security or sweat equity shares;

(VI) the period from the date on which a request for the redemption was made, for a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in section 209(1)(Table: Sl. No. 2) held by such assessee;
(D) for capital assets other than those mentioned in items (A) to (C), the period for which any capital asset is held by the assessee shall be determined in such manner, as prescribed,
where,—
(A) “equity oriented fund” shall have the meaning assigned to it in section198(8);
(B) “security” shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
(C) “specified security” means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;
(D) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(102) “short-term capital gain” means capital gains arising from the transfer of a short-term capital asset;

(103) (a) “slump sale” means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer;

(b) for the purpose of sub-clause (a)-
(i) “undertaking” shall have the meaning assigned to it in clause (35)(i); and
(ii) the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities;

(104) “Special Economic Zone” shall have the same meaning as assigned to it in section 2(za) of the Special Economic Zones Act, 2005 (28 of 2005);

(105) “stamp duty value” means the value adopted or assessed or assessable by any authority of the Central Government or State Government for the payment of stamp duty in respect of an immovable property;

(106) “tax” means income-tax chargeable under this Act;

(107) “Tax Recovery Officer” means an Income-tax Officer authorised in writing by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, to exercise—

(a) the powers of a Tax Recovery Officer; and
(b) the powers and functions conferred on, or assigned to, an Assessing Officer under this Act, or as prescribed;

(108) “total income” means the total amount of income referred to in section 5, computed in the manner as laid down in this Act;

(109) “transfer” in relation to a capital asset, includes—

(a) the sale, exchange or relinquishment of the asset; or
(b) the extinguishment of any rights therein; or
(c) the compulsory acquisition thereof under any law in force; or
(d) where the asset is converted by the owner into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment; or
(e) the maturity or redemption of a zero coupon bond; or
(f) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner) which has the effect of transferring, or enabling the enjoyment of, any immovable property; or
(g) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or
(h) disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India,
where, the expression “immovable property” means—
(i) any land or any building or part of a building, and includes, where any land or any building or part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also, such that the land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;
(ii) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein), which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-

operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building;

(110) "Valuation Officer" means a person appointed by the Central Government as a Valuation Officer who shall exercise powers as specified in section 269(3), and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer;

(111) "virtual digital asset" means—

(a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, called by any name, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(b) a non-fungible token or any other token of similar nature, by whatever name called:

(c) any other digital asset, as the Central Government may, by notification, specify,

(d) any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such asset is included in sub-clause (a) or (b) or (c),

where,—

(i) "non-fungible token" means such digital asset as the Central Government may, by notification, specify;

(ii) the Central Government may, by notification, exclude any digital asset from this definition, subject to such conditions as specified therein;

(112) "zero coupon bond" means a bond—

(a) issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank on or after the 1st June, 2005;

(b) for which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank; and

(c) which the Central Government may, by notification, specify,

where, the expression "infrastructure debt fund" means the infrastructure debt fund notified by the Central Government under Schedule VII (Table: Sl. No. 46).

2.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "advance tax" means the advance tax payable in accordance with the provisions of Chapter XVII-C;

(*1A*) "agricultural income" means—

(*a*) any rent or revenue derived from land which is situated in India and is used for agricultural purposes;

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

(*i*) agriculture; or

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

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

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

Provided that—

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

(*ii*) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated—

(*A*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(*B*) in any area within the distance, measured aerially,—

(*I*) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (*A*) and which has a population of more than ten thousand but not exceeding one lakh; or

(*II*) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (*A*) and which has a population of more than one lakh but not exceeding ten lakh; or

(*III*) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (*A*) and which has a population of more than ten lakh.

Explanation 1.—For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (*a*) or item (*b*) of sub-clause (*iii*) of clause (*14*) of this section.

Explanation 2.—For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (*c*) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (*a*) or sub-clause (*b*) shall not be agricultural income.

Explanation 3.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

Explanation 4.—For the purposes of clause (*ii*) of the proviso to sub-clause (*c*), "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(*1B*) "amalgamation", in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that—

(*i*) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation;

(*ii*) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;

(*iii*) shareholders holding not less than three-fourths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company;

(*1C*) "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(*1D*) "Additional Director" means a person appointed to be an Additional Director of Income-tax under sub-section (1) of section 117;

(*2*) "annual value", in relation to any property, means its annual value as determined under section 23;

(*3*) [***]

(*4*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 ;

(*5*) "approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with the rules contained in Part C of the Fourth Schedule ;

(*6*) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with the rules contained in Part B of the Fourth Schedule ;

(*7*) "assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes—

(*a*) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or assessment of fringe benefits or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person ;

(*b*) every person who is deemed to be an assessee under any provision of this Act ;

(*c*) every person who is deemed to be an assessee in default under any provision of this Act ;

(*7A*) "Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under clause (*b*) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act ;

(*8*) "assessment" includes reassessment ;

(*9*) "assessment year" means the period of twelve months commencing on the 1st day of April every year ;

(*9A*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax or a Deputy Commissioner of Income-tax under sub-section (1) of section 117 ;

(*9B*) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117 ;

(*10*) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income ;

(*11*) "block of assets" means a group of assets falling within a class of assets comprising—

(*a*) tangible assets, being buildings, machinery, plant or furniture ;

(*b*) intangible assets, being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession,

in respect of which the same percentage of depreciation is prescribed ;

(*12*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) ;

(*12A*) "books or books of account" includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device;

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

(*13A*) "business trust" means a trust registered as,—

(*i*) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(*ii*) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under

the Securities and Exchange Board of India Act, 1992 (15 of 1992),

(*14*) "capital asset" means—

(*a*) property of any kind held by an assessee, whether or not connected with his business or profession;

(*b*) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

Following sub-clause (*b*) shall be substituted for existing sub-clause (*b*) of clause (*14*) of section 2 by the Finance Act, 2025, w.e.f. 1-4-2026:

*(*b*) any securities held by—*

*(*i*) a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or*

*(*ii*) an investment fund specified in clause (*a*) of* Explanation 1 *to section 115UB which has invested such securities in accordance with the provisions of the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or under the International Financial Services Centres Authority Act, 2019 (50 of 2019);*

(*c*) any unit linked insurance policy to which exemption under clause (*10D*) of section 10 does not apply [1]**[***on account of the applicability of the fourth and fifth provisos thereof***]**,

but does not include—

(*i*) any stock-in-trade [other than the securities referred to in sub-clause (*b*)], consumable stores or raw materials held for the purposes of his business or profession ;

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

(*a*) jewellery;

(*b*) archaeological collections;

(*c*) drawings;

(*d*) paintings;

(*e*) sculptures; or

(*f*) any work of art.

Explanation.—For the purposes of this sub-clause, "jewellery" includes—

(*a*) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(*b*) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;

(*iii*) agricultural land in India, not being land situate—

(*a*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(*b*) in any area within the distance, measured aerially,—

(*I*) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than ten thousand but not exceeding one lakh; or

(*II*) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than one lakh but

not exceeding ten lakh; or

(*III*) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than ten lakh.

Explanation.—For the purposes of this sub-clause, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(*iv*) 6½ per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980, or National Defence Gold Bonds, 1980, issued by the Central Government;

(*v*) Special Bearer Bonds, 1991, issued by the Central Government ;

(*vi*) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.

Explanation 1.—For the removal of doubts, it is hereby clarified that "property" includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.

Explanation 2.—For the purposes of this clause—

(*a*) the expression "Foreign Institutional Investor" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 115AD;

(*b*) the expression "securities" shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*15*) "charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in

relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(*i*) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(*ii*) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;

(*15A*) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax or a Director General of Income-tax or a Principal Chief Commissioner of Income-tax or a Principal Director General of Income-tax under sub-section (1) of section 117;

(*15B*) "child", in relation to an individual, includes a step-child and an adopted child of that individual;

(*16*) "Commissioner" means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under sub-section (1) of section 117;

(*16A*) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Income-tax (Appeals) under sub-section (1) of section 117 ;

(*17*) "company" means—

(*i*) any Indian company, or

(*ii*) any body corporate incorporated by or under the laws of a country outside India, or

(*iii*) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 (11 of 1922) or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, or

(*iv*) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special

order of the Board to be a company :

Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971 or on or after that date) as may be specified in the declaration ;

(*18*) "company in which the public are substantially interested"—a company is said to be a company in which the public are substantially interested—

(*a*) if it is a company owned by the Government or the Reserve Bank of India or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank ; or

(*aa*) if it is a company which is registered under section 25 of the Companies Act, 1956 (1 of 1956) ; or

(*ab*) if it is a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are substantially interested :

Provided that such company shall be deemed to be a company in which the public are substantially interested only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration ; or

(*ac*) if it is a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 620A of the Companies Act, 1956 (1 of 1956), to be a *Nidhi* or Mutual Benefit Society ; or

(*ad*) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies ;

(*b*) if it is a company which is not a private company as defined in the Companies Act, 1956 (1 of 1956), and the conditions specified either in item (*A*) or in item (*B*) are fulfilled, namely :—

(*A*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder ;

(*B*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by—

(*a*) the Government, or

(*b*) a corporation established by a Central, State or Provincial Act, or

(*c*) any company to which this clause applies or any subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.

Explanation.—In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (*B*) shall have effect as if for the words "not less than fifty per cent", the words "not less than forty per cent" had been substituted ;

(*19*) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies ;

(*19A*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under sub-section (1) of section 117 ;

(*19AA*) "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(*i*) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(*ii*) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(*iii*) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger:

Provided that the provisions of this sub-clause shall not apply where the resulting company records the value of the property and the liabilities of the undertaking or undertakings at a value different from the value appearing in the books of account of the demerged company, immediately before the demerger, in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015;

(*iv*) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis except where the resulting company itself is a shareholder of the demerged company;

(*v*) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become share-holders of the resulting company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting

company;

(*vi*) the transfer of the undertaking is on a going concern basis;

(*vii*) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf.

Explanation 1.—For the purposes of this clause, "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Explanation 2.—For the purposes of this clause, the liabilities referred to in sub-clause (*ii*), shall include—

(*a*) the liabilities which arise out of the activities or operations of the undertaking;

(*b*) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(*c*) in cases, other than those referred to in clause (*a*) or clause (*b*), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.—For determining the value of the property referred to in sub-clause (*iii*), any change in the value of assets consequent to their revaluation shall be ignored.

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils such conditions as may be notified in the Official Gazette, by the Central Government.

Explanation 5.—For the purposes of this clause, the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be

deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government in the Official Gazette.

Explanation 6.—For the purposes of this clause, the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resulting company and the resulting company—

(*i*) is a public sector company on the appointed day indicated in such scheme, as may be approved by the Central Government or any other body authorised under the provisions of the Companies Act, 2013 (18 of 2013) or any other law for the time being in force governing such public sector companies in this behalf; and

(*ii*) fulfils such other conditions as may be notified by the Central Government in the Official Gazette in this behalf;

(*19AAA*) "demerged company" means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;

(*19B*) "Deputy Commissioner (Appeals)" means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) [1a][***] under sub-section (1) of section 117 ;

(*19C*) "Deputy Director" means a person appointed to be a Deputy Director of Income-tax under sub-section (1) of section 117 ;

(*20*) "director", "manager" and "managing agent", in relation to a company, have the meanings respectively assigned to them in the Companies Act, 1956 (1 of 1956) ;

(*21*) "Director General or Director" means a person appointed to be a Director General of Income-tax or a Principal Director General of Income-tax or, as the case may be, a Director of Income-tax or a Principal Director of Income-tax, under sub-section (1) of section 117, and includes a person appointed under that sub-section to be an Additional Director of Income-tax or a Joint Director of Income-tax or an Assistant Director or Deputy Director of Income-tax;

(*22*) "dividend" includes—

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

(*b*) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not ;

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

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

(*e*) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern) or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits;

[2][(*f*) any payment by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 68 of the Companies Act, 2013 (18 of 2013);]

but "dividend" does not include—

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

(*ia*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, and before the 1st day of April, 1965;

(*ii*) any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ;

[3]**[***(*iia*) *any advance or loan between two group entities, where,—*

*(*A*) one of the group entity is a "Finance company" or a "Finance unit"; and*

*(*B*) the parent entity or principal entity of such group is listed on stock exchange in a country or territory outside India other than the country or territory outside India as may be specified by the Board in this behalf;***]**

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

(*iv*) [4][***]

(*v*) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

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

Explanation 2.—The expression "accumulated profits" in sub-clauses (*a*), (*b*), (*d*) and (*e*), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (*c*) shall include all

profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place.

Explanation 2A.—In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.

Explanation 3.—For the purposes of this clause,—

(*a*) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company ;

(*b*) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the income of such concern ;

[5]**[**(c) *"Finance Company" and "Finance Unit" shall have the same meaning as assigned respectively to them in clauses* (e) *and* (f) *of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019):*

Provided *that such Finance Company or Finance Unit, is set up as a global or regional corporate treasury centre for undertaking treasury activities or treasury services as per the relevant regulations made by the International Financial Services Centres Authority established under section 4 of the said Act;*

(*d*) *"group entity", "parent entity" and "principal entity" shall be such entities which satisfy such conditions as prescribed in this behalf;***]**

(*22A*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the

dividends (including dividends on preference shares) payable out of such income ;

(*22AA*) "document" includes an electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*22AAA*) "electoral trust" means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government;

(*22B*) "fair market value", in relation to a capital asset, means—

(*i*) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date ; and

(*ii*) where the price referred to in sub-clause (*i*) is not ascertainable, such price as may be determined in accordance with the rules made under this Act ;

(*23*) (*i*) "firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);

(*ii*) "partner" shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include,—

(*a*) any person who, being a minor, has been admitted to the benefits of partnership; and

(*b*) a partner of a limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);

(*iii*) "partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);

(*23A*) "foreign company" means a company which is not a domestic company;

(*23B*) "fringe benefits" means any fringe benefits referred to in section 115WB;

(*23C*) "hearing" includes communication of data and documents through electronic mode;

(*24*) "income" includes—

(*i*) profits and gains ;

(*ii*) dividend ;

(*iia*) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes or by an association or institution referred to in clause (*21*) or clause (*23*), or by a fund or trust or institution referred to in sub-clause (*iv*) or sub-clause (*v*) or by any university or other educational institution referred to in sub-clause (*iiiad*) or sub-clause (*vi*) or by any hospital or other institution referred to in sub-clause (*iiiae*) or sub-clause (*via*) of clause (*23C*) of section 10 or by an electoral trust.

Explanation.—For the purposes of this sub-clause, "trust" includes any other legal obligation ;

(*iii*) the value of any perquisite or profit in lieu of salary taxable under clauses (*2*) and (*3*) of section 17 ;

(*iiia*) any special allowance or benefit, other than perquisite included under sub-clause (*iii*), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit ;

(*iiib*) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living ;

(*iv*) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid ;

(*iva*) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (*iii*) or clause (*iv*) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the

representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary ;

(*v*) any sum chargeable to income-tax under clauses (*ii*) and (*iii*) of section 28 or section 41 or section 59 ;

(*va*) any sum chargeable to income-tax under clause (*iiia*) of section 28;

(*vb*) any sum chargeable to income-tax under clause (*iiib*) of section 28;

(*vc*) any sum chargeable to income-tax under clause (*iiic*) of section 28;

(*vd*) the value of any benefit or perquisite taxable under clause (*iv*) of section 28 ;

(*ve*) any sum chargeable to income-tax under clause (*v*) of section 28;

(*vi*) any capital gains chargeable under section 45 ;

(*vii*) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule ;

(*viia*) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;

(*viii*) [*Omitted by the Finance Act, 1988, w.e.f. 1-4-1988. Original sub-clause (*viii*) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964;*]

(*ix*) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.

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

(*i*) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(*ii*) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game ;

(*x*) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees ;

(*xi*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in the *Explanation* to clause (*10D*) of section 10 ;

(*xii*) any sum referred to in clause (*va*) of section 28;

(*xiia*) the fair market value of inventory referred to in clause (*via*) of section 28;

(*xiii*) any sum referred to in clause (*v*) of sub-section (2) of section 56;

(*xiv*) any sum referred to in clause (*vi*) of sub-section (2) of section 56;

(*xv*) any sum of money or value of property referred to in clause (*vii*) or clause (*viia*) of sub-section (2) of section 56;

(*xvi*) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in clause (*viib*) of sub-section (2) of section 56;

(*xvii*) any sum of money referred to in clause (*ix*) of sub-section (2) of section 56;

(*xviia*) any sum of money or value of property referred to in clause (*x*) of sub-section (2) of section 56;

(*xviib*) any compensation or other payment referred to in clause (*xi*) of sub-section (2) of section 56;

[6][(*xviic*) any sum referred to in clause (*xii*) of sub-section (2) of section 56;

(*xviid*) any sum referred to in clause (*xiii*) of sub-section (2) of section 56;]

(*xviii*) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than,—

(*a*) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation 10* to clause (*1*) of section 43; or

(*b*) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, as the case may be;

(*25*) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 117 ;

(*25A*) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;

(*26*) "Indian company" means a company formed and registered under the Companies Act, 1956 (1 of 1956), and includes—

(*i*) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir and the Union territories specified in sub-clause (*iii*) of this clause) ;

(*ia*) a corporation established by or under a Central, State or Provincial Act ;

(*ib*) any institution, association or body which is declared by the Board to be a company under clause (*17*) ;

(*ii*) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State ;

(*iii*) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory :

Provided that the registered or, as the case may be, principal office of the company, corporation, institution, association or body in all cases is in India ;

(*26A*) "infrastructure capital company" means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80-IB or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;

(*26B*) "infrastructure capital fund" means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80-IB or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;

(*27*) [***]

(*28*) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under sub-section (1) of section 117 ;

(*28A*) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised ;

(*28B*) "interest on securities" means,—

(*i*) interest on any security of the Central Government or a State Government ;

(*ii*) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act ;

(*28BB*) "insurer" means an insurer, being an Indian insurance company, as defined under clause (*7A*) of section 2 of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;

(*28C*) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of section 117;

[7][(*28CA*) "Joint Commissioner (Appeals)" means a person appointed to be a Joint Commissioner of Income-tax (Appeals) or an Additional Commissioner of Income-tax (Appeals) under sub-section (1) of section 117;]

(*28D*) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;

(*29*) "legal representative" has the meaning assigned to it in clause (*11*) of section 2 of the Code of Civil Procedure, 1908 (5 of 1908) ;

(*29A*) "liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;

(*29AA*) "long-term capital asset" means a capital asset which is not a short-term capital asset ;

(*29B*) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset ;

(*29BA*) "manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing,—

(*a*) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(*b*) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;

(*29C*) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual , association of persons or, as the case may be, body of individuals as specified in the Finance Act of the relevant year;

(29D) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;

(*30*) "non-resident" means a person who is not a "resident", and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of clause (*6*) of section 6;

(*31*) "person" includes—

(*i*) an individual,

(*ii*) a Hindu undivided family,

(*iii*) a company,

(*iv*) a firm,

(*v*) an association of persons or a body of individuals, whether incorporated or not,

(*vi*) a local authority, and

(*vii*) every artificial juridical person, not falling within any of the preceding sub-clauses.

Explanation.—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;

(*32*) "person who has a substantial interest in the company", in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power ;

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

(*34*) "previous year" means the previous year as defined in section 3 ;

(*34A*) "Principal Chief Commissioner of Income-tax" means a person appointed to be a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;

(*34B*) "Principal Commissioner of Income-tax" means a person appointed to be a Principal Commissioner of Income-tax under sub-section (1) of section 117;

(*34C*) "Principal Director of Income-tax" means a person appointed to be a Principal Director of Income-tax under sub-section (1) of section 117;

(*34D*) "Principal Director General of Income-tax" means a person appointed to be a Principal Director General of Income-tax under sub-section (1) of section 117;

(*35*) "principal officer", used with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

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

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

(*36*) "profession" includes vocation ;

(*36A*) "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ;

(*37*) "public servant" has the same meaning as in section 21 of the Indian Penal

Code (45 of 1860) ;

(*37A*) "rate or rates in force" or "rates in force", in relation to an assessment year or financial year, means—

(*i*) for the purposes of calculating income-tax under the first proviso to sub-section (5) of section 132, or computing the income-tax chargeable under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 or deducting income-tax under section 192 from income chargeable under the head "Salaries" or computation of the "advance tax" payable under Chapter XVII-C in a case not falling under section 115A or section 115B or section 115BB or section 115BBB or section 115E or section 164 or section 164A or section 167B, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, and for the purposes of computation of the "advance tax" payable under Chapter XVII-C in a case falling under section 115A or section 115B or section 115BB or section 115BBB or section 115E or section 164 or section 164A or section 167B, the rate or rates specified in section 115A or section 115B or section 115BB or section 115BBB or section 115E or section 164 or section 164A or section 167B, as the case may be, or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, whichever is applicable ;

(*ii*) for the purposes of deduction of tax under sections 193, 194, 194A , 194B [8][, 194BA] , 194BB and 194D, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year ;

(*iii*) for the purposes of deduction of tax under section 194LBA or section 194LBB or section 194LBC or section 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 90, or an agreement notified by the Central Government under section 90A, whichever is applicable by virtue of the provisions of section 90, or section 90A, as the case may be;

(*38*) "recognised provident fund" means a provident fund which has been and continues to be recognised by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees' Provident Funds

Act, 1952 (19 of 1952) ;

(*39*) [*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993*;]

(*40*) "regular assessment" means the assessment made under sub-section (3) of section 143 or section 144 ;

(*41*) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual ;

(*41A*) "resulting company" means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;

(*42*) "resident" means a person who is resident in India within the meaning of section 6 ;

(*42A*) "short-term capital asset" means a capital asset held by an assessee for not more than [9][twenty-four] months immediately preceding the date of its transfer :

Provided that in the case of a security [10][***] listed in a recognized stock exchange in India or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or a unit of an equity oriented fund or a zero coupon bond, the provisions of this clause shall have effect as if for the words [11]"[twenty-four] months", the words "twelve months" had been substituted:

Provided further that in case of a share of a company (not being a share listed in a recognised stock exchange) or a unit of a Mutual Fund specified under clause (*23D*) of section 10, which is transferred during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted [12][as it stood immediately prior to the commencement of the Finance (No. 2) Act, 2024].

[12a][***]

Explanation 1.—(*i*) In determining the period for which any capital asset is held

by the assessee—

(*a*) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation ;

(*b*) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in sub-section (1) of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section ;

(*ba*) in the case of a capital asset referred to in clause (*via*) of section 28, the period shall be reckoned from the date of its conversion or treatment;

(*c*) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, there shall be included the period for which the share or shares in the amalgamating company were held by the assessee ;

(*d*) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset ;

(*e*) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer ;

(*f*) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset ;

(*g*) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee ;

(*h*) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (*xiii*) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(*ha*) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause(*xiii*) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(*hb*) in the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;

(*hc*) in the case of a capital asset, being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in clause (*xvii*) of section 47, there shall be included the period for which the share or shares were held by the assessee;

(*hd*) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xviii*)of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;

(*he*) in the case of a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in clause (*b*) of sub-section (1) of section 115AC held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made;

(*hf*) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer

referred to in clause (*xb*) of section 47, there shall be included the period for which the preference shares were held by the assessee;

(*hg*) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, there shall be included the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee;

(*hh*) in the case of a capital asset, being a unit or units in a segregated portfolio referred to in sub-section (2AG) of section 49, there shall be included the period for which the original unit or units in the main portfolio were held by the assessee;

[13][(*hi*) in the case of a capital asset, being—

(*a*) Electronic Gold Receipt issued in respect of gold deposited as referred to in clause (*viid*) of section 47, there shall be included the period for which such gold was held by the assessee prior to conversion into the Electronic Gold Receipt;

(*b*) gold released in respect of an Electronic Gold Receipt as referred to in clause (*viid*) of section 47, there shall be included the period for which such Electronic Gold Receipt was held by the assessee prior to its conversion into gold;]

(*ii*) In respect of capital assets other than those mentioned in clause (*i*), the period for which any capital asset is held by the assessee shall be determined subject to any rules which the Board may make in this behalf.

Explanation 2.—For the purposes of this clause, the expression "security" shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Explanation 3.—For the purposes of this clause, the expressions "specified security" and "sweat equity shares" shall have the meanings respectively assigned to them in the *Explanation* to clause (*d*) of sub-section (1) of section 115WB.

Explanation 4.—For the purposes of this clause, the expression "equity oriented fund" shall have the meaning assigned to it in clause (*a*) of the

Explanation to section 112A;

(*42B*) "short-term capital gain" means capital gain arising from the transfer of a short-term capital asset ;

(*42C*) "slump sale" means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer.

Explanation 1.—For the purposes of this clause, "undertaking" shall have the meaning assigned to it in *Explanation 1* to clause (*19AA*).

Explanation 2.—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.

Explanation 3.—For the purposes of this clause, "transfer" shall have the meaning assigned to it in clause (*47*);

(*43*) "tax" in relation to the assessment year commencing on the 1st day of April, 1965, and any subsequent assessment year means income-tax chargeable under the provisions of this Act, and in relation to any other assessment year income-tax and super-tax chargeable under the provisions of this Act prior to the aforesaid date and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under section 115WA ;

(*43A*) "tax credit certificate" means a tax credit certificate granted to any person in accordance with the provisions of Chapter XXII-B and any scheme made thereunder ;

(*43B*) [***]

(*44*) "Tax Recovery Officer" means any Income-tax Officer who may be authorised by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, by general or special order in writing, to exercise the powers of a Tax Recovery Officer and also to exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer under this Act and which may be prescribed;

(*45*) "total income" means the total amount of income referred to in section 5, computed in the manner laid down in this Act ;

(*46*) [***]

(*47*) "transfer", in relation to a capital asset, includes,—

(*i*) the sale, exchange or relinquishment of the asset ; or

(*ii*) the extinguishment of any rights therein ; or

(*iii*) the compulsory acquisition thereof under any law ; or

(*iv*) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment ; or

(*iva*) the maturity or redemption of a zero coupon bond; or

(*v*) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882) ; or

(*vi*) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

Explanation 1.—For the purposes of sub-clauses (*v*) and (*vi*), "immovable property" shall have the same meaning as in clause (*d*) of section 269UA.

Explanation 2.—For the removal of doubts, it is hereby clarified that "transfer" includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India;

(*47A*) "virtual digital asset" means—

(*a*) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(*b*) a non-fungible token or any other token of similar nature, by whatever name called;

(*c*) any other digital asset, as the Central Government may, by notification in the Official Gazette specify:

Following sub-clause (*d*) shall be inserted after sub-clause (*c*) of clause (*47A*) of section 2 by the Finance Act, 2025, w.e.f. 1-4-2026:

(*d*) *any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such asset is included in sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*):*

Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

Explanation.—For the purposes of this clause,—

(*a*) "non-fungible token" means such digital asset as the Central Government may, by notification in the Official Gazette, specify;

(*b*) the expressions "currency", "foreign currency" and "Indian currency" shall have the same meanings as respectively assigned to them in clauses (*h*), (*m*) and (*q*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*48*) "zero coupon bond" means a bond—

(*a*) issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank on or after the 1st day of June, 2005;

(*b*) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank; and

(*c*) which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation 1.—For the purposes of this clause, the expression "scheduled bank" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to sub-clause (*c*) of clause (*viia*) of sub-section (1) of section 36.

Explanation 2.—For the purposes of this clause, the expression "infrastructure debt fund" shall mean the infrastructure debt fund notified by the Central Government in the Official Gazette under clause (*47*) of section 10.

2.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

2.3.1 Clause 2 of the Bill seeks to provide for Definitions. The clause corresponds to section 2 of the Act. The provisions of the existing section have been simplified and retained with the same intent in this clause. Definition of “Assessment Year”, “Previous year” has been omitted from clause 2. The concept of assessment year and previous year has been replaced by ‘tax year’, which is sought to be defined in clause 3 of the Bill. This is one of the major simplifications in the Bill. Other important changes are like Table has been used in the definition of “Capital asset”. Redundant provisions like Explanation 1 to Section 2(22) of the Act have been removed. The definition of “books or books of account” has been modified to include “any digital form”, “cloud based storage”, “portable data storage device, external hard drives or memory cards”. Definition of “relative” has been clarified by including the phrase “maternal as well as paternal” w.r.t. lineal ascendant. All these changes are made to rationalise the provisions related to the definition and to reduce litigation. The provisions of the existing section have been simplified and retained with the same intent in this clause. (The word “either of” is to be added in clause 2(29f) of the Bill. the phrase “in the case of a share held in a company” is to be added in clause 2(101) of the Bill).

2.3.2 Sub-Clause 2(19)

The definition of books or books of accounts as per section 2(12A) of Income-Tax Act, 1961 has been simplified and retained in the Bill with some modifications. The definition has been modified to include “cloud based storage”, “portable data storage device, external hard drives, or memory cards” under its purview to avoid any ambiguity.

2.3.3 Sub-Clause 2(29) "company in which the public are substantially interested"

The phrase “company in which the public are substantially interested” had already been defined in section 2(18) of Income-Tax Act, 1961, and the same definition was simplified and retained in Income-Tax Bill 2025.

2.3.4 Sub-Clause 2(103) “Slump Sale”

The definition of slump sale as per section 2(42C) of Income-Tax Act, 1961 was simplified. The word "transfer" is defined in the Bill in clause 2(109) and that applies to the entire Bill. Therefore, there was no need to define this term under the clause separately and hence it was removed.

2.4 Important Views/Suggestions given by Experts/Stakeholders:

2.4.1 Sub-Clause 2(1) “Accountant”

In a detailed submission made during the Committee’s sitting, one of the witnesses strongly urged that the definition of 'accountant' under Section 288 of the Income-tax Act should remain unchanged, stressing that the function of audit must remain the exclusive domain of Chartered Accountants (CAs). The witness noted that several representations were being made by other professional bodies, including company secretaries, seeking to gain eligibility for conducting tax audits. However, it was asserted that such professionals lack the core tax expertise and audit proficiency required for this highly specialized function. Reference was made to Section 44AB of the existing Income-tax Act, which mandates that tax audits must be conducted by a Chartered Accountant holding a valid Certificate of Practice—failing which, the right to conduct audits is forfeited. It was emphasized that the legislature has drawn clear boundaries among the various professional institutes through distinct statutes: the Chartered Accountants Act, 1949 assigns responsibility for tax and financial audits to CAs; the Cost and Works Accountants Act, 1959 governs cost audits; and the Company Secretaries Act, 1980 focuses on compliance, corporate law, and governance. The submission clarified that there is no intent on the part of CAs to encroach upon the responsibilities of other professions, such as cost audits or corporate compliance, and

similarly, other professionals should not seek entry into the domain of tax audits. Citing legal and judicial precedents, including the Supreme Court judgment in *T.D. Venkata Rao vs. Union of India*, it was pointed out that CAs possess a specialized aptitude for audit due to the depth of training and qualification required. Additionally, international best practices were referenced to underscore that, globally, tax audits and financial certifications are restricted to professionals with robust financial and accounting expertise—such as Certified Public Accountants (CPAs) in the United States and Chartered Accountants in the United Kingdom. Any expansion of the definition of 'accountant' to include professionals without such expertise was described as inconsistent with global tax administration standards and potentially detrimental to audit quality.

2.4.1.2 During another sitting of the Select Committee, representatives from a professional accounting body raised significant concerns regarding the definition and scope of 'accountant' under the proposed Bill. A key point involved the placement of the definition within the legislative text. Attention was drawn to Clause 2(1), which defines 'accountant' not directly but by reference to Clause 515(3)(b). A contrast was made with the Income-Tax Act, 1961, where the term was not defined under Section 2. The concern expressed was that since the word 'accountant' appears in numerous clauses *before* Clause 515, this indirect and delayed definition could create difficulties and confusion for stakeholders attempting to interpret the Bill sequentially. A strong recommendation was made for the definition to be disclosed upfront for clarity. A specific instance of perceived exclusion was cited concerning Clause 12, dealing with the taxation of Political Parties. While the Representation of the People Act, 1951, under Section 29A, allows non-disclosure for contributions under ₹20,000, for accounts requiring certification, the proposed Bill, specifically in Clause 12(vii), mentions *only* Chartered Accountants. A plea was made for expanding this scope to include other qualified professionals.Furthermore, the discussion extended to the definition of 'authorized representative' under Clause 515, which corresponds to the old Section 288. An argument was presented that the original 1961 provisions reflect an era when the commerce and accounting professions were less developed, computerisation was absent, and even certain graduates or civil court lawyers could represent. Given the significant evolution over more than 65 years and the establishment of specialised accounting bodies, an explicit inclusion of Cost and Management Accountants to represent assessees before income tax authorities was strongly advocated. A revised, broader definition of 'accountant' was suggested as a comprehensive solution to these perceived anomalies and limitations.

2.4.1.3 In a different detailed presentation before the Committee, representatives suggested that the definition of "accountant" in Clause 2(1) of the Income-tax Bill, 2025 should be self-contained rather than relying on a cross-reference to Clause 515(3)(b). It

was pointed out that the current structure, which necessitates referring to another clause to understand the meaning of "accountant," leads to excessive and avoidable cross-referencing across multiple provisions. This, it was argued, undermines the objective of simplification and transparency in legislative drafting. Accordingly, it was proposed that the complete definition of "accountant" be included directly in Clause 2(1) to ensure clarity and ease of interpretation across the Bill. Further, it was proposed that the scope of the definition of "accountant" be broadened to include members of the Institute of Company Secretaries of India (ICSI) holding valid certificates of practice. Drawing attention to the current formulation—which limits the term to Chartered Accountants under the Chartered Accountants Act, 1949—it was suggested that the definition be amended to also encompass Company Secretaries as defined under Section 2(1)(c) of the Company Secretaries Act, 1980. The rationale provided was that this inclusion would expand the pool of qualified professionals available to assessees and tax authorities, particularly in Tier-II and Tier-III cities, thereby easing the burden on a single category of professionals and facilitating timely compliance. To support this suggestion, it was emphasized that Company Secretaries undergo rigorous training in taxation, accountancy, and finance, and are therefore well-equipped to undertake compliance-related responsibilities under the Income-tax law. The ICSI curriculum was cited in detail to show that Company Secretaries study a wide range of taxation and financial subjects—such as advanced accountancy, corporate tax management, and indirect tax laws—making them competent to function in roles currently reserved for Chartered Accountants. Historical and legislative precedents were also referenced in support of this proposal. Particular mention was made of the 49th Report of the Department Related Parliamentary Standing Committee on Finance (2012), which had recommended the inclusion of other professionals in the definition of "accountant" under the Direct Taxes Code. The report, it was noted, had underscored that such an expansion would offer small and medium enterprises a broader and more cost-effective set of professional options. Additionally, it was pointed out that the Direct Tax Code, 2013 had incorporated Company Secretaries in the definition of "accountant", signaling legislative intent toward inclusivity. Other regulatory recognitions of Company Secretaries were also presented as evidence of professional equivalence. Examples cited included roles in concurrent audits for depositories (NSDL and CDSL), issuance of net worth certificates for various statutory and regulatory purposes, and recognition under several regimes such as TRAI and IFSCA. These instances, it was argued, reaffirmed the competence of Company Secretaries in financial and taxation matters.

It was finally submitted that the exclusion of Company Secretaries from the definition of "accountant" appeared to be an inadvertent oversight rather than a deliberate legislative choice. Given that the Income-tax Bill, 2025 provides an opportunity to overhaul and modernize tax legislation, it was urged that this oversight be rectified to ensure parity

among similarly qualified professional bodies and to promote inclusive growth and compliance efficiency across the tax administration ecosystem.

2.4.2 Sub-Clause 2(5) "Agricultural Income"

Some of the witnesses have suggested w.r.t clause 2(5) that Clause (d) should be amended to word: "Any income derived from sale of live plants, samplings andseedlings." OR d) "Any income derived from sale of agriculture produce (including live plants, saplings and seedlings) coco-pits i.e., in a nursery is agriculture. However, the issue was put to rest by issuance of Explanation 3 to the section 2(1A) of the existing Income-Tax Act which clarified the intention of the legislature and included 'nursery' within the scope of agriculture. In the new bill instead of explanation 3 – sub-clause (d) has been proposed to be inserted which will lead to litigation which is already settled by judicial authorities. · This is amendment is suggested to provide clarity that any income derived from sale of agricultural produce (including live plants, saplings or seedlings) - whether or not such products have been grown in soil or any other substances in or grown under controlled conditions or in a laboratory shall be deemed to be agricultural income. Accordingly, irrespective of how the agricultural produce has been grown, income from sale of such agricultural produce will be treated as agricultural income, thus qualifying for exemption under the new section 2(5) read with schedule II – Si.No 1 of the new Income-Tax Act.

2.4.2.2 Another similar suggestion was received to the amend Clause (d) to explicitly to include income from the sale of live plants, saplings, and seedlings. Suggested wording: "Any income derived from sale of agricultural produce (including live plants, saplings, and seedlings)." The new bill's proposed wording could lead to litigation on well-settled matters Clarification is needed regarding what constitutes "agricultural income" to avoid litigation. Judicial authorities have determined that the classification of income from the sale of agricultural produce as agricultural income depends on the specific circumstances of each case, particularly the methods used by the grower This has resulted in misinterpretations of the relevant provisions, creating challenges for agriculturists who utilize modern technologies in their farming practices Previous issues arose regarding in early 2000, when whether growing plants in controlled conditions (e.g., nurseries) qualifies as agriculture. The proposed wording aims to ensure that income from all forms of agricultural produce, irrespective of how the agricultural produce has been grown, is treated as agricultural income, qualifying for tax exemption.

2.4.3 Sub-Clause 2(6) "Amalgamation"

One of the stakeholder pointed out that 2(6): “amalgamation”, in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company, and the or companies and the company with which they merge or which is formed as a result of such merger being referred to as the amalgamated company) in such a manner that— Justification: It is kindly suggested to review the phrase "the amalgamating company, and the companies" for substitution with "the amalgamating company, or companies" as the latter may be more appropriate.

2.4.3.2 Another suggestion on the sub-clause was that the date of Amalgamation and Demerger needs to be defined to give effect to Clause 116 and clause 117.There are several dates involved in amalgamation or Demerger For example the date of presentation of documents to competent authority, approval by competent authority, approvals by Share Holders of the Amalgamating or Demerging company, Final acceptance by the Company after approval by competent authority, etc .

2.4.4 Sub-Clause 2(7) “Annual Value”

During the Committee’s sitting, concerns were raised regarding the calculation of 'annual value,' a key element for 'income from house property.' The process was described as lengthy, involving the computation of 'gross annual value' based on multiple factors like municipal value, fair rent, and standard rent. A proposal was made to present this complex calculation in a tabular format within the law. It was argued that such a format would simplify the process and could reduce litigation.

2.4.5 Sub-Clause 2 (17) "Block of Assets"

One of the witnesses during the deliberations of the Committee pointed out that the 'Block of Assets' concept, fundamental for calculating depreciation under the Income-Tax Act, is frequently associated with significant litigation. To address this and enhance clarity, a suggestion was put forward to incorporate a structured table within the Bill itself. This table would clearly delineate the various asset blocks and their corresponding, specific depreciation rates.

2.4.6 Sub-Clause 2(19) "Books or Books of Account"

One of the representatives during the meeting proposed that the definition of “books of account” in the Income-tax Bill, 2025 should be aligned with the more contemporary and comprehensive definition provided under Section 2(13) of the Companies Act, 2013. It was stated by the representatives that the current draft of the Bill refers to outdated terminology such as “cash book” and “day register,” which may no longer adequately reflect modern accounting practices. By harmonizing the definitions

across legislations, the understanding of what constitutes books of account would be broadened and standardized, thereby enhancing clarity and consistency in compliance.

2.4.6.2 In a written suggestion to the Committee it was suggested by the stakeholders that the terms ledgers, day books, cash books, account books or other books, in the definition in the IT Bill 2025 can be reworded on the lines of definition given under sub-section 13 of section 2 Companies Act 2013. Accordingly, we propose the following definition. “books of account” includes records maintained by all persons in respect of—
(i) all sums of money received and expended and matters in relation to which the receipts and expenditure take place;
(ii) all sales and purchases of goods and services;
(iii) the assets and liabilities; and
(iv) the items of cost;
Justification: In order to broaden the definition in the Tax Bill and to enable uniformity with the relevant laws, the contents and text of the proposed definition may be considered.

2.4.7 Sub-Clause 2(21) "Business Trust"

A suggestion on this clause was that IFSC Authority has issued Fund Management Regulations which provide framework for REIT and InVITs set up in IFSC This framework requires REITs/InVITs to be set up in IFSC but secondary listing of SEBI registered BTs (REITs/InVITs) in IFSC is currently not permissible. Units of such REITs/InVITs are to be traded in a currency other than the INR. However, IFSC BT (REIT/InVITs) do not get pass through status under Income tax Hence, all income of IFSC BT is subjected to maximum marginal tax rate Further, capital gains / MAT exemption on swap of sponsor’s shares is not available in case of IFSC BT and is taxable in hands of sponsor Therefore, while capital gains on sale of units by non-resident in IFSC exchange is exempt by way of specific notification Income of IFSC BT which in- turn gets distributed to unit holders gets fully taxed in hands of BT at MMR.

2.4.8 Sub-Clause 2(22) "Capital Asset"

It was suggested by the Stakeholders that the section 2(22)(b) of Income-tax Bill, 2025 be amended as follows:

(b) any securities held by a Foreign Institutional Investor or held by an investment fund specified in section 224(10)(a) which has invested in such securities as per the regulations made under the Securities and Exchange Board of India Act, 1992;
(b) any securities held by— (i) a Foreign Institutional investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992; or (ii) an investment fund specified in sub-section

(10) of section 224 which has invested such securities in accordance with the provisions of the regulations made under the Securities and Exchange Board of India Act, 1992 or under the International Financial Services Centers Authority Act,"

The Finance Act, 2025 has amended section 2(14)(b) and consequential amendment has to be made in clause 2(22)(b) of Income-tax Bill, 2025.

2.4.9 Sub-Clause 2(23) "charitable purpose"

During one of the Committee's sitting, concerns were raised regarding the absence of a definition for "religious purpose" in the Income-tax Bill, 2025. It was pointed out that while the term "charitable purpose" is defined in Section 2(15) of the Income-tax Act, 1961, no corresponding definition exists for "religious purpose". This omission, it was argued, creates ambiguity in interpretation and leads to challenges during the registration process for religious and charitable trusts. A representative suggested including a sub-clause to define "religious purpose" as encompassing both religious activities and charitable activities that are integral to a particular religion (The witness emphasized that defining "religious purpose" is essential to avoid misinterpretation by tax authorities, particularly at the stage of trust registration, where the lack of clarity often leads to denial of registration on the grounds that the entity is both religious and charitable. The point was reinforced with reference to Article 26 of the Constitution, which permits religious denominations to establish institutions for religious and charitable purposes .Further, it was highlighted that in practice, many activities—such as education or medical relief—may simultaneously fall under both religious and charitable domains, making it difficult to draw a strict line between the two. The absence of a definition has also led to litigation, especially in cases involving anonymous donations, where trusts classified as charitable but religious are denied exemption benefits on the grounds that they are not "wholly religious institutions". Accordingly, it was suggested that the Bill should incorporate a clear and inclusive definition of "religious purpose" to reflect constitutional provisions, reduce administrative and legal uncertainty, and ensure equitable treatment of religious and charitable institutions under the tax regime.

2.4.10 Sub-Clause 2(28) "Company"

Stakeholder pointed out a drafting error in the sub-clause and pointed out that To maintain consistency with clause 3 of the Bill, it is recommended that the phrase "assessment year" in clause 2(28) which defines Company, be replaced with "subsequent tax year." This change would streamline and bring in consistency with the wordings used in various other sections of the IT Bill, 2025.

2.4.11 Sub-Clause 2(29) "company in which the public are substantially interested"

A number of stakeholders in their written submissions to the Committee have suggested that there seems to be a typo in the ITB 2025, missing the language that allows companies which are not private companies to either be listed on the last day as per clause (i) or fulfil conditions set out in clause (ii). Unless corrected, an unlisted company may never become widely held company even if it fulfils conditions of clause (ii)

1. To modify the language in ITB 2025 to ensure that the conditions to qualify as a WHC are the same as in Section 2(18) of ITA 1961 without requiring all companies to be listed on the last day of the year. This can be done by inserting “or” between clause (i) and clause (ii) or by inserting “either of” between “and” and “the following conditions”

2. Substitute the phrase “a company which is not a private company as defined in the Companies Act, 2013” with “a company which is a public company as defined in the Companies Act 2013” to provide clarity and avoid unnecessary controversy on the issue that whether a deemed public company can be regarded as WHC for income tax purposes.

2.4.11.2 Another suggestion received on the Clause 2(29) was that the clause should be amended to designate the SPVs of a listed BT as a company in which the public are substantially interested, if on the last day of the relevant previous, the BT is listed on a recognised stock exchange in India. Section 2(18)(b)(A) of the Act (corresponding to Section 2(29)(f)(i) of the Bill) provides that a company, the shares of which were listed in a recognised stock exchange as on the last day of the relevant previous year would be regarded as a company in which the public are substantially interested Additionally, a subsidiary of a listed company is also treated as a company in which the public are substantially interested. Given the construct of the SEBI Regulations, shares of the SPV cannot be listed; instead, a majority of the shareholding of a SPV must be transferred to a BT and it is the units of the BT that are required to be listed Under the circumstances, the SPVs of BT should be regarded as companies in which the public are substantially interested if as on the last day of the relevant previous year, the BT is listed on a recognized stock exchange in India Designating a SPV as a company in which the public are substantially interested would put a BT listing on par with a listed equity; and confer similar benefits in relation to lapse of losses and fund movements as are available to a listed company.

2.4.11.3 Committee received different kinds of written suggestions on this specific clause, another suggestion was that the Section 2(18)(b)(A) of the Act (corresponding to Section 2(29)(f)(i) of the Bill) provides that a company, the shares of which were listed in a recognised stock exchange as on the last day of the relevant previous year would be

regarded as a company in which the public are substantially interested Additionally, a subsidiary of a listed company is also treated as a company in which the public are substantially interested Given the construct of the SEBI Regulations, shares of the SPV cannot be listed; instead, a majority of the shareholding of a SPV must be transferred to a BT and it is the units of the BT that are required to be listed Under the circumstances, the SPVs of BT should be regarded as companies in which the public are substantially interested if as on the last day of the relevant previous year, the BT is listed on a recognized stock exchange in India.Designating a SPV as a company in which the public are substantially interested would put a BT listing on par with a listed equity; and confer similar benefits in relation to lapse of losses and fund movements as are available to a listed company.The section 2(18) of the Act (i.e corresponding section 2(29) of the Bill) should be amended to designate the SPVs of a listed BT as a company in which the public are substantially interested, if on the last day of the relevant previous, the BT is listed on a recognised stock exchange in India.

2.4.12 Sub-Clause 2 (35) "Demerger" :

During the Committee's sitting representatives from an industry body urged that fast-track demergers, as provided under Section 233 of the Companies Act, 2013, be explicitly granted tax neutrality under the proposed Income-tax Bill. It was pointed out that while the existing Income-tax Act, 1961 confers tax neutrality on demergers meeting specified conditions—and although the draft Bill broadly preserves this principle—it appears that fast-track demergers have been inadvertently excluded due to the omission of a reference to Section 233. This oversight, it was argued, contradicts the legislative intent expressed by the Finance Minister in the Budget speech, which emphasized simplifying and widening the scope of fast-track mergers. Accordingly, they suggested that the Bill be amended to explicitly extend tax neutrality to such transactions.

2.4.12.2 During the Committee's sittings, concerns were repeatedly raised regarding the exclusion of fast-track demergers under Section 233 of the Companies Act, 2013, from the scope of tax neutrality in the new Income-tax Bill. A representative from a professional body highlighted that Section 233 was introduced as a simplified and time-efficient mechanism for demergers, particularly for smaller companies, requiring the approval of Regional Directors rather than the National Company Law Tribunal (NCLT), as is the case under Sections 230 and 232. However, the new Bill appears to recognize only demergers effected under Sections 230 and 232, omitting any reference to Section 233. This omission suggests that fast-track demergers may not qualify for tax-neutral treatment, potentially disincentivizing their use. The representatives further reiterated that the current drafting does not appear to cover fast-

track demergers and suggested that the definition be clarified or amended to explicitly include Section 233 to avoid any adverse implications for eligible entities.

2.4.12.3 Another written suggestion on the Clause 2(35) stated that, when Companies Act, 1956 was replaced by Companies Act, 2013, a new concept of fast-track demerger was introduced under Section 233 of Cos Act, 2013, which did not require NCLT/Court approval in certain circumstances. Since s.233 of CA 2013 was considered analogous to s.391 to 394 of CA 1956, fast track demerger is also understood to be covered herein. Ambiguity exists in s. 2(35) of ITB 2025 as to whether fast-track demergers under Section 233 of Cos Act, 2013 are tax neutral, leading to potential litigation. This will have the effect of making them fast track demergers unattractive and defeat the very intent of introducing fast track process in Companies Act 2013.Modify the definition of "demerger" in ITB 2025 to include reference to Section 233 of Cos Act, 2013 to remove ambiguity and reduce litigation risk regarding the tax neutrality of fast-track demergers.

2.4.12.4 One of the stakeholders in their submission suggested that the Reference to accounting standards prescribed under section 129 of the CA-13 may be made so that both kinds of standards (i.e for bigger companies as well as for smaller companies) are referred to. Alternatively: after the words and figures, "Companies (Indian Accounting Standards) Rules, 2015" the words and figures "Companies (Accounting Standards) Rules, 2021" may be included. Indian Accounting Standards (Ind AS) referred to in Companies (Indian Accounting Standards) Rules, 2015 are applicable only for certain classes of bigger Companies and for the remaining classes, Accounting Standards notified in Companies (Accounting Standards) Rules, 2021 apply.

2.4.13 Sub-Clause 2(40) "Dividend"

Suggestions on this clause stated that there is a need to provide for a safe harbour rule in terms of which bonafide loans compliant with Companies Act 2013 and repaid in ordinary course are not treated as deemed dividends. The safe harbour conditions may include minimum interest rate as per s.186(7) of Companies Act 2013, repayment period of 3 years and any other conditions as may be deemed fit by CBDT. This may be accompanied by reporting requirement by the lending company and recipient as part of income tax return or separate forms.While this is an anti-abuse provision to prevent disguised dividends in the form of loans or advances, it acts as deterrent even for bonafide intra group loan transactions in compliance with s 186(7) of Companies Act 2013 which mandates a minimum interest at the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

2.4.13.1 Another suggestion was to delete the limb (f) of section 2(40) Taxation of gains on buy-back of shares as dividend goes against the premise that return of capital

cannot be dividend. 2 Such tax regime of dividend taxation goes against the accepted economic and accounting norms; and international understanding. 3 Increases tax for oversees investors who otherwise would have availed an exemption under the treaty provisions 4 Challenges may also arise if there are reserves and surplus in the company and the buy-back happens out of the fresh issue.

2.4.14 Sub-Clause 2(48) “hearing””

During the Committee’s sitting, attention was drawn to the new definition of 'hearing' introduced in Clause 2, sub-clause (48) of the Bill, explicitly including the "communication of data and documents through electronic mode." A recommendation was made that virtual hearings, under the new definition, be granted full statutory recognition and be considered part of official evidence. Emphasis was placed on the context of faceless assessments, where direct interaction with assessing officers is absent; making virtual hearings part of the record is deemed essential. The argument presented was that such inclusion would allow appellants to definitively prove submissions before higher authorities, potentially using transcripts, consequently acting as a vital check on the quality of assessment orders and strengthening the faceless regime. A suggestion was put forth that the Bill must ensure virtual proceedings are treated as formal statements and evidence.

2.4.15 Sub-Clause 2(49) “Income”:

In a submission before the Committee, one of the representatives addressed concerns regarding the definition of 'income' in the draft legislation. It was pointed out that the current draft makes reference to Section 2(24) of the Income-tax Act, 1961, as a residuary provision for defining income. The witness suggested that instead of relying on cross-references to provisions from the old Act, the new Income-tax Bill should explicitly reproduce the relevant definitions within the text itself. The argument advanced was that importing definitions from the earlier legislation through references creates ambiguity and hampers interpretive clarity. Therefore, for consistency, ease of interpretation, and legislative self-containment, it was recommended that all such provisions—including the definition of income presently linked to Section 2(24) of the 1961 Act—be directly incorporated into the new Bill, rather than indirectly referred to.

2.4.15.2 During the Committee’s sitting, concerns were expressed regarding the phrasing of Clause 2(49) of the Income-tax Bill, 2025, which defines “income.” It was noted that the clause, while replicating much of the substance of Section 2(24) of the Income-tax Act, 1961, includes a sub-clause that directly refers to “any other income referred to in Section 2(24) of the Income-tax Act, 1961.” This approach, it was argued, creates a situation where the applicability and interpretation of income under the new law remain dependent on the provisions of the repealed 1961 Act. Such cross-

referencing, it was pointed out, undermines the objective of legal clarity and consolidation, as it would require taxpayers, practitioners, and authorities to continuously consult both the 2025 Bill and the 1961 Act in parallel. Accordingly, it was suggested that the definition of “income” in Clause 2(49) be made self-contained and comprehensive, without recourse to provisions of the previous Act, to ensure legal clarity and legislative coherence.

2.4.15.3 Some of the stakeholder suggested that the Clause 2(49) of the bill may be redrafted as follows –

“Income” includes - (a) income chargeable under section 15 under the head “Salaries”, (b) income chargeable under sections 20 and 23 under the head “Income from house property”, (c) profits and gains chargeable under section 26, 38, 58 and 61 (d) capital gains chargeable under section 67 and (e) income from other sources chargeable under section 92 and section 95.""(f) voluntary contributions received by— (i) a registered non-profit organisation; or (ii) an association referred to in Schedule III (Table: Sl. No 23); or (iii) any University or other educational institution or any hospital or other institution referred to in Schedule III (Table: Sl No 19); or (iv) an electoral trust; (g) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in section 303(1)(c) or (d) or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being herein referred to as the beneficiary) and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by" "the beneficiary; (h) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, in cash or kind, to the assessee other than— (i) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per sections 39(1)(d) and (3); or (ii) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government; (i) interest income in pursuance of secondary adjustment (j) income from transfer of carbon credits" income in section 2(49), some sub-clauses directly refer to the nature/description of the specific income, like dividend, profits and gains, etc whereas other sub- clauses refer to the specific clauses of the charging section of the respective head. In effect, there should be consistency in the manner of description of different types of income in the various sub-clauses of the definition of income u/s 2(49)." "Moreover, there is a residuary sub-clause (x) referring to “any other income referred to in section 2(24) of the Income-tax Act, n1961” Reading the provisions of the new law with the provisions of the erstwhile law would increase the complexity In any case, the definition of income under section 2(49) is an inclusive definition. It is suggested that the income definition to refer to the

charging nand deeming provisions under the five heads of income and voluntary contributions in case of trusts and certain other income which is not directly falling under the ncharging sections of the heads of income, including subsidy, grant etc."

2.4.15.4 One of the stakeholders pointed out a reference to Income-Tax Act 1961, and submitted to the Committee that Clause 2(49) Clause 2(49) defines the expression income However, Clause 2(49)(x) is a residuary provision which provides that any other income referred to in section 2(24) of the Income-Tax Act, 1961 shall be considered as 'income' for the purpose of clause 2(49) of Income-Tax Bill, 1961. The relevant clauses of section 2(24) of the Income-Tax Act, 1961, which are sought to be incorporated in the Bill shall be specifically stated.The reference to 'income' in the old Act results in complexity whereby one is required to see the Old Act to ascertain the meaning of the word 'income' For all times to come, one would be required to test whether the income is an income under the new Act as well as Old Act and then arrive at a conclusion This will lead to ambiguity and result in protracted litigation.

2.4.16 Sub-Clause 2 (50) " Income Computation and Disclosure Standards "

One of the stakeholders pointed that profits derived on the basis of accounts drawn in compliance with the accounting standards issued by regulatory bodies be considered for tax purposes, the definition of ICDS may be removed.The discrepancies between accounting profit and taxable profit arising from the application of ICDS have led to disputes and litigation The introduction of ICDS created an additional compliance burden, as taxpayers are required to compute income separately under ICDS. ICAI has, in its Preliminary Suggestions on the Income-tax Bill, 2025, suggested that consideration of profits derived on the basis of accounts drawn in compliance with the accounting standards issued by regulatory bodies for tax purposes will help mitigate litigation and also serve the objective of simplification of tax laws.

2.4.17 Sub-Clause 2(55) "infrastructure capital company"

Stakeholders have suggested that the the business and housing project should be defined in this sub-section.

2.4.18 Sub-Clause 2(72) "Non Resident"

A suggestion on the Clause was recived that the Clause may be Modified definition of "non-resident"to be deleted under sec 2 and moved to Sec6. Definition of "resident"under sec 2(96)to be deleted since residency is determined under sec6. Since the definition of"resident"as per Sec2(96)refers to Sec 6 and Person "not ordinarily resident in India" is not defined under section 2 but defined under section 6(13), all the definitions of residency such as resident, non-resident and not ordinarily resident in India should be included in Sec 6 of the Income-tax Bill, 2025.

2.4.19 Sub- Clause (86) "profession"

Concern was raised regarding the current definition of “profession,” which only states that "profession includes vocation." It was argued that this formulation is overly broad and may create ambiguity. A distinction was drawn between general vocations and regulated professions, which are characterized by specialized knowledge, licensing requirements, and a binding code of ethics. Examples cited included Chartered Accountants, Cost Accountants, and medical practitioners, who operate within defined regulatory frameworks. In contrast, qualifications such as an MBA, which do not involve licensing or ethical codes enforced by statutory bodies, were considered outside the purview of regulated professions. Accordingly, it was suggested that the definition be refined to clearly distinguish between regulated professions and general vocations. One of the stakeholders further suggested that this definition may be removed.This definition does not give the meaning of profession It only includes vocation which may fall under business or profession depending on the nature of activity Artificially, it cannot be deemed to be profession.

2.4.20 Sub-Clause 2(101) “Short Term Capital Asset”

One of the stakeholder pointed a drafting error in the clause and suggested To insert the words “in the case of a share held in a company in liquidation” in s.2(101)(c)(A) of ITB 2025.Under ITA 1961, it is clear that the exclusion applies to shares held in company under liquidation Under ITB 2025, in absence of specific reference to “share held in a company in liquidation”, the exclusion may inadvertently apply to all the assets of the liquidating company.

2.4.20.2 Another suggestion on the clause was that the proposed sequencing (sub-clause numbering) may be amended so that referencing may be made by tax payers easily. This will apply for all provisions where there is such kind of numbering.Suggestion for Structuring Sub- Clauses in Section 2(101) – Removing Confusion in Capital Lettering (A, B, C, D) used after sub-clause 2(101)(c)(D) In proposed Section 2(101), sub- clauses are defined using capital letters (A, B, C, D). This creates avoidable confusion, particularly in Sub-clause (c)(D), where multiple conditions are interlinked. Capital letter sequencing leads to difficulties in legal interpretation and cross-referencing. Such clause numbering may be replaced with roman numerals like (i) or (ii).

2.4.21 Sub-Sub-Clause 2(103) “Slump Sale”

Many of the stakeholder on this subclause have submitted that prior to Finance Act (FA) 2021 amendment, slump sale was defined as the transfer of one or more

undertakings as a result of the sale for a lump sum consideration without values being assigned to individual assets and liabilities. FA 2021 amended Section 2(42C) to replace "sale" with "transfer" and added Explanation 3 to include all modes of transfer under Section 2(47). Such wide meaning was assigned to overcome court rulings1 holding slump exchange not being covered by s.2(42C) Since ITB 2025 does not contain provision comparable to Explanation 3, ambiguity may arise as to whether the term "transfer" includes all modes of transfer, such as slump exchange, without a provision similar to Explanation 3 reigniting past controversy. Introduce a clarificatory provision in ITB 2025 to borrow the definition of "transfer" as per Section 2(109) of ITB 2025 and ensure slump exchange is included within the definition of slump sale and reduce litigation risk.

2.4.22 Sub-Clause 2(108) “Total Income”

One of the stakeholders suggested that the definition of gross total income should be clear in the Act. It should not make reference to total income. If the definition of gross total income is modified as above, the phrase in section 122(1) would be in order and the reference of the same can be given in this clause i.e., instead of in the manner as laid down in the Act, it can be mentioned “as laid down in section 122(1)”. “total income” means the total amount of income referred to in section 5, computed in the manner as laid down in section 122(1);". Section 5 defines the scope of income to be included in an assessee’s total income. Section 122(1) mentions that in computing total income of an assessee, deductions specified in this chapter (Chapter VIII) shall be allowed from the gross total income as per and subject to the provisions of this Chapter As per section 122(10), “gross total income” means the total income computed as per the provisions of this Act, before making deduction under this Chapter Hence, the definitions are circular since reference to GTI is given while explaining the meaning of TI and vice versa".

2.4.23 General Suggestions on Clause 2

Clause 2 does not contain explicit, self-contained sub-clauses defining "micro enterprise," "small enterprise," or "medium enterprise”, rather the Bill formally recognizes these definitions not by replicating them in Clause 2, but by ensuring that relevant operative parts of the new Income Tax law utilize the established. In this regard, MSME ministry has submitted that :

> *“It was for the first time that the Income-Tax Bill has proposed to define micro enterprises and small enterprises. We welcome this with a small request that instead of mentioning Sections 2(h) and 2(m), if the provisions notified under the MSMED Act could be included in the Income-Tax Bill, then, we could actually be aligning the MSE definition given in our*

MSMED Act and also in the Income-Tax Bill. This will actually help in bringing about uniformity firstly and secondly, it will also help the enterprises in dealing with their delayed payment matters."

Further suggestions were received that in Definitions it may be also define in a separate clause of the word's (i) Authorized Representative , (ii) Auditor, (iii) Advocate, (iv) Accountancy Examination as per mention in u/s 515(3)(a)(v), (V) Co-operative Credit Society, (vi) Trust, and (vii) Society.

Another suggestion on the similar was lines that the Auditor should be defined instead of Accountant under section 2 of the Income-Tax Bill 2025 There is no specific definition of Accountant in any law Generally graduates and master graduates in commerce are working as accountants in business entities Qualified Chartered Accountants and Cost Accountants are experts in Financial, Cost Management and Taxation These two professional bodies formed by special Act of the Parliament of India and are empowered to conduct statutory audits under the Companies Act, 2013, CGST Act, 2017 and in many other acts So putting these professionals under the definition of Accountant is not justifiable As per their expertise and work assigned to them they should be kept under the definition of Auditor like in CGST Act, 2017 and Companies Act, 2013 By calling them Accountant will not fully stand in the court of law for disbursing their duties as auditor in Income-Tax Act, in case of any misstatement, fraud and scams To be liable for audit report they must be called as auditor and not as an accountant Therefore, my suggestion is to replace the word Accountant with Auditor and include under the term Auditor both professionals Cost Accountant and Chartered Accountant in the Income-Tax Bill 2025.

2.5 Examination by the Committee:

2.5.1 Sub-Clause 2(1)

Representatives of Ministry of Finance on the defination of the accountat as given in clause 2(1) submitted to the Committee:

"एकाउण्टेंट क्योंक उसके बारे में रप्रिजेंटेशन्स कमेटी को भी मलिंगे। ट्रेडशिनली वह चार्टर्ड एकाउण्टेंट्स का परव्यू रहा है, लेकनि उसमें कॉस्ट एकाउण्टेंट्स, सीएफएज, कंपनी सेक्रेटरीज भी हैं।"

2.5.1.2 During the Committee's deliberations with the Ministry of Corporate Affairs (MCA), attention was towards the representations from the professional bodies such as ICMAI, ICSI etc., seeking recognition as tax accountants under the new legislation. It was noted that while these requests had been raised during the drafting process, they were not accepted by the Department, and much of the subsequent interaction with these bodies centered on this concern. Accordingly, the Chairperson requested the

views of the Ministry of Corporate Affairs (MCA) was sought on this issue during the meeting. In response, the MCA clarified the distinct statutory roles assigned to Chartered Accountants (CAs), Cost Accountants (CMAs), and Company Secretaries (CSs) under the Companies Act—where only CAs are authorized to conduct statutory audits, CMAs undertake cost audits, and CSs perform secretarial compliance audits. While certain non-statutory functions such as internal audit may be conducted by any of these professionals or other board-appointed experts, the MCA emphasized that the specific responsibilities envisaged for "accountants" under the Income-tax Bill are best understood by the Department of Revenue. Therefore, the MCA deferred to the Department's judgment on whether to broaden the definition to include CMAs and CSs, noting that such a decision must be guided by the competencies required for tax-related functions.

2.5.1.3 On the stakeholder's suggestion regarding the definition of "Accountant", Ministry of Finance in a written reply submitted as under:

> "The IT Bill, 2025 has been drafted keeping in view the mandate of simplification of provisions of the Income-tax Act, 1961. This approach is also reflected in the *Statement of objects and reasons* presented by the Hon'ble Finance Minister while introducing the IT Bill, 2025 in the Lok Sabha on the 13th of February, 2025. Accordingly, the existing provisions of the IT Act, 1961 have been simplified and presented with a view to –
>
> (i) making the Act concise, lucid, easy to read and understand;
> (ii) making the language clear and direct in text so that it is simple to understand for the taxpayer and the tax administration, leading to tax certainty and reduced litigation;
> (iii) consolidating the provisions lying in different parts of the IT Act, 1961;
> (iv) using tabular structures and formulae wherever feasible;
> (v) aligning with the existing provisions as well as existing interpretations and implementation practices so as to bring clarity on issues.
>
> The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

2.5.1.4 Representatives of the Ministry of Finance submitted that the definition restricting "accountant" to Chartered Accountant was in the original 1961 Act from the beginning, referring to a footnote and deposed as under:

> *"Sir, in the original Act, the reference to 2015, this definition was right from beginning. You see the foot note. Footnote gives the earlier explanation. The footnote says accountant means chartered accountant within the meaning of the chartered accountants act 1949."*

2.5.1.5 Further elaborating on the issue during the meeting, the representatives of Ministry of Finance substantiated their stance further as given below:

"Regarding this Cost Accountant and Chartered Accountant, the suggestion has come relating to various clauses of the Bill. So, everywhere, the Cost Accountants are saying that in this Clause also, we should be enabled to do the same things which a Chartered Accountant is enabled. So, our initial response to this is that functions of a Cost Accountant are regulated by the Cost and Works Accountants Act and in comparison, the functions of a Chartered Accountant are regulated by the Chartered Accountants Act, 1949. So, they have given the details. Both the Acts have mentioned in detail as to what are the functions a Cost Accountant can do and what are the functions a Chartered Accountant can do.
So, our position is that parent legislation of the Cost Accountants and Chartered Accountants is different and is laid on specific functions. So, the functions which are mandated in the Income-Tax Act are relating to audit and accounting and they do not find a place in the domain of work which is specified for the Cost Accountants. So, audit of books and financial transactions, which is our principal work, is specifically included in the Chartered Accountants Act. The parity, which they are seeking, is not available in the principal legislation itself and we have to map our functions with the functions which they can do in their respective Acts. It may be a difficult proposition.

I will just bring and take forward from where my colleague pointed out on the legal issue. There are two parts to it. One is the training or capability and the second is the legal window available to do something. Now, since under these respective Acts, they are authorized to certify and their signs carry a certain legal weight. That authority comes from the respective Act. For example, the Cost Accountants Act says that member will be considered to be in practice if he engages in the practice of Cost Accountancy; offers to perform services involving costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements; renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; and renders such other services as which may be rendered by a cost accountant in practice.

So, the issue which will come in here would be that in the Income Tax law, to say that certain types of certifications will be acceptable if it is signed by someone who has qualification, may be legally to be evaluated with reference to the respective Acts which give scope for that person to do something. So, probably, this issue may require some inputs from the Ministry of Corporate Affairs since they handle all the three Acts, and the inter se dynamics of thethree types of professions and the way the legal structures have been worked out could be thought about that…

……in addition to this, any infringement or any gap in the duties that the Chartered Accountants or professionals actually perform, make them liable for consequences under their Act also. So, unless and until their Act specifically permits such sort of a certification, it would be difficult to actually extend it through an Income-Tax Act.

2.5.1.6 Ministry of Finance further elaborated their stance on the parity issues of Cost Accounts vs Chartered Accounts and submitted the following written reply to the Committee

" The functions of a cost account are regulated and governed by the Cost and Works Accountants Act 1959. The Act clearly lays down that a member of the Institute shall be in practice if he :-
"(i) engages himself in the practice of [cost accountancy]; or
(ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or [certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice]; or
(iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice,"
By comparison a chartered accountant under the Chartered Accountant Act 1949 lays down that member shall be in practice if :-
"(i) engages himself in the practice of accountancy; or
(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or
(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or
(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant [in practice];"
It is therefore clear that the parent legislations of cost accountants and chartered accountants are different and lay down specific functions. The functions mandated in the Income-tax Act related to audit and accounting, do not find a place in the domain of work specified for cost accountants in their Act. Whereas audit of books and financial transactions is specifically included in Chartered accountant's Act.
Therefore the basic issue that a cost accountant can be or should be considered equivalent for the purposes of tax audit does not hold merit. It is principally limited by the respective Acts and till such demarcations exist the audit related function under the Income-tax Act have to be handled by Chartered Accountants only.

2.5.2 Sub-Clause 2(5) "Agricultural Income"

Ministry of Finance during the deliberations on the subclause submitted as under:

"एग्रीकल्चर के बारे में रेज की थी, हमारा इसे लाने का कोई विचार नहीं है, इसे मैं स्पष्ट कर देता हूं..

The point is that here income-tax is also a well settled law. The present one as well as what we intend to provides the provisions for increasing the base. It is a question of where you set the income level. The question is that we have a lot of exemptions, for example on agriculture income only the States can levy tax as per the Constitution."

2.5.2.2 Representatives of the Ministry in the context of agricultural land, stated the current position on non-taxability if it's outside specified urban limits submitted as under:

"सर, जब भी अपने यहां भूमि बेचेंगे और उसमें अगर वह कृषि भूमि है और शहरी सीमा से, जो 8 किलोमीटर या अन्य दूरी दी हुई है, उसके हिसाब से अगर वह उससे दूर है, तब कोई टैक्स नहीं लगता है।"...

...सर, हमारा यही कहना है कि हमें 23 जुलाई की तारीख को अलग से रेफर करने की जरूरत नहीं है। लेकिन, हम लोग एक बार फिर भी इसको एग्जामिन कर लेंगे।"

2.5.2.3 Ministry on the stakeholder's suggestion seeking to amend the definition of "agricultural income" so as to remove the phrase 'nursery' for production of sapling/ seedling submitted that the suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in provisions of the Bill vis a vis Act. Explanation 3 to sec 2(1A) was brought vide FA 2008 to address the issue of taxability of income from production of sapling/ seedling in nursery. This explanationwas brought to provide that even soil less production of planting materials in nursery will be considered as agricultural income. The amendment was specifically brought for produce from nursery. The acceptance of suggestion will even include business income in the agricultural income and will be open to tax avoidance.

2.5.2.4 Representatives of the Ministry during an oral evidence further elaborated on the Clause and submitted before the Committee as under:

"Third is regarding definition of agriculture income. Earlier there was a demand that agriculture income from nursery should also be granted exemption..And that was done. Now, the demand is very wide Sampling and business from nursery etc. as well as trading of sampling also to be brought within agricultural income."

2.5.3 Sub-Clause 2(6) “Amalgamation”

Minstry in response to stakeholder’s submission regarding drafting error submitted that “ It is an inadvertent drafting error. Instead of the words "amalgamating company, and the Companies", the words "amalgamating company or companies" as provided in the IT Act should be used. Suggestion made by stakeholders is acceptable.

2.5.3.2 The stakeholder has suggested that the date of Amalgamation and Demerger needs to be defined in clause 2(2) of the Bill. There is no change in the provisions of the Bill vis a vis Act. In every scheme of amalgamation or demerger there is a court specified date on which the amalgamation or demerger is considered to have effected. The concept is well settled and there is no ambiguity. The suggestion will make the Bill verbose to that extent. So, there is no need to separately specify the date of amalgamation or demerger. The suggestion is not feasible.

Regarding the suggestion from a stakeholder to explicitly define the 'Date of Amalgamation and Demerger' in the Income-Tax Bill, 2025, to provide clarity and avoid litigation, the Committee held a detailed deliberation. The Committee pointed out that the lack of a clear definition causes "a lot of confusion and tax complication" and that adding a few words for clarity should not be avoided simply to reduce the Bill's word count. A key issue was raised that not all demergers are court-supervised, especially with the existence of fast-track mechanisms under the Companies Act, 2013, which would not have a "court-specified date".Representatives of the Ministry in this regard submitted before the Committee as under:

> *“Sir, 34 is saying that the date of amalgamation or demerger should be identified in the Act. Normally, these are decided by the court which date it will be made effective. So, we go by that date only.*
> *..Suppose when the court decides for the amalgamation, in their order, they say that this is the date from which it will be effective. So, that date is sacrosanct for us also. Whatever is there in the order of the court, that is the date that we adopt for the purposes of Income-Tax Act.*
> *…..In a way, what we are saying that suppose we start defining date in the Act, then we have to say, “Date as specified in the order of the court.” So, that is the date that we are adopting. Whatever date the court decides that from this date, this amalgamation will be effective. So, that date is sacrosanct. It goes as per the court order. That is what we are saying.*
> *….For us, for the Income-Tax Act purposes, we are recognizing amalgamation under the Income-Tax Act and we are giving*
> *….I was just going through the definition. It does not, as of now, have any reference of date, etc. We will examine this because what he is saying is if you do not have it here, then the application of clause 116 and 117 will become a problem. We will have a look carefully because the point which hon. Member raised that if it is not court defined because if you put it as a date here as defined by court, then it will impact those who are not getting*

defined in the court. So, we will have to look at it in totality. We will examine it. We will just see that. We will examine it….
…Sir, one case is demerger. The new Act, the Company Act has provided fast-track demerger, which was point No.1 of this also.
In those cases, we have not provided any tax neutrality. So, we have not examined that thing. That is not required for us.
….As I told, many suggestions were there to identify this type of demerger also in the Income-Tax Act.
…Just to bring some more clarity, there is already one Supreme Court decision on this issue where the court has held that where a date of amalgamation is specified in scheme of amalgamation and the scheme of amalgamation is duly approved by company court without specifying any other date, date specified in the scheme should be taken as transfer date.
Our Act also talks of amalgamation as per scheme. That scheme has to be approved by court. So, already it is clarified. But we will further examine it."

2.5.3.3 Ministry w.r.t issue of 'Date of Amalgamation and Demerger' further elaborated their stance vide a written reply submitted as under:

"Section 232 of the Companies Act, 2013 provides for amalgamation or merger of companies. Sub-section (6) of section 232 provides for following
"(6) The scheme under this section shall clearly indicate an ***appointed date*** *from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date."*
2. As per sec 232(6), every scheme of merger or demerger has to have an "appointed date" from which the scheme shall be effective and the scheme shall be deemed to be effective from such date. In ***Marshall Sons & Co. India Ltd. v. ITO 1223 ITR 8091***, Hon'ble Supreme Court held that every scheme of amalgamation has to necessarily provide a date with effect from which the amalgamation/transfer shall take place, and that such date may precede the date of sanctioning of the scheme by the Court, the date of filing of certified copies of the orders of the Court before the Registrar of Companies, and the date of allotment of shares, etc. It was observed therein that, the scheme, however, would be given effect from the transfer date (appointed date) itself.
3. Section 232(6) of the Act states that the scheme shall be deemed to be effective from the 'appointed date' and not a date subsequent to the 'appointed date'. This is an enabling provision to allow the companies to decide and agree upon an 'appointed date' from which the scheme shall come into force.
4. Clarifications was issued by MCA vide its General Circular No. 09/2019 on 21st August 2019 under Section 232(6) of the Companies Act, 2013. Summary of the clarification is:

- The ‘appointed date’ can be a specific calendar date or be tied to the occurrence of an event e.g.: grant or transfer of licenses, the fulfilment of conditions precedent, etc. (prospective date).

- If the ‘appointed date’ is a calendar date, it may precede the date of applying for the Scheme before the NCLT.

- If the ‘appointed date’ is predated by a year or more from the date of applying with NCLT, justification should be provided for the same in the Scheme and it should not be against the public interest.

If ‘appointed date’ is based on the occurrence of an event, the said event should be specifically identified in the Scheme upon the occurrence of which the scheme would become effective. If the event-based date is a date after the date of filing the order with the concerned RoC under Section 232(5) of the Companies Act, the concerned

- company shall file an intimation of the same with the RoC within 30 days of such Scheme coming into force.

Fast-Track Business Reorganisation:

The Companies Act, 2013, introduced a "fast-track" process for business reorganisation for specific categories of companies.

The filing and approval procedure is as follows –

- The transferee company must file the scheme of merger or amalgamation with the Central Government, along with copies to the Registrar and the Official Liquidator.
- If the Registrar or the Official Liquidator does not object, the Central Government (Regional Director (RD)) may issue confirmation and register the scheme.
- If objections are received, the Central Government may, within 60 days, refer the scheme to the Tribunal under Section 232 for further consideration.
- The Tribunal may either direct the scheme to be considered under the regular merger provisions of Section 232 or confirm the scheme under the fast-track process, as deemed appropriate.
- Regardless of whether the merger is approved by the court or the RD, every scheme of amalgamation must have an "appointed date" or "effective date". This date is the point from which the amalgamation is deemed to have taken place, even if the formal approval happens later. In fast-track mergers, there is no requirement for a specific court date for the approval of the scheme as the RD's approval is sufficient.”

2.5.4 **Sub-Clause 2(7) “Annual Value”**

The Committee discussed the determination of "Annual Value" (Clause 2(7)) and its relation to Clause 21, specifically regarding whether it should strictly be based on actual rent or rent fetching capacity determined by municipal corporations. Stakeholders suggested focusing on actual rent or municipal valuation to reduce ambiguity and

litigation. The Ministry clarified that the current law already considers rent fetching capacity. Concerns were raised by members about the discretion of Assessing Officers in determining deemed rent and the variability of rents even within the same area, making municipal valuations potentially insufficient. The Ministry acknowledged some litigation in this area but stated that relying solely on municipal valuations might lead to misuse and is a policy change.

2.5.5 Sub-Clause 2 (17) "Block of Assets"

Ministry submitted the following w.r.t. submissions on this sub-clause

> *"They are asking for blanket depreciation on small assets irrespective of whether they are capital or revenue in nature. The concept is we have a Block of Assets Concept. All assets belonging to a particular class go into that Block of Assets. Till such time they remain in Block of Assets, depreciation as is applicable for that block that is available for all assets which are in that class. We cannot provide a blanket depreciation to small assets because that would run counter to the scheme of depreciation on Block of Assets that we are providing.*
>
> *.. सर, एक्ट में यह पहले था। पहले स्मॉल आइटम्स का 100 प्रतिशत डेप्रेसिएशन मिलता था, लेकिन उसमें कई सारे मिसयूज होने लगे तो इसको पॉलिसी डिसिजन लेकर हटाया गया था। अब ब्लॉक ऑफ असेट काकंसेप्ट है। एक तरह के असेट्स एकब्लॉ कमें आ जाते हैं। उनका जो भी डेप्रेसिएशन होताहै, वह इनकम टैक्स से मिलता है।"*

2.5.6 Sub-Clause 2(19) "Books or Books of Account":

During the meeting with Regional IT Commissioners, the representatives informed the Committee that the existing definition of "books of accounts" in Section 2(12A) already covers information stored in electronic or digital mediums:

> ***"The first part is explicit is required for certainty and when once an explicit word is provided in any section, it reduces litigation because the assessees on the other side will continue to argue that this is not explicitly provided here, therefore, it is not included. So, that is why, it has been explicitly provided. You were saying earlier that this is a new provision. I was just trying to submit on that answer that on the books of accounts part, books of accounts already digital books of accounts were available. So, this is not an entirely new thing…***
>
> ***…..It is given in 2(12)A. It includes ledgers, daybooks, cashbooks, account books, or other books, whether kept in written form or in electronic form, or in digital form, or as printouts of data stored in electronic form, or digital form, in a floppy disk, tape, or any other form of EM storage. So, it was already there. Nowadays, most of the accounting is happening on clouds. Most of books of accounts are being stored on clouds. People, searches are being made. DG (Investigation) is here. He can easily support this position that most***

of the assessors are keeping their books on clouds just to remove that litigated par. As you are saying that maybe cloud is not included. We will say it is included; assessee will say it is not included. Just to remove that uncertainty, it has been provided."

2.5.6.2 Ministry in their submissions over the stakeholder's suggestion on this particular submitted that the IT Bill, 2025 has been drafted keeping in view the mandate of simplification of provisions of the Income-tax Act, 1961. This approach is also reflected in the Statement of objects and reasons presented by the Hon'ble Finance Minister while introducing the IT Bill, 2025 in the Lok Sabha on the 13th of February, 2025. Accordingly, the existing provisions of the IT Act, 1961 have been simplified and presented with a view to –

(i) making the Act concise, lucid, easy to read and understand;

(ii) making the language clear and direct in text so that it is simple to understand for the taxpayer and the tax administration, leading to tax certainty and reduced litigation;

(iii) consolidating the provisions lying in different parts of the IT Act, 1961;

(iv) using tabular structures and formulae wherever feasible;

(v) aligning with the existing provisions as well as existinginterpretations and implementation practices so as to bring clarity on issues. The suggestion made by the **stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.**

2.5.6.3 Ministry have further informed the Committee that the stakeholder seeks to broaden the definition of "books of accounts". The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. Necessary books to be maintained has already been mentioned and relevant documents pertaining to cost records.

2.5.6.4 Ministry during the oral evidence further corroboated on the issue at hand as under:

" the third point is related to the definition of books of accounts. The suggestion is that the definition should be aligned with the Companies Act, 2013. We are saying that the objectives of the Companies Act are different. We have given the definition of books of accounts according to our requirement. It is an inclusive definition. Any item which is not specifically mentioned also, can also be categorised as books of accounts based on the facts of the case. So, our definition is more relevant for income tax purposes. No useful purpose would be served to align it with the Companies Act.

..सर कंपनीज़ एक्ट कॉरपोरेट्स के लिए है, जो बुक्स और अकाउंट्स इनकम टैक्स में है, that will be for individuals….

….The suggestion is, 'the records maintained by all persons in respect of all sums of money received and expended'. It is so wide a definition. एक कॉमन बिजनेस मैन के लिए बुक्स और अकाउंट्स की डेफिनिशन ही बहुत ब्रॉड कर दी है। So, it would be impractical. I think it will be detrimental to the taxpayers. It is defined. Day book, cash book, and ledger are well-accepted and understood. But where we have said that 'all sums of money received and expended', it is a very wide definition. 'All sales and purchases of goods and services' again is a very wide definition. कॉरपोरेट के लिए ठीक है। कॉरपोरेट के लिए तो कर ही रहे हैं।"

2.5.7 Sub-Clause 2(21) "Business Trust"

The Ministry in their written remarks on the suggestion of the stakeholders submitted that the stakeholder seeks to extend the pass through status to IFSC based Business Trusts. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025.There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Under Clause 147 (which corresponds to section 80LA of the Income-tax Act, 1961) the income from the approved business activities of any unit of an IFSC is exempted for the specified period. Therefore, when the income is not being charged to tax, the question of providing pass through does not arise. Therefore, the proposed amendment is not feasible.

2.5.7.2 Representatives of the Ministry during an oral evidence further elaborated on the Clause and submitted before the Committee as under

"Sir, in most places we have already added whatever is regulated by SEBI, and if it is regulated by IFSCA that has been included in most places in the Act). One part of the suggestion is to include business trusts which are regulated by IFSCA also to be aligned with the SEBI trust. That is one part of the request . The second part of the request is to allow Units which are traded in currency other than rupee.That is also an expansion of the whole definition. So, we need to go back and see what impact it has on the revenue. It is because IFSC funds are entitled to a 10-year exemption and if we broaden this aspect, then we will end up losing revenue on that account . We have to examine it and we cannot right away give an answer to that "

2.5.8 Sub-Clause 2(22) "Capital Asset"

The Ministry in their written remarks on the suggestion of the stakeholders in 2 submitted as under:

> **"ACCEPTED:** This is a drafting Correction. The amendments brought in by the Finance Act, 2025 may be incorporated in Section 2(14)/Clause 2(22)(b) accordingly. This is acceptable."

2.5.9 Sub-Clause 2(23) "charitable purpose"

Ministry of finance regarding this particular submitted as under:

> *"The definition of charitable purpose has not been disturbed. Whatever was earlier exempt, continues to be exempted in the new Bill also."*

2.5.9.2 Department emphasized that the definition in the Bill is the same as in Section 2(15) of the 1961 Act and the stakeholder demand is to explicitly include "skill development".

> *"may I compare both the Acts. In 1961 Act, the definition is given under Section 2(15), which says, 'charitable purpose includes relief of the poor, education, yoga, medical relief, preservation of environment including watershed, forest and wildlife and preservation of monuments or places of objects of artistic or historic interests and the advancement of any other object of general public utility.' So, same definition has been brought here. What the demand of the stakeholder is that skill development should also be explicitly included in this."*

2.5.9.3 Department further explained that the structural change in the definition of "charitable purpose" is in Clause 2, while procedural aspects for non-profit organizations (including registration, compliances, violations, commercial activities) are consolidated in Chapter 17 (Clauses 332 to 355). Department further linked the definition in Clause 2(23) to the eligibility for registration under Clause 332(2)(a); as below

> *" सर, जहां वर्ड रजिस्ट्रेशन लिखा है, आप उसके एकदम ऊपर पढ़िए। special provisions for registered non-profit organisation. यह एक पूरा चैप्टर है, जिसमें registration is the first sub-section. अगर आप उसके आगे जाएंगे तो रजिस्ट्रेशन के बाद कंप्लायंसेज, वायलेशंस हैं। हमने स्ट्रक्चरल चेंजेज यह किया है कि डेफिनेशन को डेफिनेशन क्लॉज में डालकर नॉन प्रॉफिट आर्गेनाइजेशन्स के बाकी सारे जो प्रोसीजरल हैं, उनको एक चैप्टर में ले आए हैं, starting from registration to other aspects.... सर, आप इसको क्लॉज 332 के सब-सेक्शन-2 से लिंक कीजिए।"*

2.5.9.4 The discussion continued regarding whether business income feeding into charity is permissible and the Department cited a 2022 Supreme Court judgment (Ahmedabad Urban Development Authority) stating that :

"Sir, I can explain. If you have surplus from business and it will feed the charity, and be allowed to claim exemption is no longer a good law. The hon. Supreme Court in its 2022 judgement in Ahmedabad Urban Development Authority has overturned the judgement of Thanthi Trust and Surat Art Silk which was there for a long time.... Now, the law is, as per Supreme Court, that feeding business income into charity will not grant you exemption. We have made no change in the policy vis-à-vis 1961 Act in the present Bill in so long as business and commercial element of charitable institutions is concerned."

2.5.9.5 There were further discussions on including "skill development" explicitly in the definition, Department in this regard submitted before the Committee as given below:

"They will be included in general public utility. Now, the general public utility has an additional rider that you cannot do commercial activity beyond 20 per cent of the total receipts whereas if you are a per se charity, which is the demand of the stakeholder, then incidental business is permissible…
...महोदय, वर्ष 2022 का सुप्रीम कोर्ट का डिसिजन है। उन्होंने कहा है कि चैरिटेबल पर्पज में जो एजुकेशन लिखा हुआ है, education means only scholastic education, which leads to a degree. इसलिए अगर स्किल डेवलेपमेंट लाना है, तो उसको सेप्रेट लाइन आइटम लाना होगा, वह एजुकेशन में नहीं आएगा।"

2.5.9.6 Committee noted stakeholder concerns over the omission of skill development institutions as a specifically recognised category. The Committee sought to know whether any assessment was conducted on the implications of this exclusion, particularly given the growing importance of skill development in workforce readiness; the reasons for not accepting the suggestion to list it separately to enhance clarity in tax treatment; and whether categorising such institutions under a general residual clause risks inconsistent interpretation and litigation, thereby undermining the stated objective of simplification and legal certainty. The Ministry in response submitted the following written information:

"i) Skill development Institutions are not excluded from the definition of charitable purpose.They are presently covered as 'general public utility'.
(ii) According to court decisions, only formal education is included in charitable activity e.g. CBSE/ AICTE approved courses.
(iii)Unorganised skill development can't therefore be equated with 'education' specifically mentioned in the definition.
(iv) Where skill development is under an organised structure set-up under a Government approved scheme, the same can be examined further for parity by including some safeguards through prescription."

2.5.10 Sub-Clause 2(28) "Company"

Ministry accepted the lacuna in a written reply and submitted to the Committee that

"Accepted: The suggestion seeks replacement of assessment year with 'subsequent tax year' in cl. 2(28)(c).
Even though the reference to assessment year is rightly made in cl. 2(28)(c), the reference itself may not be required. Appropriate drafting correction shall be carried out."

2.5.11 Sub-Clause 2(29) "Company in which the Public are substantially Interested"

Regarding the suggestion to substitute the phrase "a company which is not a private company as defined in the Companies Act, 2013" with "a company which is a public company as defined in the Companies Act 2013" Ministry in their written replies have submitted to the Committee that the suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

2.5.11.2 The current wording of Clause 2(29)(f) seems to inadvertently imply that both conditions (stock exchange listing and 50% public/government holding) must be met, whereas the extant law (as under IT Act 1961) is to allow either condition. Inserting "either in item (i) or in item (ii)" will restore the original scope. This is in the nature of drafting correction. The suggestion is acceptable.

2.5.11.3 Representatives of the Ministry corroborated on the same mistake in the wording of Bill Clause 2(29)(f) regarding conditions (stock exchange listing and 50% public/government holding) and deposed before the Committee as under:

" This has two parts. In first part, there is one inadvertent mistake. The current wording of Section 29(f) implies that both conditions - stock exchange listing and 50 per cent public government holding must be met. It was not in the earlier act, sir. It has become inadvertent. We will be correcting the definition of public company."

2.5.11.4 Department further explained as to why the Income Tax definition of a public company slightly differs from the Companies Act, as under:

"In our Income-Tax Act, there are some sections which deal differently with private companies like our deemed dividend. If we bring the same definition here, then those companies which are in nature of private companies will go outside the ambit of deemed dividend. That is why, in earlier Act also and in the current Act also, our definition is slightly different from the Companies Act."

2.5.11.5 The Committee noted that while Clause 2(29)(f) of the Income-tax Bill, 2025 seeks to simplify the definition of "a company in which the public are substantially interested," the Ministry did not accept a stakeholder suggestion to replace the phrase

“a company which is not a private company” with “a public company” as defined in the Companies Act, 2013. The Committee sought to know the specific reasons for this rejection, given the Ministry’s aim of reducing litigation and promoting clarity, and how the continued use of broader language aligns with these objectives. The Ministry submitted the following written replies in response to the queries of the Committee:

> (i) Public company and private companies, both are defined under the Companies Act.Therefore, there is no ambiguity on this account.
> (ii) The definition of public companies in the Companies Act also includes deemed publiccompanies. These may be in the nature of private companies. Section 2(71) of theCompanies Act, 2013 which defines a “public company” also includes the following proviso:
>
> > *a. “Provided that a company which is a subsidiary of a company, not being a private company,* ***shall be deemed to be public company*** *for the purposes of this Act even where such subsidiary company continues to be a private company in its articles.”*
>
> (iii)Thus, replacing the phrase would unintentionally extend the benefit to private companies that are only *deemed* public merely due to their parentage, despite lacking public shareholding or actual public interest.
> (iv) The definition in section 2(71) of the Companies Act serves a corporate law purpose, governing company structure, disclosures and compliance obligations, whereas section 2(29) of the Income-tax Bill is intended to identify companies with substantial public interest and accountability, justifying differentiated tax treatment. Two instances of such preferential tax treatment are:
>
> > a. such companies are excluded from the scope of deemed dividend under section 2(22)(e) of the Act, as the risk of diversion of retained earnings for the personal benefit of significant shareholders is minimal.
> > b. they are not subject to the stricter conditions under section 68 for share capital and related credits and are not required to establish the source of funds in the hands of the investor, unlike closely held companies.
>
> (v) The issue will have significant tax implications.

2.5.11.6 Representatives of the Ministry further elaborated, on the issue and responded to the Committee’s suggestion regarding greater alignment of the Bill’s definitions of companies with those under the Companies Act by incorporating (only where necessary) additional words to ring-fence and to clearly define the scope, without effecting broader policy changes, as under:

> *“..align the definition of company in which the public are substantially interested with the definition given in the Companies Act. We have stated our position in this respect and we have said that public companies and*

private companies. Both are defined under the Companies Act and in the Companies Act, the definition of the public company is: that the company which is a subsidiary of a company not being a private company shall be deemed to be a public company for the purposes of this Act. So, in the Companies Act, Public Company also includes a private company. So, if we align the definition in the Companies Act then those private companies will also get included in the companies in which public are substantially interested. That will have significant revenue impact. For example, there is a condition of deemed dividend. Deemed dividend does not apply on companies in which public are substantially interested. So, if we align the definition in the Companies Act, then even, the private companies would be outside the ambit of deemed dividend. So, deemed dividend provisions will not apply on the private companies also. That is why, we have said that it may not be feasible proposition to align it with the Companies Act. Sir, our differences are for the purposes of provisions of our Act. So, it has been aligned to that. This is our submission.

सर, हमारे एक्ट में प्राइवेट वलवमटेड किंपनी से ररलेटेड प्रोव जन्स है, उनमें ही पड़ेगा। अगर हम पैररटी लाते हैं तो हमें एक्ट कई जगह चेंज करने पड़ेंगे, उन प्रोव जन्स के वलए एक्सक्लूड करना पड़ेगा। हम अगर सेम डेफिनेशन लाते हैं तो वलखना पड़ेगा that the companies which are deemed to be public companies due to this definition will not be excluded from the provisions of deemed dividend. So it will have its own cascading effects. Presently, the definition is aligned to the Income-Tax Act. That is why, we are saying that it should be left like that.

This has two basic segments. One, as you rightly said, it also includes private companies which are listed. Listed private companies form companies in which public are substantially interested. One segment is that segment. The second segment is public companies as we import it from the Companies Act. But such imported from the Companies Act, we say that any company which is not a private company. So that segment we have taken in the second bucket of the definition.

First is the listed company portion. The second portion is companies which are not private companies. So those companies which are public companies as per the Companies Act but not private companies fall into the second bucket. So, we have a full definition of companies in which public are substantially interested. It is a widely held company. Widely people are participating in that company. That is the interest of that…

Sir, we will review this aspect as to how best we can define taking most of what is there in Companies Act and providing carve-outs where we need to protect any specific benefit.

Sir, we will review this aspect as to how best we can define taking most of what is there in Companies Act and providing carve-outs where we need to protect any specific benefit."

2.5.11.7 Regarding the suggestion of the stakeholder to include Special Purpose Vehicle (SPV) held by listed Business Trust (BT) as "companies in which public are substantially interested". **Ministry have submitted that the suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025.**There is no change in provisions of the Bill vis a vis Act. BT is in form of a trust. Assets being held by BT are in SPV. The provision are applicable to companies and therefore do not apply to BT being a trust. Therefore, it can't be made applicable to a downstream entity. There are many other provisions of the Act such as deemed dividend, unexplained cash credits and carry forward and set off of losses which are not applicable to a company in which public are substantially interested. All these provisions are anti abuse provisions.

2.5.11.8 Representatives of the Ministry further elaborated on the issue and submitted that:

"Sir, actually, business trusts generally have a pass-through taxation that whatever the nature of income which appears in the hands of the business trust passes through the unit holder and gets taxed there. There is one window which was provided that income which passes through when the SPV is an old regime SPV -- the SPV, the company is in the 30 per cent tax regime -- then whatever income passes down to the unit holder does not get taxed in the nature of dividend. If dividend is being received from an SPV which is an old regime SPV through the business trust to the unit holder does not get taxed there in the unit holders hands. They are wanting to expand this to new regime SPVs also and that is basically again in the nature of a basic policy decision whether we want to expand this exemption of income or not . Once it is at lower rate of tax, that is 22 per cent or 15 per cent in the higher level, then we sought to tax. We did not give that exemption.
Yes, Sir The second part is to treat the SPV, which is the basic asset of the business trust). If the business trust is listed, to treat the SPV as a wildely held company.Giving a private company the status of a company in which public are substantially interested is a different and difficult proposition…
…Just because the business trust is listed does not become a privately wildely held company."

2.5.12 Sub-Clause 2 (35) "Demerger"

Representatives of the Ministry of Corporate Affairs deposed before the Committee about the fast-track demerger, as under:

> *"it is basically a statement of the situation or comparison between the provisions of the Income-Tax Act and the Companies Act. Though there is a varying enunciation, but this has been the case before also. I will just focus essentially first on the suggestions with respect to the Companies Act. So, the first point, is regarding the Clause 2,where we have the definition clause, where in the context of de-mergers, a reference has been made to the compliance with the Indian Accounting Standards, which have been specified in our rules. But only one of these standards have been referred to. So, in terms of just apprising the Committee, the previous provision we had referred to Section 129 of the Companies Act, which has the provisions for laying down the accounting and standards for two different sets of companies – the bigger companies and the smaller companies. So, our suggestion is that it may be that the formulation may be resorted to or, alternatively, we refer to both the accounting standards rule, i.e., for the bigger companies and for the smaller companies. So, for the bigger companies, the Accounting Standard Rules 2015 apply. And for the smaller companies, the Accounting Standards Rules 2021 apply……*
>
> *Sir, in the definitional clause rule of 35(c), where they have referred to the Indian Accounting Standards, the fourth column, they have mentioned that 'before the de-merger except in compliance to the Indian Accounting Standards specified in the rule 2015'. So, this rule only covers, the bigger class of companies, not the smaller class of companies. It is for both the standards or we refer to the provision of the Act under which the rules are formulated. So, that was the case beforehand…..*
>
> *…. we are basically sayingthat the definition which has been used in the Income-Tax Act of 1961, 2025 and the Companies Act are different, but this was a situation beforehand also. So, it does not have a major impact on the interpretation of any of these Sections of the relevant Act. So, the first is in terms of a company in which public is substantially interested. In the Income-Tax Bills, it mostly refers to Government companies and those kind of companies, whereas in the Companies Act, we refer to public companies, private companies, listed companies. As per the NFRA, NFRA also has prescribed certain classes of companies. We use the word public interest entities, but they refer to listed companies both in India and abroad or unlisted companies with paid-up capital more than Rs. 500 crore or turnover more than Rs. 1,000 crore or outstanding loans more than Rs. 500 crore. These can be insurance companies, banking*

companies, electricity companies, companies governed by any special Act or incorporated by an Act. So, we use different definitions, but I do not think there is a problem in the different definitions being continued. The Income-Tax Bill talks about demerger in relation to companies and Companies Act has been referred. However, we have not defined the term demerger in the Companies Act, although the scheme which is referred to in the particular sections of the Companies Act includes proposal for demerger of companies as a part of the arrangement. The word which we have used is schemes of compromise or arrangement involving division of whole or part of undertaking of a company. So, it means the same, but the word demerger specifically has not been used."

2.5.12.2 Representatives of the Ministry of Finance submitted that the fast-track demerger mechanism under Section 233 of the Companies Act is not made tax-neutral and deposed before the Committee as under:

" सर, अभी हमने जो डिमर्जर का डेफिनेशन बताया है, in Companies Act, 2013, they introduced a fast-track mechanism. We have not made it tax neutral because that is not supervised by any court or tribunal. This is done by the assessee themselves. Whatever is under the supervision of NCLT, that we have made tax neutral as it was in the earlier Act. So, there is no change in the policy."

2.5.12.3 While examining the Clause 2(35) of the Income-tax Bill, 2025—which defines "demerger" with reference to Sections 230–232 of the Companies Act, 2013—the Committee observed that it omits Section 233, which provides a fast-track route for mergers and demergers involving small or group companies. The Committee therefore sought clarification on the rationale for excluding Section 233, given its role in facilitating simplified corporate restructuring; whether this omission could lead to ambiguity regarding the tax-neutrality of such arrangements; and why the stakeholder suggestion to include Section 233 was considered a policy change rather than a clarification in line with current corporate practices. In response the Ministry gave the following written information :

"(i) There is no omission per se. The provisions are in line with the present IT Act, 1961.
(ii) Fast track mergers are non-court monitored and therefore the valuations thereof can result in tax implications or avoidance.
(iii)Hence tax neutrality was never provided to such demergers.
(iv) Section 233 of the Companies Act is therefore not included in the definition of demerger."

2.5.12.4 Ministry in written reply clarifying the suggestions of the various Stakeholders in a written reply to the Committee submitted that:

> "The stakeholder seeks to include demerger as per Sec 233 of the Companies Act, 2013 in the definition of "demerger". The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act.
> The IT Bill, 2025 has been drafted keeping in view the mandate of simplification of provisions of the Income-tax Act, 1961. This approach is also reflected in the Statement of objects and reasons presented by the Hon'ble Finance Minister while introducing the IT Bill, 2025 in the Lok Sabha on the 13th of February, 2025. Accordingly, the existing provisions of the IT Act, 1961 have been simplified and presented with a view to –
> (i) making the Act concise, lucid, easy to read and understand;
> (ii) making the language clear and direct in text so that it is simple to understand for the taxpayer and the tax administration, leading to tax certainty and reduced litigation;
> (iii) consolidating the provisions lying in different parts of the IT Act, 1961;
> (iv) using tabular structures and formulae wherever feasible;
> (v) aligning with the existing provisions as well as existing interpretations and implementation practices so as to bring clarity on issues.
> The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025".

2.5.12.5 Regarding the suggestion to reference accounting standards prescribed under Section 129 of the Companies Act, 2013, which will ensure that both types of standards, i.e. for "Companies (Indian Accounting Standards) Rules, 2015," or "Companies (Accounting Standards) Rules, 2021" , Ministry during the oral evidence submitted as under:

> *"the definition of demerger refers to the Companies (Indian Accounting Standards) Rules, 2015. So, the suggestion is that 2021 Rules have come. So, an updated definition should be there. We are saying that 'yes' we will examine it and then, accordingly, provide it."*

2.5.12.6 Ministry in a written reply further submitted in this issue as under:

> "Companies (Indian Accounting Standards) Rules, 2015 are applicable to companies which are listed or are about to be listed and the companies having net worth of more than 500 crores. Companies (Accounting Standards) Rules, 2021 are applicable to smaller companies which are not covered under 2015 rules. The existing definition of demerger in cl 2(35)(c) of the Bill only refer to 2015 rules and not to 2021 rules. A

comprehensive study of 2021 rules is required to be done before extending definition of demerger to the companies covered under 2021 rules. The suggestion has been noted for examination”

2.5.13 Sub-Clause (40) "dividend"

During the Committee's discussions, the Ministry of Corporate Affairs (MCA) highlighted a divergence between the Income-Tax Bill and the Companies Act concerning the term "dividend." It was pointed out that the Income-Tax Bill employs the concept of a "deemed dividend," even when using the word "dividend." In contrast, the Companies Act does not recognize "deemed dividends" and adheres to a specific, much narrower definition. The MCA clarified that this difference is not a new development but rather a continuation of an existing approach maintained primarily for taxation purposes.

2.5.13.2 Ministry of Finance in their written remarks on the stakeholder’s suggestion submitted in a written reply that

> “The stakeholder seeks to provide for a safe harbour rule in terms of which bonafide loans compliant with Companies Act 2013 and repaid in ordinary course are not treated as deemed dividends under clause 2(40)(e) of the Bill.The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. It is an anti abuseprovision to tackle situations where to avoid payment of tax on dividend by recipient, the profits are transferred by way of loan, advances etc. The suggestion is not feasible.”

2.5.13.3 During the evidence Ministry further elaborated on the specific point as given below:

> *“Presently we have this provision of deemed dividend where a private company which is not a widely held company, closely held company, if it gives loan or advances to certain persons, then that loan or advance to the extent of accumulated profit becomes dividend income in the hands of the recipient. So, this is anti-abuse provision basically, so that the funds of the companies are not utilized without paying due taxes by the individuals or concerns in which they are interested. So, now they are saying that you provide safe harbour on this. Suppose if the loan is given at a certain interest rate, then it will not become deemed dividend etc. So, that is a big policy call, and the provision has been like this for so many years now”.*

2.5.13.4 On the suggestion to remove 2(40)(f) Ministry in their written reply submitted to the Committee that the stakeholder seeks to reverse the buy back provisions by

deleting clause 2(40)(f) of the Bill (2(22)(f) of the Act). The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act.Vide Finance Act 2020, incidence of tax on dividend has been shifted into the hands of investors and not the company. In similar manner, incidence of tax on buy back of shares has been shifted into the hands of investors vide Finance Act 2024 so that the dividends disguised as buy back are not taxed at concessional rate in the hands of promoters. Further, it is not mandatory for the company to buy back shares as it may distribute the profits by way of dividend also. Thus the provisions of sec 2(40)(f) may not be omitted.

2.5.14 Sub-Clause 2 (48) "Hearing"

Ministry on the representation regarding this particular subclause submitted that :

> *"definition of hearing. We have provided hearing includes communication of data and documents through electronic mode. So, it is an inclusive definition. The demand is to explicitly include oral communication also in this…*
> *….They are saying oral communication. That is part of hearing.*
> *Sir, basically, if we specify oral here also, that means for every case. In a faceless regime, we have to give that. Now, there is only the option of the assessee. When you put it oral, हंड्रेड परसेंट केसेस में ओरल वाली बात आएगी। And these are the implications.*
> *…Hearing includes communication of data and documents through electronic mode. So, virtual is included in that.*
> *In this faceless regime, the way it works is that the notice is given electronically and a document is also sent electronically. By default, there is no interaction, even virtual interaction or oral submission which is made by assessee. Therefore, if it is a communication of data or document through email or whatever is the channel of communication, that suffices for the purpose of hearing…*
> *Now, if we put this oral also, that means that for all the cases, there could be a requirement that you have to provide an oral hearing.*
> *Since it is an inclusive definition, therefore, if the taxpayer so wants that you give me an opportunity for an oral hearing and virtual hearing, through this, since it is an inclusive, therefore, that is afforded."*

2.5.15 Sub-Clause 2 (49) "Income"

Ministry in a written reply on the stakeholders suggestion on the clause clarified that The stakeholder seeks to change the definition of "income" so that referencing in definition of 'income' is directly made to the relevant head of income rather than specifying individual items. The term "income" can not be used in the definition of "income" itself to define income. The existing provision provides various nature of

sum/amount under various sections of the Act which will fall under the inclusive definition of "income". The scheme of the Bill/ Act is that certain items are first included in income so that there is no dispute regarding their taxability. These items are assigned to different heads. However, since the detail is in the relevant head, therefore the reference in the definition of income appears to make reference to the corresponding head. The matter is well settled. The suggestion will upend the concept of income and is therefore not feasible.

2.5.15.2 During the evidence Ministry further elaborated on the specific point as given below:

> *"The stakeholder is asking that the definition of income be changed so that the referencing in definition of income is directly made to the relevant head of income. That means, what we have done, in income we have listed certain items. Number of items are listed that these are the things which will be included in income. And then, those items find reference in relevant head of income. For example, in income from other sources there are certain items which we say that these will get taxed as income from other sources. So, those items are listed in definition of income also in the definition section.*
> *The stakeholder is saying that why do you refer to individual items in the definition of income? Why do not you mention the head itself that whatever is included in income from other sources that also will be included in it. But the stakeholder has not understood the scheme of the Act. What we are saying is that these are the items of income and then they flow to the relevant head. It isnot the other way around that they are mentioned in the relevant head and then we say that this head is included as income.*
> *The income is divided into five heads. Heads are included in income, but for certain receipts we have said that these are deemed to be nature of income. These are included in income. Then, we have categorized those items in separate heads. So, that way, that is the concept in which the Act is designed."*

2.5.15.3 The Ministry on the suggestion pertaining to the reference to Income tax 1961 in written reply submitted to the Committee submitted that

> *"**Accepted**. It is an inadvertent drafting error. Clause 2(49)(x) may be omitted as all the sum/amounts covered under the definition of income in the IT Act has been covered in the IT Bill."*

2.5.16 Sub-Clause 2 (50) " Income Computation and Disclosure Standards"

Ministry in their written submitted to the Committee that the stakeholder seeks to remove Income Computation and Disclosure Standards (ICDS). The suggestion is in

the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act
The Act (or the Bill) provides different computation mechanism in accordance with the peculiar nature of transactions in ICDS. ICDS plug the flexibility in the ICAI standards which makes it possible for an assessee to avoid the payment of correct taxes.

2.5.17 Sub-Clause 2(55) "infrastructure capital company"

Ministry in their written reply informed the Committee that the stakeholder seeks that the definition of business and housing project shall be provided in clause 2(55) (infrastructure capital company) of the Bill instead of making reference to the earlier provisions (i.e 80IA, 80IB) of the Act. The suggestion may be examined. Ministry during the oral examination further elaborated on the issue as under:

> *"Sir, some of the old provisions were mentioned in the new Act. We did not want to redraft them and bring it here.So, this is one of those items, namely, definition of infrastructure). We have said that we will examine it and consider it. We will bring the definition here -- the infrastructure facility definition."*

2.5.18 Sub-Clause 2(72) "Non Resident"

Ministry in their written replies submitted that the stakeholder seeks to remove definition of "resident" from Section 2. It is a drafting suggestion.There is no change in the provisions of the Bill vis a vis Act. Sec (2) provides for all the definitions applicable to the Act. Sec 6 provides only criteria when a person will be said to be the resident. The word 'resident' is used extensively in the Bill. Removing the definition would require that definition of 'resident' is required to be provided in all the sections where it is used. The suggestion is not feasible.

2.5.18.2 Ministry during the oral examination further elaborated on the clause as under:

> *"Sir, there are three types of residents in India – resident, non-resident, and resident but not ordinary resident. They are saying that the category 'resident but not ordinary resident' should be removed from the Act. That is a very vital residency for those who have lived for long out of India. When they come to India, for the next two years, they remain as 'residents but not ordinary residents' and their outside income is not taxed in India.*
> *this is an assessee-friendly provision. If you take it away, it will be increasing compliance and taxation on our own residents.*
> *these provision benefits a person who has remained a non-resident for a long period.Sir, his income outside India is not included in taxation in India for two years. It gives him time to settle his outside income."*

2.5.19 Sub-Clause 2(86) "profession"

The stakeholder seeks to remove definition of "profession" (profession includes vocation). It is a drafting suggestion. There is no change in the provisions of the Bill vis a vis Act.It is a settled concept. Omission of the definition may lead to a situation where income from a vocation may not be taxed under the correct head as it can be argued that vocation does not fall under profession**.** The suggestion is not feasible.

2.5.19.2 Ministry during the oral examination further elaborated on the clause as under:

> *"In 22, 'profession' remains as it is. Presently, 'profession' includes vocation. The stakeholder is saying that 'vocation' can be removed from the definition. We could not find any justification for this. This is a second concept. Profession includes vocation. In fact, there is a head of income 'profit and gains of business and profession'. There we have provided the method of computation, that these are the items of income, these are the items of expenditure. Everybody who indulges in a vocation for some period also has to follow that method of accounting….*
> *…According to us, these are settled concepts. There is no litigation on this account. There has been no ambiguity till date.*
> *…Sir, this has been also there. In the earlier Act also, this was there."*

2.5.19.3 Ministry further elaborated on the issue and submitted a detailed written note to the Committee as under:

> "1. Section 2(36) of the Income Tax 1961 states as follows:
> "Profession" incudes Vocation.
> The same definition of Profession has been included in Clause 2(86) of the Income-Tax Bill 2025. Thus, under both, the Act and the Bill, income earned through Vocation is to be taxed under the head 'Income from business and profession'. This makes the assesse earning income on account of his vocation to claim all expenses which are allowed to be claimed against the income from business and profession including salary paid to employees, depreciation on assets, travelling expenses etc. This definition brings certainty to the computation of taxable income from Vocation and thus is a beneficial provision for assessee. This is also as per the Global best practices as has been discussed in the following paragraphs.
> 2. Section 10 of the Indian Income-Tax Act 1922 provided as follows:
> *"10. Business- (1) The tax shall be payable by an assessee under the head "Profits and gains of business, profession or vocation" in respect of the profits or gains of any business, profession or vocation carried on by him."*
> 3. The taxability of income from Vocation under this head as been approved by the Supreme Court in its decision in the case of [1959] 35 ITR 48 (SC), P. Krishna Menon v. Commissioner of Income-tax. In this decision the Apex Court has held as follows:

"Teaching is a vocation if not a profession. There is no reason why, if teaching is a vocation, teaching of Vedanta is not. It is just as much teaching, and, therefore, a vocation, as any other teaching. There was no substance in the assessee's contention that it had to be shown that it was an organized activity and that it was indulged in with a motive of making profit; that as the assessee's activity in teaching Vedanta was neither organized nor performed with a view to making profit, he could not be said to be carrying on a vocation. However, there was no want of system or continuity in the activity of the assessee. He had gathered a large number of disciples around him and was instructing them in Vedanta regularly. 'L' came all the way from England at regular intervals to obtain such instructions. All this clearly indicated organization and system. Apart from this, it is not the motive of the person doing an act which decides whether the act done by him is the carrying on of a business, profession or vocation. If any business, profession or vocation in fact produces an income, that is taxable income and none the less because it was carried on without the motive, of producing any income."

The Court further held that:

"Since the payments were income arising from the vocation of the assessee as a teacher of Vedanta, no question of exemption under section 4(3) (vii) as a casual or non-recovering receipt arose. In order that a payment maybe exempted under that section, it has to be shown that it did not arise from the exercise of a vocation."

4. The same concept of taxing of income from vocation under the head 'Income from Business and profession' was incorporated in the Income-Tax Act 1961 by means of definition of profession in section 10(36).

5. Some other relevant decisions are:

a) [1980] 4 Taxman 149 (Allahabad) Addl. Commissioner of Income-tax v. Ram Kripal Tripathi. The Court held as follows:

"The expression 'profession' involves the idea of an occupation requiring purely intellectual, skill or manual skill controlled by the intellectual skill by the operator as distinguished from an occupation or business which is substantially the production or sale or arrangements for production/sale of the commodities. It has a wide import and includes 'vocation' which is only a way of living. A person can have more than one vocation 'Vocation' need not be for making any income, nor need it involve any systematic and orgainsed activity. Even if the assessee was giving discourses on vedanta philosophy without any motive or intention of making a profit out of such activity, this giving of discourses was a 'vocation' and the raising of the contributions for purchase of the car would have to be taken as having been made in consideration of such teachings imparted by him. The giving of such discourses by him was causa causans of the raising of the contributions by his disciples and their purchase of the car for him. On the facts found, there was no merit in the assessee's plea that the raising of

the contributions for the purchase of car or the present of a car was receipt of a casual or non-recurring nature."

6. It may be pointed out here that the difference between a profession and vocation becomes significant in the context of proviso to section 64(1)(ii) of the Act which makes it clear that the income by way of salary, commission, fees or any other form of remuneration received or accruing in cash or kind to the spouse of an individual from a concern in which the other spouse has a substantial interest will not be aggregated in the assessment of the spouse having such substantial interest if the fees, remuneration etc., is attributable solely to the application of technical or professional knowledge and experience of the recipient-spouse where she possesses technical or professional qualifications, What is 'substantial interest' is defined in Explanation 2 to section 64(1). Naturally in carrying on a vocation, this will not arise, except possibly in the case of an 'association of persons' where, of course, the tax incidents are different.

7. The taxation of income from Vocation is discussed in the following paragraphs.

a) USA

In the U.S., income from both professions and vocations is generally taxed similarly under federal income tax rules.

General Classification

Both types of income typically fall under self-employment income, especially if the individual is not employed by someone else but instead earns income through their own work or business.

- Profession: Typically refers to specialized work requiring advanced education/training (e.g., doctor, lawyer, architect).

- Vocation: Can refer to a trade or occupation, often involving specific training or skills (e.g.. plumber, carpenter, artist).

Tax Treatment

For both professions and vocations:

- Income is reported on Schedule C (Form 1040) if self-employed.
- Subject to ordinary income tax rates.
- Subject to self-employment tax (15.3% in 2024 for Social Security and Medicare).
- Business-related expenses can be deducted to reduce taxable income.

The IRS does not distinguish between "profession" and "vocation" for tax purposes in a way that changes how income is taxed. What matters more is how the work is structured (self-employed, employed, incorporated, etc.) and whether the income is active or passive.

b) United Kingdom

1. Definitions

- Profession: Jobs like doctors, lawyers, architects that usually require qualifications and are regulated.

• Vocation: Jobs like artists, writers, or musicians based on talent or passion. Both are treated the same for tax purposes if you're self-employed.

2. Filing Taxes
One must file a Self-Assessment Tax Return each year. One can deduct business expenses (e.g., travel, equipment) from income to reduce tax. Both professions and vocations follow the same process.
A self-employed musician (vocation) and a freelance architect (profession) earning £60,000:
- Both are taxed similarly through Income Tax and National Insurance.
- Both use Self-Assessment to report earnings and claim expenses.

c) Netherlands

In the Netherlands, whether a person is a self-employed professional (e.g., consultant, lawyer) or engaged in a vocation (e.g., artist, writer), his/her income is typically considered business profits and taxed accordingly.
The Dutch tax system does not distinctly separate professions from vocations for tax purposes; instead, it assesses whether the activity qualifies as a business.
Key factors to assess whether it is a business include the intention to make a profit, independence and regularity of activities. This classification subjects a taxpayer to income tax and VAT obligations, while also providing access to various tax deductions and allowances available to entrepreneurs.
Income from both professions and vocations is generally taxed under Box 1 of the Dutch income tax system. Income in Box 1 is subject to progressive tax rates. As of 2025, the rates are: 36.97% on income up to €75,624 and 49.50% on income over €75,624.

d) Mauritius

In Mauritius, income earned from both professions and vocations is taxed under the same provisions of the Income-Tax Act 1995. The Act does not differentiate between a "profession" and a "vocation" for taxation purposes. Instead, both are broadly categorized as "income from trade, profession, or vocation" and are treated uniformly under the tax regime.
As per Section 10(1) of the Income-Tax Act, tax is levied on the chargeable income of any person, which includes earnings from any trade, business, profession, or vocation. There is no separate tax rate or classification for vocational income. The applicable tax regime depends on the taxpayer's legal status-whether they are self-employed, operating as a sole trader, or registered as a company.
Professionals and vocational earners are entitled to deduct expenses that are wholly, exclusively, and necessarily incurred in generating income. Common deductible expenses include office rent, professional subscriptions, and work-related travel costs. Proper accounting records must be maintained in all cases.

Currently, individuals are taxed at progressive rates ranging from 10% to 15%. Companies are generally taxed at a flat rate of 15%, with possible incentives in certain sectors. Overall, Mauritius applies a unified approach to taxing professional and vocational income, without any distinction in treatment.

e) France

In France, incomes from professions and vocations are generally treated under the same legal framework for tax purposes, specifically under the category of Bénéfices Non Commerciaux (BNC)-Non-Commercial Profits. However, there can be subtle distinctions based on the nature of activity, tax regime chosen, and administrative guidance.

Interpretation:

Income from professions (e.g., doctors, lawyers) and vocations (e.g., artists, spiritual advisors) is taxed under the same category: BNC, as long as it's non-commercial and not agricultural.

The key test is whether the activity is lucrative (i.e., performed for compensation)
and independent.

INCOME TAX REGIMES UNDER BNC-

Regime	Eligibility	Taxation Method
Micro-BNC	Revenue < *€77.700* (2024 threshold)	Flat 34% deduction for expenses, tax on remaining 66%. No formal accounting.
Régime Déclaratif Contrôlé	Revenue in €77,700 or opt-	Real accounting. Deduct actual professional expenses. Taxed on net profit.

Both professionals and vocational practitioners can opt for either regime depending on income levels and preference.

Principle: If the income is regular and remunerated, and the activity is not commercial/agricultural/salaried, it falls under BNC.

5. JURISPRUDENCE-KEY CASES-

Case 1: Conseil d'État CE, 14 Oct. 2021, n° 437084

Issue: A clairvoyant argued her earnings were spiritual in nature and not taxable.

Decision: The court ruled that even if spiritual or esoteric, regular paid activity is
taxable.

Legal basis: Article 92 CGI "lucrative exploitation" of a skill.

Case 2: CAA Paris, 17 March 2020, nº 18PA02717

Facts: A life coach claimed her income was non-taxable because it was personal
"guidance".

Holding: Court held that even activities rooted in personal vocation/spirituality are
taxable if pursued for profit.
f) Cyprus
Profit arising from self-employment (whether profession or vocation) is generally subject to normal Personal Income Tax slabs in Cyprus."

2.5.20 Sub-Clause 2(101) "Short Term Capital Asset"

For the clause 2(101)(c)(A) the Ministry in a written reply submitted to the Committee that

> "**Accepted.**It is an inadvertent drafting error. Repeated as Si.No 7 of batch 1. The words "in the case of a share held in a company in liquidation" is to be added in clause 2(101)(c)(A) of the Bill."

2.5.20.2 Regarding the other suggestion on the Clause to change the sub-clause numbering it was clarified by the Ministry that the stakeholder has suggested to change the sub-clause numbering.Sub-clause numbering is in the domain of Ministry of Law which maintains consistency across all the legislations. Therefore, the suggestion is not feasible**.**

2.5.21 Sub-Clause 2(103) "Slump Sale":

The representatives of the Ministry regarding the Slump sale deposed before the Committee as under:

> *"Then, Sir, another category is that suggestions which are already taken care of in the Bill. So, Clause 2 gives a definition of slump sale, and then slump sale also refers to transfer, that what kind of transfers would constitute slump sale. So, the suggestion was that transfer has to be defined separately, so we have, submitted that transfer is already defined in Clause 2(109), and it is applicable in respect of all provisions, so it applies to slump sale also. "*

2.5.21.2 It was further stated by the Ministry that since "transfer" is comprehensively defined in the definition section of the new Bill (Clause 2(109)), this definition will apply to "slump sale" (Clause 2(103)) and deposed before the Committee as under:

> *" Earlier when slump sale was brought in 1961 Act, there also transfer was defined. But in the new Act, transfer has been comprehensively defined in the definition section itself. So whatever definition is given, there will be applicable to this clause also."*

2.5.22.3 Ministry further explained that the previous structure in the 1961 Act (Section 42C for slump sale and Section 2(47) for transfer) was similar to the new Bill (Clause 2(103) for slump sale and Clause 2(109) for transfer and submitted before the Committee as under:

" सर, मैं थोड़ा सिम्प्ल भाषा में एक्स्प्लेन कर देता हूं। आज के एक्ट में दो प्रोविजन्स हैं। एक प्रोविजन स्लम्प सेल के बारे में है। दोनों डेफिनेशन में ही दो क्लॉजेज हैं। एक क्लॉज है, जो कहता है कि स्लम्प सेल का डेफिनेशन क्या है। दूसरा क्लॉज है, जो कहता है कि ट्रांसफर का डेफिनेशन क्या है। आज के एक्ट में ये दो क्लॉजेज हैं। जो नया बिल है, उसमें भी इसी तरह के दो क्लॉजेज हैं।...
...सर, ट्रांसफर, ट्रांसफर ही है। उस वक्त क्योंकि यह अमेंडमेंट किया था तो यह क्लेरिफिकेशन लेकर आए, उसकी जरूरत तब भी नहीं थी।"

2.5.22.4 Ministry of Commerce and Industry evidence on 2(104) "Special Economic Zone", 2(61) "International Financial Services Centre"

"So, it is a continuation which has been done. Primarily, the focus of the Bill is to ensure that the export of goods and services gets covered. Benefits of income from exports are currently with the sunset clause which is already there. Export incentives and those provisions related to SEZs and International Financial Services Centre continue to be operative in the new Bill which has been introduced without any substantive change"

2.5.22.5 Ministry of Finance in a written reply to the Committee informed that the definition of "slump sale" in the Bill is the same as in section 2(42C) of the Income tax 1961. An amendment was brought in to Sec 2(42C), where the term 'sales' has been substituted by the term 'transfer' by the Finance Act, 2021 w.e.f. 01.04.2021. The word "transfer" is defined in the clause 2(109) of the Bill, and the same includes 'exchange' also. Therefore, it is not required to be define it separately. The suggestion is already taken care of.

2.5.22 **Sub-Clause 2(108) "Total Income"**

Ministry in their written reply on the stakeholder's suggestion seeking to change definition of "total income" and suggestion that in clause 2(108) of the Bill, instead of "in the manner as laid down in the Act", it can be mentioned "as laid down in section 122(1)", informed the Committee that the suggestion is in nature of drafting improvement. There is no change in the provisions of the Bill vis a vis Act.Reference of 122(1) cannot be provided in section 2. Income can be computed under other provisions also and not just cl. 122. Where there is no deduction claimed or allowed, the chapter of deductions does not come into play. The definition of total income has been correctly aligned to the provisions of the Act. The suggestion is not feasible.

2.5.22.2 During the oral evidence Ministry further elaborated on the above and submitted before the Committee as under:

"In business provisions, we have a concept of gross total income and total income. Then total income is also defined in the Act and it says that total income as computed in the manner laid down in the Act. So, the stakeholder is saying, "why do you not give the reference of total income in the business provisions in the definition section." That is not the scheme because there could be a person who is not having business income, still his total income would be there. So, we cannot make reference of one head of total income into the main definition section. So, he is saying, "Total income is there in the business head. So, why do you not make reference to that clause itself where you are saying total income would be gross total income minus deductions, that would be total income..

…The total income has to be computed in accordance with the manner laid down in the Act. So, somebody may not be having business income, still he would be having total income. So, if we say that total income is restricted to the total income which is in that particular head.."

2.5.23 **General Suggestions on Clause 2**

Regarding the suggestion(s) to define additional terms Ministry have submitted that the stakeholders seek to define certain terms in the Bill. Rationale for the same or the impact analysis has not been provided. There is no change in the provisions of the Bill vis a vis Act. Terms which are absolutely relevant for taxation purposes are defined. Other terms take their natural contextual meaning. The suggestion is not feasible.

2.6 Observations/Recommendations of the Committee:

Sub-Clause 2(1) – "accountant"

2.6.1 The thorough examination of the proposed Sub-Clause 2(1), pertaining to the definition of 'accountant', reveals that while various suggestions for its expansion were received, the provision retains the long-standing legal position from the Income-tax Act, 1961. The proposed Clause 2(1) aligns with the stated objective of the Bill to ensure continuity and avoid major policy changes. The Committee note the Ministry's detailed justification that the scope of practice for different professionals is governed by their respective parent legislations, and the functions mandated under the Income-tax Act, such as the audit of financial transactions, fall within the domain specified under the Chartered Accountants Act, 1949. Thus, the Committee, having considered the extensive deliberations and the justification provided by the Ministry of Finance, accept the proposed Clause 2(1) in its entirety.

Sub-Clause 2(5) "Agricultural Income"

2.6.2 During the review of the proposed Sub-Clause 2(5), which defines 'agricultural income', the Committee considered submissions arguing for an expansion of the definition to cover a wider range of activities. However, Committee note that the sub-clause, as drafted, is a textual simplification that preserves the existing legal framework from the 1961 Act. The provision aligns with the Bill's core principle of ensuring continuity by avoiding major policy changes. The Committee took note of the Ministry's detailed justification, which cautioned that broadening the definition could inadvertently bring commercial trading activities under the ambit of agricultural income, creating avenues for tax avoidance. Given these considerations, and after reviewing the Ministry's stance, the Committee accept the proposed Clause 2(5) in its entirety and recommend no change.

Sub-Clause 2(6) – "amalgamation"

2.6.3 The Committee, upon deliberation of the provisions of the Clause 2(6), note a minor textual ambiguity that could lead to misinterpretation. In Clause 2(6), the phrase "amalgamating company, and the companies" needs to be replaced with "amalgamating company, or companies". The Ministry, when this was pointed out, was amenable to this correction. Thus, the Committee recommend the Ministry to rephrase it to ensure precise legislative intent and also reduce potential misinterpretations and future litigation.

Sub-Clause 2(7) "Annual Value"

2.6.4 The Committee note that Sub-Clause 2(7) of the Income-Tax Bill, 2025 provides for the definition of 'Annual Value' and corresponds to Section 2(2) of the Income-Tax Act, 1961. This definition is of fundamental importance as 'annual value' serves as the primary basis for the computation of income under the head "Income from house property". The Committee further observe that the substantive meaning has been carried forward without alteration from the erstwhile Section 2(2) into the proposed Clause 2(7). The revision is primarily one of textual simplification, undertaken for enhanced clarity in alignment with the Bill's overarching goals. Concurring with the Ministry's satisfactory justification for the related provisions, and acknowledging that the essence of the original provision is preserved, the Committee find the clause acceptable as drafted and recommend its adoption without any modification.

Sub-Clause 2(17) "block of assets"

2.6.5 The Committee note that Sub-Clause 2(17) of the Income-Tax Bill, 2025 provides for the definition of 'block of assets' and corresponds to Section 2(11) of the Income-Tax Act, 1961. This definition is fundamental to the scheme of depreciation, providing a basis for grouping various tangible and intangible assets for the purpose of calculating depreciation allowances. It is also noteworthy to mention here that there is migration of the contents from the erstwhile Section 2(11) to the Clause 2(17) of the IT Bill, 2025 in terms of scope

and intent. The major difference lies only in the textual simplification of the language for better clarity, which is in line with the Bill's objectives. The justification given by the Ministry is also found to be satisfactory. Therefore, the Committee accept the Clause 2(17) as proposed by the Ministry.

Sub-Clause 2(19) "Books or Books of account"

2.6.6 In the review of the proposed Clause 2(19), which lays out the definition for 'books or books of account' and is the corresponding provision to Section 2(12A) of the 1961 Act, the Committee took note of its importance. The scope of this definition is crucial as it determines the nature of records required to be maintained for tax purposes. The Committee noted that the provision has been suitably modernized to encompass contemporary methods of data storage while retaining the essence of the original section. Specifically, the inclusion of records maintained in 'any digital form', through 'cloud based storage', and on various 'portable data storage devices' represents a timely and essential update to the law. The Committee find the Ministry's rationale for this update to remove ambiguity surrounding modern technology to be sound. Consequently, recognizing that this modernized definition brings essential clarity, the Committee recommend the adoption of Clause 2(19) without modification.

Sub-Clause 2(21) "Business trust"

2.6.7 The Committee reviewed provisions defining a 'Business Trust' as given in the subclause. This subclause, which is the corresponding provision to Section 2(13A) of the Income-tax Act, 1961, defines the term by referencing the relevant regulations of the Securities and Exchange Board of India. The Committee observe that the essence and scope of the definition from the erstwhile Act have been preserved in the Bill. The revision primarily focuses on textual simplification, ensuring the definition is clear and directly aligned with the current regulatory framework. The Ministry's justification that the provision has been simplified while retaining the same intent is found to be satisfactory. Therefore,

the Committee recommend the acceptance of Clause 2(21) as proposed, without any modifications.

Sub-Clause 2(22) "Capital Asset"

2.6.8 During the review of subclause 2(22), the Committee identified a need to align its definition of 'capital asset' with recent amendments introduced by the Finance Act, 2025. This alignment is necessary to reflect the contemporary legal landscape regarding the treatment of certain securities held by Foreign Institutional Investors and investment funds. The Ministry acknowledged this as a valid drafting correction and conveyed its acceptance. The Committee, therefore, recommend that subclause 2(22)(b) be modified to incorporate these statutory changes to avoid discrepancies and ensure a clear, consistent, and relevant tax framework and rest of the subclause be accepted as proposed.

Sub-Clause 2(23)– "charitable purpose"

2.6.9 The Committee, upon extensive deliberations on the sub clause 2(23) and the justifications provided by the Ministry, note that the sub clause align with Section 2(15) of the Income-tax Act, 1961 and therefore, accept the sub clause in its original form.

Sub-Clause 2(28) – "company"

2.6.10 Following a review of Clause 2(28)(c), the Committee found a terminological inconsistency with the Bill's new lexicon. This clause, corresponds to Section 2(17) of the Income-tax Act, 1961. To enhance consistency throughout the new Bill, the phrase "assessment year" in Clause 2(28)(c) should be substituted with "tax year". The Ministry acknowledged this as a necessary drafting correction and agreed to the modification. The Committee, therefore, recommend the Ministry to rephrase the clause to ensure a coherent and easily comprehensible legislative framework.

Sub-Clause 2(29) – "company in which the public are substantially interested"

2.6.11 Upon careful consideration of Clause 2(29)(f), the Committee identified a drafting ambiguity that could cause unintended interpretations. The provision should be amended to make it clear that the conditions for classification—namely, stock exchange listing and specific public/government shareholding—are alternative, not cumulative. The Ministry accepted this as a necessary drafting correction to align with the original legislative intent. In light of this, the Committee recommend that the Ministry amend the provision to ensure these criteria are distinctly articulated, which is vital for simplifying compliance and reducing the scope for future litigation.

Sub-Clause 2(35) – "demerger"

2.6.12 The Committee, having thoroughly examined sub clause 2(35) along with justification given by the Ministry, note that the said sub clause is mere textual simplification of the Section 2(19AA) of the Income-tax Act, 1961. The Committee note that the intent of the corresponding section of the old Act has been retained in the current provision with enhanced clarity. The Committee, therefore, accept the sub lause 2(35) as proposed.

Sub-Clause 2(40) – "dividend"

2.6.13 The Committee observe that the proposed Clause 2(40) of the Income-Tax Bill, 2025, provides an inclusive definition of the term 'dividend' and corresponds to Section 2(22) of the Income-Tax Act, 1961. This definition is crucial as it outlines various types of corporate distributions that are treated as dividend income for tax purposes, including essential anti-abuse provisions related to deemed dividends. The Committee note that intent of the corresponding section from the 1961 Act have been retained without any substantive deviation. The primary revision in the proposed clause is the textual simplification and logical re-ordering of its components, which aligns with the Bill's objective of enhancing clarity. The justification provided by the Ministry for retaining the existing principles within this simplified structure is found to be satisfactory. Therefore,

the Committee accept Clause 2(40) as proposed by the Ministry and recommend no change.

Sub-Clause 2(48) – "hearing"

2.6.14 **The Committee note that this subclause, corresponding to Section 2(23C) of the Income-tax Act, 1961, formally incorporates modern communication methods into the legal framework. The Committee note that explicitly including the 'communication of data and documents through electronic mode' within the definition is a crucial step towards providing statutory backing for virtual and faceless proceedings. The Ministry's justification is that this inclusive definition provides clarity and is sufficient to cover virtual interactions, which the Committee find satisfactory. Therefore, recognizing that this definition codifies current administrative practices and supports the digital transformation of tax administration, the Committee accept Clause 2(48) as proposed and recommend no change.**

Sub-Clause 2(49) – "income"

2.6.15 Upon careful consideration of Clause 2(49), the Committee note a drafting error in sub-clause (x) that undermines the Bill's objective of being a self-contained legislative code, making reference to the Income-tax Act, 1961. The Ministry accepted this as an inadvertent drafting error and agreed to the omission. In light of this, the Committee recommend the Ministry to remove reference to the old Act 1961 from the body of the Bill and by clubbing it in the savings clause 536 of the Bill. The rest of the provision of the subclause may be accepted as proposed.

Sub-Clause 2(50) – "Income Computation and Disclosure Standards"

2.6.16 Committee note that this clause provides a direct reference point for the standards notified under Section 276(2) of the Bill, which are essential for computing income under certain heads. The Committee are of the opinion that

placing this definition in Clause 2 improves the the structural coherence and accessibility of the Bill while maintaining an established legal principle, the Committee accept Clause 2(50) as proposed and recommend no change.

Sub-Clause 2(55) – "infrastructure capital company"

2.6.17 The Committee upon consideration of Clause 2(55), note that the definition of 'infrastructure capital company' relies on cross-references to provisions in the repealed Income-tax Act, 1961, leading to unnecessary complexity. The Committee, therefore, recommend the Ministry to incorporate the full definition of 'infrastructure facility' in the new Bill itself, remove reference to the old Act and make the current Bill self-contained by clubbing it in the savings clause 536 of the Bill appropriately.

Sub-Clause 2(72) – "Non-Resident"

2.6.18 The Committee note that this clause, corresponds to Section 2(30) of the Income-tax Act, 1961, and defines a 'non-resident' by reference to the primary residency tests contained in Clause 6 of the Bill. The Committee find that this cross-referential approach is structurally sound, placing the basic definition in the main definitional clause while the detailed criteria for determination remain in the operative section. The Ministry's justification for retaining this definitional structure is that the term is used extensively throughout the Bill, and this approach provides necessary consistency while avoiding repetition. Therefore, recognizing that the proposed clause preserves the established legal meaning within a logical legislative structure, the Committee accept Clause 2(72) as proposed and recommend no change.

Sub-Clause 2(86) – "Profession"

2.6.19 Committee note that this clause, corresponds to Section 2(36) of the Income-tax Act, 1961, states that 'profession' includes 'vocation'. The Committee note that this is a settled legal concept, having been part of India's tax statutes and upheld by judicial pronouncements, including by the Supreme Court. The

Ministry's detailed justification, highlighting that this approach is also consistent with global best practices, is found to be satisfactory. Therefore, the Committee accept Clause 2(86) as proposed and recommend no change.

Sub-Clause 2(101) – "short-term capital asset"

2.6.20 After the consideration of Clause 2(101), the Committee identified a crucial drafting error in sub-clause (c)(A) that could have lead to an incorrect application of holding period rules for a company in liquidation. The provision in sub-clause (c)(A) should be amended to explicitly state that the exclusion of the post-liquidation period from the holding period computation applies specifically to shares. The Ministry acknowledged this as an inadvertent drafting error and confirmed its acceptance of the necessary textual addition to clarify this point. In light of this, the Committee recommend that the Ministry amend the provision as stated, as rectifying such drafting oversights is paramount for creating a robust legislative text and providing clarity on the tax treatment of shares in companies undergoing liquidation.

Sub-Clause 2(103) – "slump sale"

2.6.21 The Committee note that this clause, corresponds to Section 2(42C) of the Income-tax Act, 1961, and it has been textually simplified as part of the Bill's redrafting, while retaining the core principle of a transfer of an undertaking for a lump sum consideration. The Committee accept the Ministry's justification that a specific explanation cross-referencing the definition of 'transfer' was removed as a simplification measure. This is because the comprehensive definition of 'transfer' provided in Clause 2(109) of the Bill applies to all provisions, making the separate explanation redundant. Therefore, the Committee accept the Clause 2(103) as proposed and recommend no change.

Sub-Clause 2(108) – "Total Income"

2.6.22 The Committee have reviewed Clause 2(108), which defines 'Total Income' and corresponds to Section 2(45) of the 1961 Act. The Committee note that the definition is foundational, establishing that total income is computed based on the comprehensive provisions laid out across the Act. The Committee concurs with the Ministry's justification that a broad reference to the Act's overall computation method is essential for its correct application to all classes of taxpayers and income. Accordingly, the Committee recommend no changes in the Clause 2(108).

2.6.23 Recommendation for the rest of Sub-clauses of Clause 2

The Committee have examined in detail Clause 2 of the Income-tax Bill, 2025, which lays down the definitional background of the proposed legislation through 112 distinct sub-clauses. Committee note that there are 23 newly added definations in the bill 2(1) "accountant", 2(30) "convertible foreign exchange", 2(31) "co-operative bank", 2(33) "currency", 2(47) "foreign currency", 2(50) "Income Computation and Disclosure Standards", 2(54) "Indian currency", 2(61) "International Financial Services Centre", 2(71) "non-banking financial company", 2(73) "notification", 2(74) "partner", 2(75) "partnership", 2(76) "Permanent Account Number (PAN)", 2(78) "person of Indian origin", 2(87) "public sector bank", 2(92) "recognised stock exchange", 2(95) "Reserve Bank of India", 2(98) "scheduled bank", 2(99) "Securities and Exchange Board of India", 2(100) "senior citizen", 2(104) "Special Economic Zone", 2(105) "stamp duty value", and 2(110) "Valuation Officer".

The definitions in this clause serve as reference points for the provisions across the Bill. The Committee note that this Clause draws substantially from Section 2 of the existing Income-tax Act, 1961, with modifications made largely for purposes of textual simplification, harmonisation with contemporary laws, and introduction of modern terms.Upon scrutiny of the stakeholder engagement process, the Committee observe that substantive views or suggestions from experts, professional bodies, or industry associations were received only on a

select number of key definitions on around 22 sub-clauses, mostly involving policy shifts, or sectoral ramifications. These include terms such as "accountant", "charitable purpose", "books of account", etc. among others.

In contrast, for the vast majority of sub-clauses under Clause 2, no stakeholder comments were received. The Committee understand this absence not as a sign of neglect, but rather as an indication of broad-based acceptance of the provisions concerned. Many of these definitions pertain to statutory designations (such as "Additional Commissioner", "Joint Director", "Principal Commissioner"), procedural terms (like "assessment", "advance tax", "firm"), or references to institutions and roles already well-established in the statutory ecosystem. In several such cases, the Bill either replicates the 1961 Act with updated language or aligns with contemporary definitions in the major legislations including the Companies Act (sub-clause 2(29), 2(35), 2(38)) , Banking Regulation Act (sub-clause 2(31)), Bharatiya Nyaya Sanhita, 2023 (sub-clause 2(89)); Foreign Exchnage Management Act,1999 ((sub-clause 2(30), 2(33)) the Information Technology Act(sub-clause 2(41)) etc.

After extensive deliberations on all of the subclauses in Clause 2, the Committee find that the sub-clauses not commented on above are legally sound and well-aligned with the proposed legislation. Therefore, the Committee recommend that the remaining sub-clauses under Clause 2 be accepted as proposed in the Income-tax Bill, 2025.

Clause No. 3: Definition of "tax year".

3.1 Provision proposed in the Income-Tax Bill, 2025:

(1) For the purposes of this Act, "tax year" means the twelve months period of the financial year commencing on the 1st April.

(2) In the case of a business or profession newly set up, or a source of income newly coming into existence in any financial year, the tax year shall be the period beginning with— (a) the date of setting up of such business or profession; or (b) the date on which such source of income newly comes into existence, and, ending with the said financial year.

3.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

"Previous year" defined.

3. For the purposes of this Act, "previous year" means the financial year immediately preceding the assessment year :

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.

3.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

Clause 3 of the Bill provides for definition of “tax year”. The clause corresponds to section 3 of the Income-tax Act, 1961 (the Act). A ‘tax year’ is a period of twelve months of the financial year commencing on the 1st April. The concept of ‘tax year’ has been introduced replacing ‘previous year’ and ‘assessment year’. The timelines and computation in the Bill are now with reference to the tax year for which the income is liable to be taxed. It is expected that the use of ‘tax year’ will make the new Bill easier to comprehend. Use of the terms ‘previous year’ and ‘assessment year’ were creating confusion in the minds of the taxpayers as they represented two different financial years. Now the term ‘tax year’ shall be referred in respect of all transactions and income for that period.

3.4 Important Views/Suggestions given by Experts/Stakeholders:

During the Committee’s sitting , representatives explained that the term "tax year" was introduced in the draft Income-tax Bill to simplify existing terminology and reduce confusion between "previous year" and "assessment year," particularly for taxpayers without professional assistance. The unified term is intended to make the law more accessible and easier to understand.

In response to queries on whether the "tax year" should follow the calendar year or the traditional April to March cycle, it was clarified that although many countries use the calendar year, India has long followed the April to March format. To maintain familiarity and continuity, the draft Bill retains the April to March cycle for the "tax year."

3.5 Examination by the Committee

Representatives of the Ministry of Finance during the briefing meeting on the bill submitted to the Committee as under:

> *"the concept of assessment year, previous year, that also confuses the people and a single term of Tax year is used throughout the Act. That is also a major change which reduces once whenever you have to pay Tax. You are not aware whether I have to fill in the previous year of the assessment year. Now it is simply the Tax Year which is fundamentally the financial year for which your income is being assessed for which the tax is being paid by you.*
> *..there was a mention of tax year and assessment year. This will not create confusion. In fact, it will eliminate a lot of confusion. This is an international best practice. Most of the tax jurisdictions are adopting tax year. Tax year and financial year will be same and assessment has to be done of tax year in whichever way it is happening. Just to distinguish that assessment is happening in which year, we have actually created a big legacy problem, many people do not understand it on the assessment year and the tax year. When I am doing a transaction, I am saying in which financial year it falls. All my financial statements are financial statements."*

3.5.1 Representatives from CBDT deposed before the Committee and further stressed on this major change:

> *"This is one major change. Tax year has replaced the earlier concepts of previous year and assessment year. This, we believe, is major simplification."*

3.6 Observations/Recommendations of the Committee:

Committee find that Clause 3 of the Bill proposes a significant change by replacing the dual concepts of "previous year" and "assessment year" with a single, unified term: "tax year". The Committee note that this change represents a major simplification, addressing a long-standing point of confusion for countless taxpayers. The adoption of a single, consistent "tax year" streamlines tax period references throughout the legislation, making the law more accessible and easier to understand. Despite many countries using a calendar year, the Bill retains India's traditional April to March cycle.The Committee believe that this definitional clarity is a commendable step towards enhancing the ease of comprehension and compliance, thereby aligning the Bill with its core objective of simplifying the tax framework. Accordingly, the Committee accept the Clause 3 as it stands.

CHAPTER II

BASIS OF CHARGE

Clause No. 4: Charge of income-tax

4.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Income-tax for any tax year shall be charged as per the provisions of this Act at the rate or rates which are enacted by a Central Act for such tax year.

(2) The charge of income-tax under sub-section (1) shall be on the total income of the tax year of every person as per the provisions of this Act.

(3) Income-tax shall also include any additional income-tax, by whatever name called, levied under this Act.

(4) If this Act provides that income-tax is to be charged in respect of income of a period other than the tax year, it shall be charged accordingly.

(5) For the income chargeable under sub-section (2), income-tax shall be deducted or collected at source or paid in advance as provided under this Act.

4.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

CHAPTER II

BASIS OF CHARGE

Charge of income-tax.

4. (1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions (including provisions for the levy of additional income-tax) of, this Act in respect of the total income of the previous year of every person :

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.

4.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 4 of the Bill provides for charge of income-tax. The clause corresponds to section 4 of the Act. In the Act, the charge of income-tax is on ‘total income’ of the

'previous year' of a person. Further, income-tax is charged for an 'assessment year' at the rate or rates provided by a Central Act or the Act. In the Income-tax Bill, the concept of 'tax year' has been introduced replacing 'previous year' and 'assessment year'. Now, the total income pertains to a 'tax year' and the rate or rates of income- tax shall be charged for that 'tax year'. Other than aforementioned changes in nomenclature, the provisions of the existing section have been textually simplified and retained with the same intent in this clause.

4.4. Important Views/Suggestions given by Experts/Stakeholders:

One of the stakeholder pointed out a drafting error in the clause and submitted that Income Tax for any tax year shall be charged as per the provisions of this Act at the rate or rate which are enacted by a Central Act for such tax year, subject to the provisions of this Act.The Income-Tax Bill contains various special rates of tax for Long term capital gains, short term capital gains, royalties, interest, etc These rates should apply, irrespective of the Finance Act of each year.

Another stakeholder pointed out another drafting error in the clause and suggested that For the income chargeable under sub-sections (2) and (4), income tax shall be deducted or collected at source or paid in advance as provided under this Act. While the Income-Tax Act provides for tax deduction at source even in case of incomes chargeable to tax in a year other than the previous year, the Income-Tax Bill does not provide for such TDS This is on account of the fact that under the Income-Tax Act, the charging of income in a year other than the previous year was by way of a proviso to sub-section (1) which has now been brought in as a separate sub-section.

Another stakeholder on the clause 4(5) suggested that the proposed clause 4(5) of the Bill covers TCS in addition to the TDS and advance tax provisions. The proposed provision in ITB, raises question as to whether TCS provisions can be applied only to transactions which are chargeable to tax and would lead to ambiguity.

4.5 Examination by the Committee:

Ministry accepted the drafting errors and in a written reply informed the Committee that:

> *"***Accepted:** It is a drafting error. The charging section should provide for the phrase 'subject to the provisions of this Act'. Appropriate drafting changes shall be carried out.
> **…Accepted:** It is a drafting error. The reference in cl. 4(5) has to be made to all income chargeable under the clause. Appropriate drafting changes shall be carried out."

4.5.2 The Ministry clarified that The charging section only enables that tax could be deducted or collected or liable to be paid in advance. This means that whatever be the income chargeable to tax, the statute can provide for collection by way of TDS/TCS or advance tax. The credit of TDS, TCS and advance tax is given against income

chargeable to tax. Thus the charging section has been rightly provided. The apprehension is not correct.

4.5.3 During the oral evidence Ministry further elaborated on the issue and submitted before the Committee that

> *"Sir, here, there are two suggestions. Earlier in the charging section, TCS was not mentioned. It was said that when income is there, income tax will be paid by way of payment or by tax deduction at source. Tax collection at source is also one of the methods of payment of income tax. So, it was included here. Some doubt has been expressed. We will examine it again and we will put up for consideration."*

4.6 Observations/Recommendations of the Committee:

Clause 4(1)

4.6.1 The Committee, after a careful review of Clause 4(1), identified a need to enhance its clarity to avoid legal ambiguity regarding the application of tax rates. The Committee, therefore, propose that in Clause 4(1), the phrase "subject to the provisions of this Act" be incorporated. The Ministry conveyed its acceptance of this change as a necessary drafting correction. Accordingly, the Committee recommend that the Ministry amend the clause accordingly.

Clause 4(5) – "Charge of income-tax"

4.6.2 The Committee, during deliberation on Clause 4(5), identified a drafting omission that could affect the comprehensive application of tax collection mechanisms . Accordingly, the Committee recommend that Clause 4(5) be amended to explicitly clarify that its provisions for tax collection through deduction at source, collection at source, and advance payment apply to all income chargeable under Clause 4, including income mentioned in sub-section (4).The Committee further accept the remaining provisions of Clause 4 as proposed.

Clause No. 5 : Scope of total income

5.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Subject to the provisions of this Act, the total income of any tax year of a person, who is a resident, includes all income from whatever source derived, which—

(a) is received or deemed to be received in India in that year by or on behalf of the person; or
(b) accrues or arises, or is deemed to accrue or arise, to the person in India in that year; or
(c) accrues or arises to the person outside India in that year, but when such person is "not ordinarily resident" in India under section 6(13), it shall be included only when it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of a tax year of a person, who is a non-resident, includes all income from whatever source derived, which—

(a) is received or deemed to be received in India in that year by or on behalf of the person; or
(b) accrues or arises, or is deemed to accrue or arise, to the person in India in that year.
(3) Income accruing or arising outside India shall not be deemed to be received in India under this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

(4) If an income has been included in a person's total income on the basis that it—

(a) has accrued or arisen; or
(b) is deemed to have accrued or arisen,
to the person, it shall not again be included on the basis that it is received or deemed to be received by the person in India.

5.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Scope of total income.

5. (1) Subject to the provisions of this Act, the total income of any previous year of a person who is a resident includes all income from whatever source derived which—

(*a*) is received or is deemed to be received in India in such year by or on behalf of such person ; or

(*b*) accrues or arises or is deemed to accrue or arise to him in India during such year

; or

(*c*) accrues or arises to him outside India during such year :

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of any previous year of a person who is a non-resident includes all income from whatever source derived which—

(*a*) is received or is deemed to be received in India in such year by or on behalf of such person ; or

(*b*) accrues or arises or is deemed to accrue or arise to him in India during such year.

Explanation 1.—Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

Explanation 2.—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

5.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 5 of the Bill defines the scope of total income for a person. The clause corresponds to section 5 of the Act. The provisions of the existing section of the Act have been textually simplified and retained with the same intent in this clause.

5.4 Observations/Recommendations of the Committee:

The Committee, after a detailed examination of Clause 5 of the Income-tax Bill, 2025, which defines the scope of total income, note that the provision corresponds to Section 5 of the Income-tax Act, 1961. The Committee observe that the structure and language of the clause have been simplified, while the substantive legal position regarding the taxation of income based on residential status—whether resident, not ordinarily resident, or non-resident—has been retained without alteration.The Committee also take note of the Ministry of Finance's justification that the intent and coverage of the existing provision remain unchanged, and that the revisions are only intended to enhance clarity and readability. The Committee further observe that no material concerns or substantive objections have been raised by stakeholders with respect to this clause.Accordingly, the Committee find the proposed Clause 5 to be in line with the existing legal framework and accept the clause as it stands.

Clause No. 6: Residence in India.

6.1 Provision proposed in the Income-Tax Bill, 2025:

(1) For the purposes of this Act, residence of a person in India shall be determined as per this section.

(2) An individual shall be resident in India in a tax year, if he—

(a) is in India for a total period of one hundred and eighty-two days or more in that tax year; or

(b) is in India cumulatively for sixty days or more during that year and has been in India cumulatively for three hundred and sixty-five days or more in the four years preceding such tax year.

(3) The provisions of sub-section (2)(b) shall not apply in the case of an individual who is a citizen of India and leaves India in any tax year—

(a) as a member of the crew of an Indian ship, as defined in section 3(18) of the Merchant Shipping Act, 1958 (44 of 1958); or

(b) for employment outside India.

(4) The provisions of sub-section (2)(b) shall not apply in the case of an individual—

(a) who is a citizen of India or a person of Indian origin; and

(b) who being outside India, comes on a visit to India in any tax year;

(5) Where the person referred to in sub-section (4) has a total income exceeding fifteen lakh rupees during that tax year (other than the income from foreign sources), sub-section (2)(b) shall apply as if the words "sixty days" had been substituted with "one hundred and twenty days" for that year;

(6) For the purposes of sub-section (2), if the individual is—

(a) a citizen of India; and

(b) a member of the crew of a foreign-bound ship leaving India, the total number of days in India, in respect of that voyage, shall be determined in such manner and subject to such conditions, as prescribed.

(7) Irrespective of the provisions of sub-sections (2) to (6), an individual shall be deemed to be resident in India for a tax year, if he—

(a) is a citizen of India;

(b) is not liable to tax in any other country or territory due to domicile, residence, or similar criteria; and

(c) has total income exceeding fifteen lakh rupees during the tax year (other than the income from foreign sources).

(8) sub-section (7) shall not apply to an individual, who is resident in India for a tax year under sub-sections (2) to (6).

(9) A Hindu undivided family, firm or other association of persons shall be resident in India in any tax year unless the control and management of its affairs is situated wholly outside India during such tax year.

(10)(a) A company is resident in India in any tax year, if— (i) it is an Indian company; or (ii) its place of effective management is in India in that tax year; and

(b) for the purposes of this sub-section, "place of effective management" means a place where key management and commercial decisions necessary for the conduct of business of the company as a whole are, in substance, made.

(11) Every other person is resident in India in any tax year unless the control and management of its affairs is situated wholly outside India in that year.

(12) If a person is resident in India in a tax year for any source of income, he shall be deemed to be resident in India in that tax year for each of the other sources of income.

(13) A person is not ordinarily resident in India in any tax year, if that person is—

(a) an individual who has been, or a Hindu undivided family, whose manager has been—

(i) a non-resident in India in nine out of the ten tax years preceding that year; or

(ii) has been in India cumulatively for seven hundred and twenty-nine days or less in seven tax years preceding that year; or

(b) a citizen of India or a person of Indian origin,—

(i) whose total income excluding income from foreign sources exceeds fifteen lakh rupees during the tax year, as mentioned in sub-section (5); and

(ii) who has been in India cumulatively for one hundred and twenty days or more but less than one hundred and eighty-two days; or

(c) a citizen of India who is deemed to be resident in India under sub-section (7).

(14) In this section, "income from foreign sources" means the income, which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

6.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Residence in India.

6. For the purposes of this Act,—

(*1*) An individual is said to be resident in India in any previous year, if he—

(*a*) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more ; or

(*b*) [***]

(*c*) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.

Explanation 1.—In the case of an individual,—

(*a*) being a citizen of India, who leaves India in any previous year as a member of the crew of an Indian ship as defined in clause (*18*) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958), or for the purposes of employment outside India, the provisions of sub-clause (*c*) shall apply in relation to that year as if for the words "sixty days", occurring therein, the words "one hundred and eighty-two days" had been substituted ;

(*b*) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (*e*) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (*c*) shall apply in relation to that year as if for the words "sixty days", occurring therein, the words "one hundred and eighty-two days" had been substituted and in case of such person having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year, for the words "sixty days" occurring therein, the words "one hundred and twenty days" had been substituted.

Explanation 2.—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

(*1A*) Notwithstanding anything contained in clause (*1*), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall be deemed to be resident in

India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

Explanation.—For the removal of doubts, it is hereby declared that this clause shall not apply in case of an individual who is said to be resident in India in the previous year under clause (*1*).

(*2*) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management of its affairs is situated wholly outside India.

(*3*) A company is said to be a resident in India in any previous year, if—

(*i*) it is an Indian company; or

(*ii*) its place of effective management, in that year, is in India.

Explanation.—For the purposes of this clause "place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.

(*4*) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India.

(*5*) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income.

(*6*) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(*a*) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(*b*) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a

period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(*c*) a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year, as referred to in clause (*b*) of *Explanation1* to clause (*1*), who has been in India for a period or periods amounting in all to one hundred and twenty days or more but less than one hundred and eighty-two days; or

(*d*) a citizen of India who is deemed to be resident in India under clause (*1A*).

Explanation.—For the purposes of this section, the expression "income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

6.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 6 of the Bill seeks to provide for the conditions for determining the residential status of a person in India. The clause corresponds to section 6 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

6.4 Important Views/Suggestions given by Experts/Stakeholders:

One of the stakeholder had suggested minor changes in the sub-sections (1) and (2) of the bill and suggested them to be modified as below:

"For the purposes of this Act, residence in India of a person in India shall be determined as per this section.
Sub-section (2) can be modified as below:
An individual shall be resident in India in a tax year, if he—
(a) is in India for a total period of one hundred and eighty-two days or more in that tax year; or
(b) is in India cumulatively for a total period of sixty days or more during that year and has been in India cumulatively for three hundred and sixty-five days or more in the four years preceding such tax year."
(i) "The phrase 'in India' when used after "person" seems to suggest that sub-section (1) is only for determining residential status of a person in India, while the objective is to determine under the Income-tax Act, the residential status in India of every person.

(ii) Sub-section (2) uses the phrase ‘total period’ in clause (a) for number of days of stay in the tax year
In clause (b), the word ‘cumulatively’ is used both for the number of days of stay in the tax year as well as for the number of days in the last four years. The word “total period” can be used for the number of days of stay in the tax"year and “cumulatively” for the number of days of stay in the earlier years.”

6.4.2 Another stakeholder submitted that Kerala HC in the case of CIT v O. Abdul Razak (198 Taxman 1) held as follows: - “In our view, going abroad for the purpose of employment only means that the visit and stay abroad should not be for other purposes such as a tourist, or for medical treatment or for studies or the like. Going abroad for the purpose of employment therefore means going abroad to take up employment or any avocation as referred to in the Circular, which takes in self-employment like business or profession”.**The expression “for” is narrower than “for the purpose”.** Hence, the said change may result in ambiguity of residential status for an Indian citizen who has left India for self-employment like for carrying on business or profession outside India. Recommended to retain the expression “for the purposes of employment” outside India as used in S. 6 of ITA 1961 to avoid uncertainty.

6.4.3 Another written suggestion by the stakeholders was that the “Circular No 8 of 2017 provides for a turnover limit of Rs 50 crores for applicability of the Place of Effective Management Provisions. This should be made part of Section 6(10) for simplicity sakes Similarly Guidelines issued for determination of POEM vide Circular No 6 of 2017 should be made effective for Income-tax Bill, 2025 by referring to the same under Repeal provisions.The objective of simplicity as per Income-tax Bill, 2025 gets defeated if taxpayer needs to refer to Circular issued which narrows the scope of POEM provisions. Further, without reference to the Circular providing Guidelines for determination of POEM in repeal provisions of the Income-tax Bill, 2025 taxpayers would not be able to follow the accepted parameters as laid down by CBDT. This being an oversight, needs inclusion in the repeal provisions”.

6.4.4 During the Committee’s sitting, a representative from a professional services firm drew attention to the complexity of the existing residency rules for individuals under the Income-tax framework. It was explained that current provisions include multiple overlapping tests—such as 182 days’ physical presence in India during a tax year, or an alternate test requiring 60 days in the current year and 365 days across the preceding four years—with further adjustments for certain categories like NRIs and persons of Indian origin based on income thresholds and days of stay. The introduction of the deemed residency rule under the Finance Act, 2020—where an Indian citizen with over ₹15 lakh income from Indian sources and no tax liability abroad is deemed a resident—was also flagged as contributing to the rule’s complexity.It was further pointed out that

the layered classifications between “resident,” “non-resident,” and “resident but not ordinarily resident” (NOR) have created a structure that is confusing even to informed stakeholders, let alone laypersons. In view of this, a simplification was proposed: to define residency solely on the basis of a 182-day presence in India during a tax year, and to determine NOR status based only on a criterion of non-residency in nine out of ten preceding years. The recommendation suggested that such simplification would ease compliance and reduce taxpayer confusion without materially affecting tax revenues, since non-residents and NORs are typically subject to tax only on specified income streams such as interest, dividends, royalties, and technical fees.

6.4.5 During the Committee’s sitting, attention was drawn towards a subtle but potentially significant change in the provisions relating to residential status under the new Income-tax Bill. It was observed that the previous law allowed for a broader interpretation by using the phrase “for the purpose of employment” outside India, thereby encompassing individuals travelling abroad with the intention of seeking employment, regardless of whether employment was ultimately secured. In contrast, the new Bill replaces this with the narrower phrase “for employment” outside India. This revised wording appears to restrict the provision’s applicability only to those with confirmed employment abroad. The Member noted that this change may unintentionally narrow the scope of the exemption and expressed concern that the rationale behind adopting this more restrictive formulation has not been clearly explained.

6.4.6 During the Committee’s sitting, concerns were raised regarding the intricate nature of the existing rules for determining the residential status of individuals, a crucial factor for defining the scope of taxable income. An overview detailed the basic rule (182 days physical presence) and an alternate rule (365 days in four years plus 60 days currently). Attention was drawn to further layers of complexity: the 60-day threshold extends to 182 days in some cases, and for NRIs/PIOs with Indian income over ₹15 lakh, changes to 120 days. Furthermore, a 'deemed residency' rule exists for Indian citizens with Indian income over ₹15 lakh not taxed elsewhere. Coupled with the 'Resident but Not Ordinary Resident' (NOR) classification, the system was described as "fairly complex" and "perplexing," having evolved incrementally. To address these issues, a significant simplification was proposed: adopting a single criterion of 182 days presence for residency. For NOR status, a single criterion of being non-resident for 9 out of 10 years was suggested. The view was expressed that such simplification would not have a significant revenue impact, given the limited scope of specific taxes on Non-Residents or NORs.

6.4.7 Another suggestion on clause 6(13) was received in which it was suggested that:

(i) The word “Manager” has been used in relation to HUF at two places in the Bill, Section 6 and 252 In five places, “Karta” has been used In order to ensure consistency,

the word ‘Karta’ can be used at all places, instead of “Manager”."
(ii) In clause (b), in sub- clause (ii), the citizen of India or person of Indian origin is required to be present for 120 days in the current tax year .This is not coming out in the sub-clause .
(iii) Also, cumulatively has to be replaced with “total period” as suggested earlier.

Another suggestion was that there should be only Residential and Non -residential status, Ease in deriving residential status, total income, deemed income, understanding and compliance.

6.5 Examination by the Committee:

Ministry submitted their written comments on suggestions in sub-sections (1) and (2) of the bill as reproduced below:

> *“(i)* ***Accepted:*** *Drafting error. Appropriate drafting corrections shall be carried out.*
>
> *(ii) The phrase "for a total period" and the phrase "cumulatively" when used in conjunction with the express use of specified period like "sixty days" or "for seven year", it gives same meaning.”*

6.5.2 Ministry explained the Kerala High Court decision context in this regard and explained that the decision held that 'for the purposes of employment' includes self-employment, and the department had changed it to 'for employment' fearing it might be restricted to structured jobs. They are now reverting to 'for the purposes of employment' and deposed before the Committee as under:

> *" Sir, the issue before the Kerala High Court was that 'for the purposes of employment' means you are going for some structured job, like you have got some job offer and you are going there. Even if you are going for self-employment purpose, will that amount to employment or not? They said that if you are going for self-employment, it is for employment and you will get the benefit. We changed 'for the purposes of employment' to 'for employment'. Our apprehension was that we may say that it will only be applicable for a structured job in some company. So, we have accepted that and we are again going back to 'for the purposes of employment' so that the settled principle is applied here also."*

6.5.3 In a written reply submitted before the Committee Ministry submitted that

> “As the phrase ‘for the purpose of employment’ has been settled judicially, the suggestion may be accepted by substituting the phrase ‘for employment’ with the phrase ‘for the purpose of employment’.In view of the above, the suggestion may be considered.”

6.5.4 Ministry of Finance confirmed acceptance of the suggestion and submitted as under:

> *" we had said 'for employment'. The suggestion was to make it 'for the purposes of employment'. We have accepted it."*

6.5.5 The Ministry on the suggestion about the stakeholder seeking inclusion of guidelines issued vide Circular in the I T Bill, submitted that it is a matter of rules/ clarification through circulars and guidelines. The suggestion is administrative in nature. Therefore, the proposed amendment is not feasible.

6.5.6 Ministry further explained that Place of Effective Management (POEM) guidelines from 2017 aim to prevent double taxation for companies with active business outside India by presuming POEM is outside India if most board meetings are held abroad. He acknowledged the suggestion to replace "key".

> *"Sir, I can just explain a little bit. वर्ष 2015 में यह परिभाषा आई, जिसमें की-मैनेजमेंट डिसिजन लिखा गया कि इफेक्टिव मैनेजमेंट और की-मैनेजमेंट क्या होते हैं? उसकेबादवर्ष 2017 में हम एक डिटेल्ड गाइडलाइन्स पोएम की लाए। उसमें companies doing business outside India को डेफाइन लकया। …The place of effective management in the case of a company engaged in active business outside India shall be presumed to be outside India if majority meetings of the Board of Directors of the company are held outside India.*
>
> *…. Sir, here the issue is regarding place of effective management. Some limits have been provided by a circular. So, the suggestion is that you bring those limits in the Income-Tax Act. That was part of the delegated legislation and it has been kept like that. There is no change from old Act to new Act."*

6.5.7 Ministry on the suggestion on the clause 6(13) in a written reply submitted before the Committee that

> "(i) Stakeholder seeks to substitute the word 'manager' by the word 'karta' in clause 6(13) of the I T Bill, 2025. The suggestion is the **nature of policy change, which is beyond the scope of I T Bill, 2025**. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961.In clause 6(13) use of word 'manager' has different contextual relevance. Such as the HUF may not be in India and the business is being managed by a manager. Therefore, for the purposes of residency, in such circumstances, the use of word 'manager' is appropriate.
> (ii) Stakeholder has suggested that requirement of 120 days cumulative presence in India in the current year is not coming from the provisions of Clause 6(13)(b)(ii). **Accepted. The reference of year has to be provided in cl. 6(13)(b)(ii).**

(iii) Stakeholder has suggested that the word'cumulative' be replaced with the words 'total period'. No reasoning for replacing the word "cumulatively" with the word "total period" has been provided. As the use of word "cumulative" with express mention of specific period is giving same meaning, no added advantage is seen in accepting the suggestion.**In view of the above, proposed amendments at (i) & (iii) are not feasible."**

6.5.8 Ministry further elaborated on the above during the oral evidence and submitted before the Committee as given below:

" the stakeholder has suggested that the word 'manager' for a HUF should be replaced by the word 'karta' in the clause. So, we are saying that the word 'manager' that we have used here, for example, HUF is in India and it is being managed from outside. So, manager has a contextual relevance."

6.5.9 Ministry on the stakeholder's suggestion seeking the deletion of 'not ordinarily resident status' category of resident from the Bill. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The category is required to grant relief from taxation of global income in deserving cases like a person is non-resident in last 9 out of 10 years. Therefore the proposed amendment is not feasible.

6.6 Observations/Recommendations of the Committee:

Clause 6(1)

6.6.1 The Committee, during the review of Clause 6(1), identified a textual ambiguity that could inadvertently limit the scope of the provision for determining residential status. The Committee, therefore, recommended that the Clause 6(1), the wording be amended to clarify that the clause applies to determining the residence *in India* of *any person*, not just persons who are already physically present in the country. This modification is essential for minimizing potential disputes over jurisdiction.

Clause 6(3)

6.6.2 The Committee, after a review of Clause 6(3), identified that a change in wording from the previous Act could unintentionally narrow the scope of an important exemption for Indian citizens leaving the country for work. The Committee, therefore, recommend that in Clause 6(3)(b), the phrase "for employment outside India" be substituted with "for the purposes of employment outside India" to avoid ambiguity and align with settled judicial interpretation .

Clause 6(13)

6.6.3 The Committee, during the delibertaions on Clause 6(13), identified an omission in sub-clause (b)(ii) that could create ambiguity in its application when determining residential status . The Committee, accordingly, recommend that Clause 6(13)(b)(ii) be amended to explicitly state that the presence requirement of "one hundred and twenty days or more" pertains to the current tax year. The Committee further accept the remaining provisions of Clause 6 as proposed.

Clause No.7: Income deemed to be received

7.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The following incomes shall be deemed to be received in the tax year:-

(a) the annual accretion in that year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provident in paragraph 6 of Part A of the Schedule XI;
(b) the transferred balance in a recognised provident fund, to the extent provided in paragraph 11(4) and (5) of Part A of the Schedule XI;
(c) the contribution made by the Central Government or any other employer in that year to the account of an employee under a pension scheme mentioned in section 124.

(2) For inclusion in the total income of an assessee,—

(a) any dividend declared by a company or distributed or paid by it within the meaning of section 2(40)(a) or (b) or (c) or (d) or (e) or (f) shall be deemed to be the income of the tax year in which it is so declared, distributed or paid, as the case may be;
(b) any interim dividend shall be deemed to be the income of the tax year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.

7.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income deemed to be received.

7. The following incomes shall be deemed to be received in the previous year :—

(*i*) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in rule 6 of Part A of the Fourth Schedule ;

(*ii*) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of rule 11 of Part A of the Fourth Schedule ;

(*iii*) the contribution made, by the Central Government or any other employer in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.

7.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 7 of the Bill seeks to deal with income deemed to be received. The clause corresponds to sections 7 and 8 of the Act. The two sections 7 and 8 of the Act have been merged. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.
These provisions are similar to the provisions of section 7 and section 8 of the I T Act. They have been merged in simplification exercise.

7.4 Important Views/Suggestions given by Experts/Stakeholders:

During the sitting of the Committee, a witness pointed out a potential drafting error in Clause 7 of the Income-Tax Bill. The issue pertains to the clubbing provisions related to a spouse's income, specifically professional income. It was noted that the clause appears to have erroneously included the word "not," which could reverse the intended meaning. As a result, professional income—meant to be excluded from clubbing—might be incorrectly brought within its scope due to this inadvertent wording.

One of the stakeholder suggested that Section 7(2) of the Bill to be moved to a separate section In the Income-tax Act, 1961, these two sections are separate. Merging 'unlike' provisions would make the reading complicated and inelegant. Another suggestion further elaborated on how it can be done and submitted that

"Heading of Section 7 is 'Income deemed to be received' Sub-section (2) thereof contains the provisions relating to time of bringing to tax dividend income which is contained in section 8 of the Income- tax Act, 1961 This does not seem to appropriately fit into this section Sub- section (2) does not sync with the section heading of 'Income deemed to be "received' This may either be brought as separate section or heading of section be modified. For inclusion in the total income of an assessee, — (a) any dividend declared by a company or distributed or paid by it within the meaning of section 2(40)(a) or (b) or (c) or (d) or (e) or (f) shall be deemed to be the income of the tax year in which it is so declared, distributed or paid, as the case may be;"Heading of section for clause 7(2) of the Bill can be "Dividend income"Dividend can be made taxable in the year in which it is distributed, in case of deemed dividend, or paid This would align with the TDS provision in Sl No.10 of the Table under section 393(1)".

7.5 Examination by the Committee:
Ministry accepted the suggestion and in a written reply submitted that

> *"**Accepted**: Stakeholder seeks to bifurcate clause 7, being unilke provisions and as they were speparetely placed in the I T Act as sections 7 and 8. These provisions are similar to the provisions of section 7 and section 8 of the I T Act. So, no new provisions have been proposed in the Income-Tax Bill, 2025. Since both the sections were dealing with deemed income, they have been merged in simplification exercise to make the Bill simple and concise.However, to address the stakeholder concern, the*

marginal heading may be changed to include both categories of income--like 'Income deemed to be received and deeming of dividend income for a year'. Appropriate drafting shall be carried out."

7.6 Observations/Recommendations of the Committee:

The Committee, after a careful review of Clause 7, identified a structural issue arising from the merger of two distinct provisions from the previous Act, which were historically in separate sections. The Committee, therefore, recommend that the clause be amended to better distinguish between its two components: general 'income deemed to be received' and the specific 'deeming of dividend income for a year'. This will lead to better readability and will minimize potential misinterpretations regarding the scope of the provision, ensuring absolute clarity in categorization.

Clause No. 8: Income on receipt of capital asset or stock-in-trade by specified person from specified entity.

8.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where a specified person receives during the tax year any capital asset or stock-in-trade or both from a specified entity in connection with the dissolution or reconstitution of such specified entity, then the specified entity shall be deemed to have transferred such capital asset or stock-in-trade, or both, to the specified person in the year in which such capital asset or stock-in-trade, or both, are received by the specified person.

(2) Any profits and gains arising from the deemed transfer mentioned in sub-section (1) by the specified entity shall be—

(i) deemed to be the income of such specified entity of the tax year in which such capital asset or stock-in-trade or both were received by the specified person; and

(ii) chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", as per this Act.

(3) In this section, fair market value of the capital asset or stock-in-trade, or both, on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer mentioned in sub-section (1).

(4) If any difficulty arises in giving effect to the provisions of this section and section 67(10), the Board may, with the previous approval of the Central Government issue guidelines for removing the difficulty.

(5) No guideline under sub-section (4) shall be issued after the expiration of two years from the 1st April, 2026.

(6) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(7) In this section, -

(a) "specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);

(b) "specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any tax year;

(c) "reconstitution of the specified entity" means, where—

(i) one or more of its partners or members, of such specified entity ceases to be partners or members; or

(ii) one or more new partners or members are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, of the specified entity, before the change, continue as partner or partners or member or members after the change; or

(iii) all the partners or members, of such specified entity continue with a change in their respective share or in the shares of some of them.

8.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income on receipt of capital asset or stock in trade by specified person from specified entity.

9B. (1) Where a specified person receives during the previous year any capital asset or stock in trade or both from a specified entity in connection with the dissolution or reconstitution of such specified entity, then the specified entity shall be deemed to have transferred such capital asset or stock in trade or both, as the case may be, to the specified person in the year in which such capital asset or stock in trade or both are received by the specified person.

(2) Any profits and gains arising from such deemed transfer of capital asset or stock in trade or both, as the case may be, by the specified entity shall be—

(*i*) deemed to be the income of such specified entity of the previous year in which such capital asset or stock in trade or both were received by the specified person; and

(*ii*) chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", in accordance with the provisions of this Act.

(3) For the purposes of this section, fair market value of the capital asset or stock in trade or both on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer of the capital asset or stock in trade or both by the specified entity.

(4) If any difficulty arises in giving effect to the provisions of this section and sub-section (4) of section 45, the Board may, with the approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

(5) Every guideline issued by the Board under sub-section (4) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the assessee.

Explanation.—For the purposes of this section,—

(*i*) "reconstitution of the specified entity" means, where—

(*a*) one or more of its partners or members, as the case may be, of such specified entity ceases to be partners or members; or

(*b*) one or more new partners or members, as the case may be, are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, as the case may be, of the specified entity, before the change, continue as partner or partners or member or members after the change; or

(*c*) all the partners or members, as the case may be, of such specified entity continue with a change in their respective share or in the shares of some of them;

(*ii*) "specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);

(*iii*) "specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any previous year.

8.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 8 of the Bill provides for income on receipt of capital asset or stock in trade by specified person from specified entity. The clause corresponds to sections 9B of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

8.4 Observations/Recommendations of the Committee:

The Committee note that Clause 8 of the Income-tax Bill, 2025 corresponds to Section 9B of the Income-tax Act, 1961 and deals with the tax implications arising from the receipt of capital assets or stock-in-trade by a specified person from a specified entity in the event of its dissolution or reconstitution. The Committee also note that necessary definitions have been retained, and the existing provisions have been textually simplified while retaining their original intent. Since no major concerns were raised by stakeholders and the Ministry has clarified that there is no change in intent or substance, the Committee are of the view that the proposed clause faithfully carries forward the original provision and improves its readability. Accordingly, the Committee recommend acceptance of Clause 8 as proposed in the Bill.

Clause No 9: Income Deemed to Accrue or Arise in India

9.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Income deemed to accrue or arise in India shall be the incomes mentioned in sub-sections (2) to (10).

(2) Any income accruing or arising, directly or indirectly, through or from—

(a) any asset or source of income in India;

(b) any property in India;

(c) any business connection in India; or

(d) the transfer of a capital asset situated in India,

shall be deemed to accrue or arise in India.

(3) Any income falling under the head "Salaries", if it is payable,—

(a) for services rendered in India; or

(b) for the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment; or

(c) by the Government to an Indian citizen for services rendered outside India,

shall be deemed to accrue or arise in India.

(4) Any dividend paid by an Indian company outside India shall be deemed to accrue or arise in India.

(5)(a) Income by way of interest payable by—

(i) the Government;

(ii) a resident, except where it is payable in respect of any debt incurred, or moneys borrowed and used, for—

(A) a business or profession carried on by that person outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if it is in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by that non-resident in India,

shall be deemed to accrue or arise in India;

(b) for the purposes of clause (a)(iii),—

(i) any interest payable by the permanent establishment in India of a non-resident person engaged in the business of banking, to the head office or any other permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India:

(ii) shall be chargeable to tax in addition to any income attributable to the permanent establishment in India; and

(iii) the permanent establishment in India shall—

(A) be deemed to be a person separate from, and independent of, the non-resident person of which it is a permanent establishment; and

(B) the provisions of this Act relating to computation of total income, determination of tax and collection and recovery shall apply, accordingly;

(iv) "permanent establishment" shall have the meaning assigned to it in section 173(c).

(6)(a) Income by way of royalty payable by—

(i) the Government;

(ii) a resident, except where the royalty is payable for—

(A) a business or profession carried on by the resident outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if the royalty is payable in respect of any right, property or information used or services utilised for the purposes of—

(A) a business or profession carried on by the non-resident in India; or

(B) making or earning any income from any source outside India,

shall be deemed to accrue or arise in India;

(b) in this sub-section, "royalty" means consideration (including any lump-sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for the following—

(i) the transfer or grant of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property;

(iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(v) the use or right to use any industrial, commercial or scientific equipment except the amounts referred in section 61(2) (Table: Sl. No. 5);

(vi) the transfer or grant of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including—

(A) films or video tapes for use in connection with television; or

(B) tapes for use in connection with radio broadcasting;

(vii) the rendering of services in connection with the activities referred to in sub-clauses (i) to (vi);

(c) for the purposes of clause (b),—

(i) the transfer or grant of all or any rights in respect of any right, property or information includes transfer or grant of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which that right is transferred;

(ii) royalty includes consideration in respect of any right, property or information, whether or not—

(A) the possession or control of that right, property or information is with the payer;

(B) that right, property or information is used directly by the payer;

(C) the location of that right, property or information is in India;

(iii) the expression "process" includes transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not that process is secret;

(iv) the expression "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customised electronic data.

(7)(a) Income by way of fees for technical services payable by—

(i) the Government;

(ii) a resident, except where it is payable for—

(A) a business or profession carried on by the resident outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if it is payable in respect of services utilised for—

(A) a business or a profession carried on by that non-resident in India; or

(B) making or earning any income from any source in India,

shall be deemed to accrue or arise in India;

(b) in this sub-section, "fees for technical services"—

(i) means any consideration (including any lump sum consideration) payable, for rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel);

(ii) does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries".

(8)(a) In of this section, a "business connection" in India shall include—

(i) any business carried out in India; or

(ii) a significant economic presence in India;

(b) in clause (a), a business carried out in India shall include—

(i) business activity carried out through a person who, acting on behalf of the non-resident,—

(A) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(I) in the name of the non-resident; or

(II) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or

(III) for the provision of services by the non-resident; or

(B) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(C) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident;

(ii) a business activity carried out through a person who is a broker, general commission agent or any other agent, through whom such activity is carried out, and who is working mainly or wholly on behalf of—

(A) a non-resident (referred to as the principal non-resident); or

(B) such non-resident and other non-residents who—

(I) are controlled by the principal non-resident; or

(II) have a controlling interest in the principal non-resident; or

(III) are subject to the same common control as the principal non-resident,

and such person shall not be deemed as having an independent status;

(c) in of clause (a), a business carried out in India shall not include any business activity or operations—

(i) carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent is acting in the ordinary course of his business;

(ii) which are confined to—

(A) the purchase of goods in India for the purposes of export out of India; or

(B) the collection of news and views in India for transmission out of India, in the case of a person who is engaged in the business of running a news agency or of publishing newspapers, magazines or journals; or

(C) the display of uncut and unassorted diamond in any special zone notified by the Central Government, in the case of a foreign company engaged in the business of mining of diamonds; or

(D) the shooting of any cinematographic film in India, in the case of that person being—

(I) an individual who is not an Indian citizen; or

(II) a firm which does not have a partner who is an Indian citizen or who is resident in India; or

(III) a company which does not have a shareholder who is an Indian citizen or who is resident in India:

(d) a non-resident shall have a significant economic presence in India, where there is—

(i) transaction in respect of any goods, services or property carried out by such non-resident with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the tax year exceeds such amount as prescribed; or

(ii) systematic and continuous soliciting of business activities or engaging in interaction with such number of users in India, as prescribed,

irrespective of whether the agreement for such transactions or activities is entered in India, or the non-resident has a residence or place of business in India, or the non-resident renders any services in India;

(e) the provisions of clause (d) shall not apply to the transactions or activities which are confined to the purchase of goods in India for the purpose of export;

(f) in this sub-section, only the income which is attributable to—

(i) operations carried out in India, when all operations of the business are not carried out in India;

(ii) transactions or activities referred to in sub-section (8)(d),

shall be deemed to accrue or arise in India from any business connection;

(g) the income attributable to operations of any business or significant economic presence in this sub-section shall also include income from—

(i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

(9) In sub-section (2)(d)—

(a) an asset or a capital asset, being any share of, or interest in, a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets (whether tangible or intangible) located in India;

(b) the share or interest, referred to in clause (a), shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of such assets,—

(i) exceeds the amount of ten crore rupees; and

(ii) represents at least 50% of the value of all the assets owned by the company or entity, as the case may be;

(c) the value of an asset shall be the fair market value on the specified date of such asset without reduction of liabilities, if any, in respect of the asset, determined in the manner, as prescribed;

(d) the expression "specified date" in clause (c) means—

(i) the date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or

(ii) the date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (i), by 15%;

(e) the expression "accounting period" in clause (d) means—

(i) each period of twelve months ending with the 31st March;

(ii) each period of twelve months ending with a date other than the 31st March, in a case where a company or an entity, referred to in clause (a), regularly adopts a period of twelve months ending on a day other than the 31st March for—

(A) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

(B) reporting to persons holding the share or interest;

(iii) the period beginning with the date of registration or incorporation of a company or entity and ending with the 31st March or such other day referred to in sub-clause (ii), in a case where a company or entity comes into existence and the later accounting period shall be the successive periods of twelve months; or

(iv) the period beginning with the 1st April or such other day referred to in sub-clause (ii) and ending with the date immediately preceding the date on which the company or entity ceases to exist, in a case where the company or the entity ceases to exist before the end of the accounting period;

(f) in case of assets mentioned in clause (a), if—

(i) there is a transfer outside India of any share of, or interest in, a company or an entity registered or incorporated outside India by a non-resident transferor; and

(ii) all the assets owned by that company or entity are not located in India,

then the income referred to in sub-section (2)(d) shall be only such part of the income attributable to assets located in India and determined in the manner, as prescribed;

(g) the income referred to in sub-section (2)(d) shall not include income from transfer, outside India, of any share of, or interest in, a company or an entity registered or incorporated outside India,—

(i) if such share of, or interest in, a company or an entity registered or incorporated outside India is held by a non-resident by way of investment, directly or indirectly,—

(A) in Category I or Category II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, prior to their repeal, made under the Securities and Exchange Board of India Act, 1992;

(B) in Category I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992;

(ii) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—

(A) does not hold the right of management or control in relation to such company or the entity; and

(B) does not hold voting power or share capital or interest exceeding 5%, of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

(iii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—

(A) does not hold the right of management or control in relation to such company or the entity;

(B) does not hold any right in, or in relation to, such company or entity which would entitle it to the right of management or control in the company or entity which directly owns the assets situated in India; and

(C) does not hold such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of the company or entity, which directly owns the assets situated in India;

(iv) in of sub-clause (iii), "associated enterprises" shall have the meaning assigned to it in section 159.

(10) Income arising outside India, in the nature of a sum referred to in section 2(49)(u), paid by a person resident in India,—

(a) to a non-resident, not being a company, or to a foreign company; or

(b) to a person not ordinarily resident in India under section 6(13),

shall be deemed to accure or arise in India.

(11) In sub-sections (5), (6) and (7), income of a non-resident shall be deemed to accrue or arise in India and shall be included in his total income, whether or not,—

(a) the non-resident has a residence or place of business or business connection in India; or

(b) the non-resident has rendered services in India.

(12)(a) In this section, the fund management activity carried out by an eligible investment fund through an eligible fund manager acting on behalf of such fund, shall not constitute business connection in India of that fund;

(b) the eligible investment fund mentioned in clause (a) shall not be said to be resident in India under section 6 merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India;

(c) nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not;

(d) nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager;

(e) the conditions for being an eligible investment fund or an eligible fund manager, or furnishing of requisite statements shall be subject to the provision of Schedule I:

(f) the Central Government may, by notification, specify that any one or more of the conditions shall not apply, or shall apply, with such modifications, as specified, in case of an eligible investment fund and its eligible fund manager, if—

(i) the eligible fund manager is located in an International Financial Services Centre; and

(ii) has commenced its operations on or before the 31st March, 2030.

(13) In sub-section (2), the expression "through" shall mean and include "by means of", "in consequence of" or "by reason of".

9.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income deemed to accrue or arise in India.

9. (1) The following incomes shall be deemed to accrue or arise in India :—

(*i*) all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India.

Explanation 1.—For the purposes of this clause—

(*a*) in the case of a business , other than the business having business connection in India on account of significant economic presence, of which all the operations are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried

out in India ;

(*b*) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export ;

(*c*) in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India ;

(*d*) in the case of a non-resident, being—

(*1*) an individual who is not a citizen of India ; or

(*2*) a firm which does not have any partner who is a citizen of India or who is resident in India ; or

(*3*) a company which does not have any shareholder who is a citizen of India or who is resident in India,

no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India;

(*e*) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unassorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf.

Explanation 2.—For the removal of doubts, it is hereby declared that "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(*a*) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that

non-resident and the contracts are—

(*i*) in the name of the non-resident; or

(*ii*) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or

(*iii*) for the provision of services by the non-resident; or

(*b*) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(*c*) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business :

Provided further that where such broker, general commission agent or any other agent works mainly or wholly on behalf of a non-resident (hereafter in this proviso referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 2A.—For the removal of doubts, it is hereby declared that the significant economic presence of a non-resident in India shall constitute "business connection" in India and "significant economic presence" for this purpose, shall mean—

(*a*) transaction in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount

as may be prescribed; or

(*b*) systematic and continuous soliciting of business activities or engaging in interaction with such number of users in India, as may be prescribed:

Provided that the transactions or activities shall constitute significant economic presence in India, whether or not—

(*i*) the agreement for such transactions or activities is entered in India; or

(*ii*) the non-resident has a residence or place of business in India; or

(*iii*) the non-resident renders services in India:

Following second proviso shall be inserted after the first proviso to *Explanation 2A* of clause (*i*) of sub-section (1) of section 9 by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided further *that the transactions or activities which are confined to the purchase of goods in India for the purpose of export shall not constitute significant economic presence in India:*

Provided [14]**[further]** that only so much of income as is attributable to the transactions or activities referred to in clause (*a*) or clause (*b*) shall be deemed to accrue or arise in India.

Explanation 3.—Where a business is carried on in India through a person referred to in clause (*a*) or clause (*b*) or clause (*c*) of *Explanation 2*, only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.

Explanation 3A.—For the removal of doubts, it is hereby declared that the income attributable to the operations carried out in India, as referred to in *Explanation 1*, shall include income from—

(*i*) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(*ii*) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(*iii*) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India:

Provided that the provisions contained in this *Explanation* shall also apply to the income attributable to the transactions or activities referred to in *Explanation 2A*.

Explanation 4.—For the removal of doubts, it is hereby clarified that the expression "through" shall mean and include and shall be deemed to have always meant and included "by means of", "in consequence of" or "by reason of".

Explanation 5.—For the removal of doubts, it is hereby clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India:

Provided that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in a Foreign Institutional Investor as referred to in clause (*a*) of the *Explanation* to section 115AD for an assessment year commencing on or after the 1st day of April, 2012 but before the 1st day of April, 2015:

Provided further that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 prior to their repeal, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992):

Provided also that nothing contained in this *Explanation* shall apply to an asset or a capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992):

Provided also that nothing contained in this *Explanation* shall apply to—

(*i*) an assessment or reassessment to be made under section 143, section 144, section 147 or section 153A or section 153C; or

(*ii*) an order to be passed enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154; or

(*iii*) an order to be passed deeming a person to be an assessee in default under sub-section (1) of section 201,

in respect of income accruing or arising through or from the transfer of an asset or a capital asset situate in India in consequence of the transfer of a share or interest in a company or entity registered or incorporated outside India made before the 28th day of May, 2012:

Provided also that where—

(*i*) an assessment or reassessment has been made under section 143, section 144, section 147 or section 153A or section 153C; or

(*ii*) an order has been passed enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154; or

(*iii*) an order has been passed deeming a person to be an assessee in default under sub-section (1) of section 201; or

(*iv*) an order has been passed imposing a penalty under Chapter XXI or under section 221,

in respect of income accruing or arising through or from the transfer of an asset or a capital asset situate in India in consequence of the transfer of a share or interest in a company or entity registered or incorporated outside India made before the 28th day of May, 2012 and the person in whose case such assessment or reassessment or order has been passed or made, as the case may be, fulfils the specified conditions, then, such assessment or reassessment or order, to the extent it relates to the said income, shall be deemed never to have been passed or made, as the case may be:

Provided also that where any amount becomes refundable to the person referred to in fifth proviso as a consequence of him fulfilling the specified conditions, then, such amount shall be refunded to him, but no interest under section 244A shall be paid on that amount.

Explanation.—For the purposes of fifth and sixth provisos, the specified conditions shall be as provided hereunder:—

(*i*) where the said person has filed any appeal before an appellate forum or any writ petition before the High Court or the Supreme Court against any order in respect of said income, he shall either withdraw or submit an undertaking to withdraw such appeal or writ petition, in such form and manner as may be prescribed;

(*ii*) where the said person has initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India, whether for protection of investment or otherwise, he shall either withdraw or shall submit an undertaking to withdraw the claim, if any, in such proceedings or notice, in such form and manner as may be prescribed;

(*iii*) the said person shall furnish an undertaking, in such form and manner as may be prescribed, waiving his right, whether direct or indirect, to seek or pursue any remedy or any claim in relation to the said income which may otherwise be available to him under any law for the time being in force, in equity, under any statute or under any agreement entered into by India with any country or territory outside India, whether for protection of investment or otherwise; and

(*iv*) such other conditions as may be prescribed.

Explanation 6.—For the purposes of this clause, it is hereby declared that—

(*a*) the share or interest, referred to in *Explanation 5*, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets—

(*i*) exceeds the amount of ten crore rupees; and

(*ii*) represents at least fifty per cent of the value of all the assets owned by the company or entity, as the case may be;

(*b*) the value of an asset shall be the fair market value as on the specified date, of such asset without reduction of liabilities, if any, in respect of the

asset, determined in such manner as may be prescribed;

(*c*) "accounting period" means each period of twelve months ending with the 31st day of March:

Provided that where a company or an entity, referred to in *Explanation 5*, regularly adopts a period of twelve months ending on a day other than the 31st day of March for the purpose of—

(*i*) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

(*ii*) reporting to persons holding the share or interest,

then, the period of twelve months ending with the other day shall be the accounting period of the company or, as the case may be, the entity:

Provided further that the first accounting period of the company or, as the case may be, the entity shall begin from the date of its registration or incorporation and end with the 31st day of March or such other day, as the case may be, following the date of such registration or incorporation, and the later accounting period shall be the successive periods of twelve months:

Provided also that if the company or the entity ceases to exist before the end of accounting period, as aforesaid, then, the accounting period shall end immediately before the company or, as the case may be, the entity, ceases to exist;

(*d*) "specified date" means the—

(*i*) date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or

(*ii*) date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (*i*), by fifteen per cent.

Explanation 7.— For the purposes of this clause,—

(*a*) no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the *Explanation 5*,—

(*i*) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding five per cent of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

(*ii*) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds any right in, or in relation to, such company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India, nor holds such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding five per cent of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

(*b*) in a case where all the assets owned, directly or indirectly, by a company or, as the case may be, an entity referred to in the *Explanation 5,* are not located in India, the income of the non-resident transferor, from transfer outside India of a share of, or interest in, such company or entity, deemed to accrue or arise in India under this clause, shall be only such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed;

(*c*) "associated enterprise" shall have the meaning assigned to it in section 92A;

(*ii*) income which falls under the head "Salaries", if it is earned in India.

Explanation.—For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

(*a*) service rendered in India; and

(*b*) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,

shall be regarded as income earned in India ;

(*iii*) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India ;

(*iv*) a dividend paid by an Indian company outside India ;

(*v*) income by way of interest payable by—

(*a*) the Government ; or

(*b*) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(*c*) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India.

Explanation.—For the purposes of this clause,—

(*a*) it is hereby declared that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident

person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly;

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

(*vi*) income by way of royalty payable by—

(*a*) the Government ; or

(*b*) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(*c*) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India :

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April, 1976, and the agreement is approved by the Central Government :

Provided further that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum payment made by a person, who is a resident, for the transfer of all or any rights (including the granting of a licence) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer-based equipment under any scheme approved under the Policy on Computer Software Export, Software Development and Training, 1986 of the Government of India.

Explanation 1.—For the purposes of the first proviso, an agreement made on or

after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes chargeable to tax under this Act, whichever assessment year is later, the company exercises an option by furnishing a declaration in writing to the Assessing Officer (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

Explanation 2.—For the purposes of this clause, "royalty" means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for—

(*i*) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(*ii*) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(*iii*) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;

(*iv*) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;

(*iva*) the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;

(*v*) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting; or

(*vi*) the rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iv*), (*iva*) and(*v*).

Explanation 3.—For the purposes of this clause, "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data.

Explanation 4.—For the removal of doubts, it is hereby clarified that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Explanation 5.—For the removal of doubts, it is hereby clarified that the royalty includes and has always included consideration in respect of any right, property or information, whether or not—

(*a*) the possession or control of such right, property or information is with the payer;

(*b*) such right, property or information is used directly by the payer;

(*c*) the location of such right, property or information is in India.

Explanation 6.—For the removal of doubts, it is hereby clarified that the expression "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret;

(*vii*) income by way of fees for technical services payable by—

(*a*) the Government ; or

(*b*) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(*c*) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in

India or for the purposes of making or earning any income from any source in India :

Provided that nothing contained in this clause shall apply in relation to any income by way of fees for technical services payable in pursuance of an agreement made before the 1st day of April, 1976, and approved by the Central Government.

Explanation 1.—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date.

Explanation 2.—For the purposes of this clause, "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries";

[15][(*viii*) income arising outside India, being any sum of money referred to in sub-clause (*xviia*) of clause (*24*) of section 2, paid by a person resident in India--

(*a*) on or after the 5th day of July, 2019 to a non-resident, not being a company, or to a foreign company; or

(*b*) on or after the 1st day of April, 2023 to a person not ordinarily resident in India within the meaning of clause (*6*) of section 6.]

(2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this section, income of a non-resident shall be deemed to accrue or arise in India under clause (*v*) or clause (*vi*) or clause (*vii*) of sub-section (1) and shall be included in the total income of the non-resident, whether or not,—

(*i*) the non-resident has a residence or place of business or business connection in India; or

(*ii*) the non-resident has rendered services in India.

9.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 9 of the Bill provides for income deemed to accrue or arise in India, including those from a business connection and provides the source rule for income from Interest, dividend, royalty, fee for technical services, and transfer of a capital asset situated in India. The clause corresponds to section 9 and section 9A of the Act. Section 9A has been placed as clause 9(12) and the conditions provided therein have been taken in schedule I. The condition for indirect participation or investment by a person resident in India has been removed in line with the change in the Finance Act, 2025. Further, the provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

9.3.2 The proposed provisions are similar to the provisions in Income-tax Act, 1961. However, in Explanation 2 to section 9(1)(vi) of the I T Act (which corresponds to clause 9. 6(b) of the I T Bill) the word 'transfer' in general and the word 'granting' in the context of a licence has been used.

9.4 Important Views/Suggestions given by Experts/Stakeholders:

A drafting inconsistency was highlighted in language governing the taxability of non-residents. It was noted that in a key provision, the phrase “outside India” has been used where “in India” would be more contextually and legally appropriate. As this wording directly affects the scope of income deemed to accrue or arise in India, it was considered likely to cause interpretational issues. Accordingly, it was suggested that the provision be reviewed to ensure consistency with the intended framework for taxing non-resident income.

9.4.2 Further suggestions highlighting the drafting errors in 9(5)(b) and 9(6)(a)(iii)(b) were given by the stakeholders:

> "The conjunction ‘and’ is required between clauses (i) and (ii) of 9(5)(b) -.
> (b) for the purposes of clause (a)(iii),—
> (i) any interest payable by the permanent establishment in India of a non-resident person engaged in the business of banking, to the head office or any other permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India; and
> (ii) shall be chargeable to tax in addition to any income attributable to the permanent establishment in India;"

(B) to be reworded as follows - (B) making or earning any income from any source outside in India, shall be deemed to accrue or arise in India

Suggestion:

(i) Since the “shall be chargeable to tax” in sub-clause (ii) is in relation to any interest referred to in sub-clause (i), there should be a conjunction “and” between the two sub- clauses.

(ii) In point (B) of sub- clause (iii), the closing portion should be ‘in India’ and not outside India, for the income to be deemed to accrue or arise in India in the hands of the non- resident.”

9.4.3 Clause 9 (5)(b) Royalty: During the Committee’s sitting, a concern was raised regarding the treatment of royalty payments under the provisions of the new Income-tax Bill. It was pointed out that, as currently worded, the Bill appears to bring within the scope of Indian taxation a royalty payment made by one non-resident to another non-resident, even when the transaction has no connection to India. This broad phrasing could inadvertently result in all royalty payments globally being subjected to Indian tax. It was suggested that this issue arises from the drafting of the clause and requires urgent attention to ensure that only royalty payments with a nexus to India are taxed under the new framework. Further during another Committee’s sitting, a concern was raised regarding the proposed change in the sourcing rules for royalty income under Clause 9 of the Income-tax Bill, 2025. Under the existing provisions in Section 9 of the Income-tax Act, royalty is deemed to accrue or arise in India only when the payment is made by a non-resident and the underlying right, property, or information is used for the purpose of earning income from a source in India. The proposed provision in the Bill expands this scope to cover situations where royalty is paid by a non-resident even when it relates to a right, property, or information used for generating income from a source outside India.

9.4.4 Clause 9(6)(a)(iii) A concern was raised regarding the provisions for "income deemed to accrue or arise in India," specifically in relation to royalty transactions. It was pointed out that while the current Income Tax law addresses this under Section 9(1)(vi), the new Income-Tax Bill replaces it with Section 9(6)(a)(iii). The issue highlighted is that the definition within the new Section 9(6)(a)(iii) appears to inadvertently refer to "income from any source outside India" instead of "income from a source within India." It was suggested that this is likely an inadvertent error, as a literal interpretation would contradict established principles of source-based taxation by potentially bringing income sourced outside India under the purview of Indian tax as royalty.

9.4.5 Clause 9(6)(b) One of the stakeholders suggested that the definition of ‘Royalty’ in proposed Bill, includes transfer or ‘grant’ of all or any rights. Use for the word ‘grant’ may be removed.Rationale for inclusion of word ‘grant’ is not comprehensible. Further, this may expand the meaning and lead to interpretational issues. Moreover, any

expansion of scope may be beyond the purpose of introduction of the new bill- i.e., for simplification and easy comprehension.

9.4.6 Clause 9(8)(c) Another stakeholder suggested that in clause 9(8)(c)(ii) It appears that the phrase "in case of Non-resident" in the activities referred to in clause 9(8)(c)(ii)(A) and (B) may have been inadvertently omitted, although it is provided under Section 9(1)(i)(b) and (c) of the prevailing Act. In order to avoid any ambiguity in its interpretation or applicability, the Hon'ble Committee is kindly requested to review the said clause.

9.4.7 Clause 9(8)(d) relating to Significant Economic Presence (SEP) : Representatives highlighted concerns regarding the procedural implications of the significant economic presence (SEP) provisions in international taxation. It was noted that while the SEP framework under domestic law does not override treaty protections—specifically where a permanent establishment is absent—taxpayers from treaty jurisdictions are still required to undertake procedural compliances such as obtaining a PAN and filing tax returns in India. This, it was argued, results in unnecessary administrative burdens despite the absence of substantive tax liability under the applicable bilateral treaty. Accordingly, it was recommended by the representatives that taxpayers from treaty jurisdictions who are not subject to SEP due to treaty protection be exempted from such procedural requirements.

Further, concerns were raised about the compliance burden under the SEP framework, particularly for non-resident entities with no real economic nexus to India. It was noted that even treaty-protected entities or importers with no operations or transactions in India are being required to file tax returns under SEP-related provisions, which are then subject to scrutiny despite no tax liability arising. This has led to avoidable litigation and procedural costs. Accordingly, it was suggested that the provision be clarified to exempt non-residents with no economic presence or source-linked transactions in India from return-filing obligations.

9.4.8 Clause 9(8)(f) During the Committee’s sitting, a representative from a professional services firm strongly advised against the removal of the word "reasonably" from the context in which it qualifies the term "attributable" in the draft legislation. While refraining from speculating on the legislative intent, it was firmly stated that the term "reasonably" plays a crucial interpretative role. Its presence ensures that any attribution—particularly of income or liability—is grounded in fairness and proportionality, which is essential for both clarity and just application of the law.

9.4.9 Many other written suggestions on the removal of the word "reasonably" were received which stated that the ITB 2025 consolidates the concept of ‘business connection’ as used in ITA 1961 in clause 9(8)(a) of the Bill to include the following:

(i) any business carried out in India; or
(ii) a significant economic presence in India;
A 'business carried out in India' is then defined to include business activity carried out through an agent etc. In line with this consolidation, all the three attribution principles (i.e., those contained in Explanations 1(a), 3 and 2nd proviso of 2A to section 9(1)(i) of ITA 1961) are consolidated at one place in ITB 2025 in clause 9(8)(f) as follows:
(f) in this sub-section, only the income which is attributable to—
(i) operations carried out in India, when all operations of the business are not carried out in India;
(ii) transactions or activities referred to in sub-section (8)(d),
shall be deemed to accrue or arise in India from any business connection;
Thus, the provisions have been consolidated. Also, there is no policy change. It is only with a view to provide clarity that the word 'reasonably' has not been used.

9.4.10 Regarding Clause 9 (10) another drafting error was pointed by the stakeholders that Clause (b) of sub-section (10) may be reworded as follows - (b) to a person not ordinarily resident in India under section 6(13), shall be deemed to accure accrue or arise in India." The word "accrue" has been spelt wrongly in clause (b) of sub-section (10), which needs to be corrected.

9.4.11 A stakeholder suggested to make clause 9(11) more gender neutral and suggested that the language of sub- section (11) may be modified to make it gender neutral. This is one of the examples. This change has to be effected in all the provisions where "his" has been used in the Income-tax Bill, 2025."

9.5 Examination by the Committee:
Ministry accepted the drafting error in the clause 9(5) and submitted in a written reply that

> **"Accepted:** Drafting error. The reference in cl. 9(5)(b) has to be made to cl. 9(5)(a) and not to 9(5)(a)(iii). Also, 9(5)(b)(i) and 9(5)(b)(ii) are required to be combined to align 9(5)(b)(ii) with the opening portion. This will address the concern of the stakeholder also."

9.5.2 Ministry in another written reply regarding clause 9(6) accepted that it is a case of drafting corrections. The word "in" may be substituted in place of "outside" in clause (6)(a)(iii)(B) of the IT Bill.In case of resident payer, the phrase "in respect of any right, property or information used or services utilised" may be inserted after the phrase "royalty is payable" " in clause (6)(a)(ii) of the IT Bill. In view of the above, the suggestion may be considered.

9.5.3 On the stakeholder's suggestion seeking deletion of the word 'grant' from the definition of 'royalty' in clause 9.(6)(b). Ministry in a written reply submitted to the Committee that:

> "Explanation 2 to section 9(1)(vi) of the I T Act used the word 'transfer' in general and the word 'granting' in the context of a licence. For the purpose of section 9(1) (vi) The 'royalty' inter alia means 'consideration' in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property. Therefore, the the use of words 'grant' along with the word 'transfer' provides more clarity and minimises probable disputes arising on account of interpretational issues. It also minimises possibilities of restricting it to 'transfer' only and removes existing dichotomy in the use of both terms.Therefore, the proposed amendment is not feasible."

9.5.4 Ministry during the oral evidence further clarified their submission as reproduced below:

> *"there is a slight drafting change which has been done in the provision – 'by way of transfer or grant of a license'. That is how it has been used. So, it is just making it more clear. No additional power or additional liability towards taxability of royalty has been taken. Earlier, in the first line, it was written only transfer and consequently, when license was there, 'by way of grant of license was also there'. So, now, we just consolidate it to two terms."*

9.5.5 Ministry on the suggestion to add "in case of Non-resident" in Clauses 9(8)(c)(ii)(A) and (B) have submitted in a written reply that

> "This is in the nature of drafting error. The suggestion is acceptable."

9.5.6 Regarding the suggestions of the stakeholders clause 9(8), Ministry initially submitted that it may be mentioned here that the words 'reasonably attributable' has not been used in Explanation 3 and 2nd proviso to Explanation 2A to s.9(1)(i) of ITA 1961. It has been used only in Explanation 1(a) to section 9(1).Further, under the mandate of s.295 of ITA 1961, rule 10 provides for the ways of making the attribution in case of income through or from a business connection. In this rule, the primary emphasis is on a situation where income deemed to accrue or arise through or from a business connection (among other things) cannot be definitely ascertained. The reasonableness principle is then brought in as clause (i) of the rule. In a case where the income from a business connection can be ascertained in a 'definite' manner, the need for applying the standard of reasonableness would not arise as also would the recourse to Rule 10. As the rule needs to be applied in all other cases, the word 'reasonably' appearing before the word 'attributable' in Explanation 1(a) to s.9(1)(i) does not lend any additional weight.Thus, in the consolidated and simplified text of ITB 2025, only the word

‘attributable has been used.Further, in a treaty case, the attribution is to be made in case of a PE instead of a business connection under the Act. In that scenario also, the attribution is generally made under Rule 10 of the Rules on account of the provisions of the DTAAs entered into by India. It is important to point out that in the DTAAs, the term ‘reasonably’ is not prefixed to the word attributed. This shall bring clarity and uniformity in the interpretation of term ‘attributable’ and minimise disputes arising out of multiple interpretation.The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

9.5.7 Ministry further explained that "reasonable attribution" is also guided by rules to be made under the Act (similar to rules under Sec 295 of the old Act), and including "reasonably attributed" in the Act and then again in rules was seen as duplication and submitted to the Committee as under:

> *“Sir, I can just explain. Once we talk of attribution, we have made rules under 295 of the present Act that how do we attribute income because the plain reading of the subsection says that income has to be attributed, reasonably attributed. It says reasonably attributed. But that reasonable attribution has also to be in accordance with the rules made under 295. Those rules will also correspondingly be made under this Act and those rules include the concept of reasonable attribution. It is a duplication of thing that when I am saying reasonably attributed in the first and then reasonably attributed in accordance with the rules which rules themselves are saying reasonably attributed, it is only for that reason…*
> *….All the suggestions regarding the term ‘reasonable’, wherever they are, we will take the same positions and we will answer it accordingly."*

9.5.8 Subsequently Ministry in another written reply submitted that:

> “Stakeholder seeks to incorporate the word 'reasonably attributable' in place of 'attributable in clause 9.(8)(f) and 9.(9)(f).In view of the discussions with the Hon'ble Committee, the provision shall be aligned with the IT Act.”

9.5.9 Regarding the Significant Economic Presence (SEP) provisions under Clause 9(8)(d), concerns have been raised that taxpayers from treaty jurisdictions—who are protected from substantive tax liability in India due to the absence of a Permanent Establishment—are nevertheless subject to procedural compliance burdens such as obtaining a PAN and filing tax returns. A recommendation was made to exempt such treaty-protected taxpayers from these procedural requirements in cases where no substantive tax liability arises in India due to treaty protection over SEP provisions, to which the Ministry submitted as under:

“Significant Economic Presence (SEP) of a non-resident constitute 'business connection' in India and income of such non-resident, accruing or arising from such business connection is deemed as income sourced in India. However, the provisions of DTAA (treaty) overrides SEP. For availing benefit of treaty, a non-resident must file a self-declaration in Form 10F along with a tax residency certificate (TRC) of their country of residence. The Form 10F applicability is mandatory for NRIs who do not have all the required details of TRC. Previously, NRIs who did not have a PAN card also had to file Form 10F online. This required all taxpayers to obtain PAN registration as there were no options to log in to the income tax filing portal without a PAN. However, now a non-resident can register on the Income Tax Portal without a PAN. Therefore, a PAN card is no longer required to file Form 10F online. As regards, filing of Return of Income (ROI), in the case of a foreign company or a non-resident (not being a company) filing of Return of Income is not mandatory if his total income comprises of only dividend, interest, royalty or fee for technical services and specified tax has been deducted on such income. However, where such assessees become liable to tax on account of active business activities, the filing of return may be required on case-to- case basis. The intricacies of taxation and its effective administration require basic minimum procedural compliances from the taxpayers, so that a non-intrusive approach may be adopted for ensuring tax compliances. The requirement of obtaining PAN and filing of return falls under such procedural compliances, as identification of a taxpayer, determination of tax liability, issuance of refund, examination of the nature of income reported by the taxpayer and its appropriate taxability hinges on these basic compliances.”

9.5.10 Ministry accepted the recommendation for the clause 9(10) regarding the misspelt word “accure” and submitted in a written reply that

“**Accepted**: It is a drafting error. May be corrected by substituting the word 'accure' with the word 'accrue'.”

9.5.11 Ministry on the suggestion to make clause 9(11) more gender neutral Stakeholder has suggested to use gender neutral terms in the Bill. Gender neutrality has to be seen in Indian context. In Indian laws, 'his' has been used extensively and 'his' is inclusive of 'her'. Even the Constitution mentions 'his' nearly 300 times. In India, even inanimate things are assigned a gender in the usage of language. Moreover gender neutral words may affect the readability or meaning of the provision. This change is a policy matter, which is beyond the purview of the I T Bill.There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961.Therefore, the proposed amendment is not feasible.

9.6 Observations/Recommendations of the Committee:

Clause 9(5)

9.6.1 The Committee, after a careful review of Clause 9(5), identified drafting issues related to incorrect referencing and structural incoherence that could affect its interpretation. The Committee, therefore, recommend that in Clause 9(5)(b), the reference be corrected to point to the broader Clause 9(5)(a), and that sub-clauses 9(5)(b)(i) and (ii) be combined to improve logical flow and textual coherence.

Clause 9(6)

9.6.2 The Committee, upon deliberations on Clause 9(6), identified a critical typographical error in sub-clause (a)(iii)(B) that could significantly alter the scope of taxable royalty income for non-residents . The Committee, therefore, recommend that in the said sub-clause, the phrase "making or earning any income from any source outside India" be corrected to read "making or earning any income from any source in India".

Clause 9(8)(c)

9.6.3 The Committee, after a review of Clause 9(8)(c), identified that a key qualifying phrase appeared to have been inadvertently omitted from sub-clauses (ii)(A) and (B), which could lead to ambiguity in applying these crucial exclusions 1111. The Committee, therefore, recommend that in Clauses 9(8)(c)(ii)(A) and (B), the phrase "in case of Non-resident" be added to align the provision with the corresponding sections of the prevailing Income-tax Act, 1961.

Clause 9(10)

9.6.4 The Committee, after reviewing sub-clause 9(10), identified a misspelt word. The Committee, therefore, recommend that in Clause 9(10)(b), the word "accure"

be corrected to read "accrue". The Committee further accept the remaining provisions of Clause 9 as proposed.

Clause No 10: Apportionmenet of income between spouses governed by Portuguese Civil Code.

10.1 Provision proposed in the Income-Tax Bill, 2025:

If a husband and wife are governed by the community of property system (known as "COMMUNIAO DOS BENS" under the Portuguese Civil Code of 1860) in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, then—

(a) their income under any head of income shall not be assessed together as that of community of property;

(b) the income mentioned in clause (a) under each head of income other than "Salaries" shall be divided equally between the husband and the wife;

(c) the income so divided shall be included separately in the total income of the husband and the wife, and the remaining provisions of this Act shall apply accordingly; and

(d) where either the husband or the wife, has any income under the head "Salaries", that income shall be included in the total income of the spouse who has actually earned it.

10.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Apportionment of income between spouses governed by Portuguese Civil Code.

5A. (1) Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS") in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.

(2) Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries", such income shall be included in the total income of the spouse who has actually earned it.

10.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 10 of the Bill deals with apportionment of income between spouses governed by Portuguese Civil Code. The clause corresponds to section 5A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

10.4 Important Views/Suggestions given by Experts/Stakeholders:

One of the stakeholders submitted that this clause be deleted. There is no need for separate treatment for Portuguese Civil Code in Goa, Dadra and Nagar Haveli and Daman and Diu After more than 60 years after liberation of Goa, time has come to integrate taxation in Goa, Dadra and Nagar Haveli and Daman and Diu.

10.5 Examination by the Committee:

Ministry in their written reply submitted that the stakeholder seeks deletion of clause pertaining to persons governed under Portuguese Civil Code of 1860.The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025.There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961.The said provision of the IT Bill provide clarity on taxation of Income where a husband and wife are governed by the community of property system (known as “COMMUNIAO DOS BENS” under the Portuguese Civil Code of 1860) in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu. Therefore, any amendment in said settled position of law may raise disputes and further litigation.Therefore the proposed amendment is not feasible.

10.5.2 During the oral evidence Ministry further clarified their submission and deposed before the Committee as under:

> *“Sir, we have one special provision for persons covered under Portuguese Civil Code of 1860. In Income Tax, we have provided separate method of assessing them in which the income is taxed in hands of both husband and wife. So, they want to do away with this. But this has been always there on the statute and we have been taxing them like this.”*

10.6 Observations/Recommendations of the Committee:

The Committee, after considering Clause 10 of the Income-tax Bill, 2025, which relates to the apportionment of income between spouses governed by the Portuguese Civil Code, note that the provision corresponds to Section 5A of the Income-tax Act, 1961. The Clause retains the existing position regarding taxation of income of spouses who are governed by the community of property system in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu.

The Committee deliberated on a suggestion regarding deletion of the provision on the grounds that there is no longer a need for a separate tax treatment based on the Portuguese Civil Code, and that a uniform tax regime should now be applicable more than sixty years after Goa's liberation. However, the Committee note the Ministry's response that the provision reflects a long-standing and settled legal treatment, and its deletion would amount to a broader policy change beyond the scope of the present Bill. Accordingly, the Committee are of the view that Clause 10, which simplifies the language of the existing provision without altering its intent, may be accepted as proposed.

CHAPTER –III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

Clause No.11: Incomes not to be included in total income

11.1 Provision proposed in the Income-Tax Bill, 2025:

(1) In computing the total income of any person for a tax year under this Act, any income enumerated in Schedules II, III, IV, V, and VI shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in the Schedules referred in sub-section (1) are not satisfied in any tax year in respect of any income enumerated in the said Schedules, such income shall be charged to tax under this Act for that tax year.

(3) The persons enumerated in Schedule VII shall, subject to fulfilment of the conditions specified therein, not be chargeable to tax under this Act for a tax year.

(4) Wherever the conditions referred to in Schedule VII are not satisfied in respect of the persons enumerated in the said Schedule, the income of such person shall be charged to tax under the provisions of this Act.

(5) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedules II, III, IV, V, VI and VII.

11.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

Incomes not included in total income.

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

(*1*) agricultural income ;

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

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

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

(*3*) [***]

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

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

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

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

(*4D*) any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in clause (*viiab*) of section 47, on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange or as a result of transfer of securities (other than shares in a company resident in India) or any income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India or any income from a securitisation trust which is chargeable under the head "Profits and gains of business or profession", to the extent such income accrued or arisen to, or is received, is attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) or is attributable to the investment division of offshore banking unit, as the case may be, computed in the prescribed manner.

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

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

made thereunder;

(*aa*) "investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA and which has commenced its operations on or before the 31st day of March, [19]**[***2030***]**;

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

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

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

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

(*c*) "specified fund" means,—

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

[20][*(I) (a)*] which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or [21][regulated under the International Financial Services Centres Authority (Fund Management)

Regulations, 2022, made under the] International Financial Services Centres Authority Act, 2019 (50 of 2019);

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

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

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

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

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

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

[23]**[***2030***]**; and

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

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

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

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

[24][(*4E*) any income accrued or arisen to, or received by a non-resident as a result of—

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

(*ii*) distribution of income on offshore derivative instruments [25]**[***or over-the-counter derivatives***]**,

entered into with an offshore banking unit of an International Financial Services Centre referred to in sub-section (1A) of section 80LA [25]**[***or any Foreign Portfolio Investor being a unit of an International Financial Services Centre***]**, which fulfils such conditions as may be prescribed;]

Following *Explanation* shall be inserted in clause (*4E*) of section 10 by the Finance Act, 2025, w.e.f. 1-4-2026:

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

(*4F*) any income of a non-resident by way of royalty or interest , on account of lease of an aircraft or a ship in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31st day of March, [26]**[***2030***]**.

Explanation.—For the purposes of this clause,—

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

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

[27][(*4G*) any income received by a non-resident from,—

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

(*ii*) such activity carried out by such person, as may be notified by the Central Government in the Official Gazette,

in an account maintained with an Offshore Banking Unit in any International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

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

(*4H*) any income of a non-resident or a Unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, engaged primarily in the business of leasing of an aircraft [28]**[***or a ship***]**, by way of capital gains arising from the transfer of equity shares of domestic company, being a Unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, engaged primarily in the

business of leasing of an aircraft [28]**[***or a ship***]** which has commenced operations on or before the 31st day of March, [29]**[***2030***]**:

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

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

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

[30]**[**Explanation.—*For the purposes of this clause,*—

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

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

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

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

(*b*) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service,

subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government :

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

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

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

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

(*ii*) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

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

(*5A*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(*5B*) [*Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*]

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

(*i*) [***]

(*ii*) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity :

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

country concerned enjoys a similar exemption in that country :

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

(*iii*) to (*v*) [*Sub-clause (*ii*) substituted for sub-clauses (*ii*) to (*v*) by the Finance Act, 1988, w.e.f. 1-4-1989;*]

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

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

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

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

(*via*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(*vii*) [*Omitted by the Finance Act, 1993, w.e.f. 1-4-1993;*]

(*viia*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

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

(*ix*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(*x*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(*xi*) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in

connection with his training in any establishment or office of, or in any undertaking owned by,—

(*i*) the Government ; or

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

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

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

(*v*) any society registered under the Societies Registration Act, 1860 (21 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments ;

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

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

(*b*) in any other case, the agreement is approved by the Central Government,

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid.

Explanation.—For the purposes of this clause and clause (*6B*),—

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

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

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

(*6B*) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into before the 1st day of June, 2002 by the Central Government with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved before that date by the Central Government, the tax so paid ;

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

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

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

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

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

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

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

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

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

(*8A*) in the case of a consultant—

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

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

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

Explanation.—In this clause, "consultant" means—

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

(*ii*) any other person, being a non-resident,

engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project, provided the following conditions are fulfilled, namely :—

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

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

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

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

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

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

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

Provided that nothing contained in this clause shall apply to such

remuneration and income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023;

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

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

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

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

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

behalf to the employees of that Government :

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

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

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

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

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

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

(*b*) in any other case, the commuted value of one-half of such pension,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality ;

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

(*10AA*) (*i*) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise ;

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

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

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

Explanation.—For the purposes of sub-clause (*ii*),—

the entitlement to earned leave of an employee shall not exceed thirty

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

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

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

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

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

whichever is less :

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

Explanation.—For the purposes of this clause—

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

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

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

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

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

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

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

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

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

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

(*i*) a public sector company ; or

(*ii*) any other company ; or

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

(*iv*) a local authority ; or

(*v*) a co-operative society ; or

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

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

(*viia*) any State Government; or

(*viib*) the Central Government; or

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

(*viii*) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf,

on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (*i*), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees :

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

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

year :

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

(*10CC*) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of clause (*2*) of section 17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956);

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

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

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

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

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

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

Provided further that for the purpose of calculating the actual capital sum assured under sub-clause (*c*), effect shall be given to the *Explanation* to sub-section (3) of section 80C [31][***] :

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

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

(*ii*) suffering from disease or ailment as specified in the rules made under section 80DDB,

the provisions of this sub-clause shall have effect as if for the words "ten per cent", the words "fifteen per cent" had been substituted:

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

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

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

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

[33][**Provided also** *that the provisions of the fourth, fifth, sixth and seventh provisos shall not apply to any sum received—*

(a) *on the death of a person; or*

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

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

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

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

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

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

1999);

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

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

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

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

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

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

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

been substituted;

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

(*12B*) any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder, to the extent it does not exceed twenty-five per cent of the amount of contributions made by him;

Following clause (*12BA*) shall be inserted after clause (*12B*) of section 10 by the Finance Act, 2025, w.e.f. 1-4-2026:

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

[34][(*12C*) any payment from the *Agniveer* Corpus Fund to a person enrolled under the *Agnipath* Scheme, or to his nominee.

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

(*13*) any payment from an approved superannuation fund made—

(*i*) on the death of a beneficiary; or

(*ii*) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapa-

citated prior to such retirement; or

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

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

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

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

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

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

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

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

(*ii*) any such allowance granted to the assessee either to meet his

personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, as may be prescribed and to the extent as may be prescribed :

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

(*14A*) [***]

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

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

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

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

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

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

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

(*c*) any individual to whom the bonds have been gifted by the non-

resident Indian :

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

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

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

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

Explanation.—For the purposes of this sub-clause, the expression "non-resident Indian" shall have the meaning assigned to it in clause (*e*) of section 115C;

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

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

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

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

the 25th day of November, 1986;

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

(*iv*) interest payable—

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

(*b*) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into before the 1st day of June, 2001 with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order ;

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

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

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

(*d*) by the Industrial Finance Corporation of India established by the

Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981), or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), or the Industrial Credit and Investment Corporation of India a company formed and registered under the Indian Companies Act, 1913 (7 of 1913), on any moneys borrowed by it from sources outside India before the 1st day of June, 2001, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

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

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

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

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

(*g*) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company eligible for deduction under clause (*viii*) of sub-section (1) of section 36 on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government before the 1st day of June, 2003, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

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

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

(*i*) by Government on deposits made by an employee of the Central Government or a State Government or a public sector company,

in accordance with such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.

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

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

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

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

(*ba*) the business of providing telecommunication services; or

(*c*) mining; or

(*d*) the construction of ships; or

(*da*) the business of ship-breaking; or

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

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

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

(*v*) interest on—

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

(*b*) deposits for the benefit of the victims of the Bhopal gas leak

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

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

(*vi*) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government;

(*vii*) interest on bonds—

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

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

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

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

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

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

(*a*) "International Financial Services Centre" shall have the meaning assigned to it in clause (*q*) of section 2 of the Special Economic

Zones Act, 2005 (28 of 2005);

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

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

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

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

[35][*(*15B*) any income of a foreign company from lease rentals, by whatever name called, of cruise ships, received from a specified company which operates such ship or ships in India, where such foreign company and the specified company are subsidiaries of the same holding company, and such income is received or accrues or arises in India for any relevant assessment year beginning on or before the 1st day of April, 2030.*

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

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

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

*(*c*) "subsidiary company" or "subsidiary", in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital*

either at its own or together with one or more of its subsidiary companies;]

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

(*17*) any income by way of—

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

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

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

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

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

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

(*18*) any income by way of—

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

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

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

(*18A*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

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

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

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

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

Explanation.—For the purposes of this clause, the expression "local authority" means—

(*i*) Panchayat as referred to in clause (*d*) of article 243 of the Constitution; or

(*ii*) Municipality as referred to in clause (*e*) of article 243P of the Constitution; or

(*iii*) Municipal Committee and District Board,

legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or

(*iv*) Cantonment Board as defined in section 3 of the Cantonments Act, 1924 (2 of 1924);

(*20A*) [***]

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

Provided that the research association—

(*a*) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—

(*i*) in sub-section (2),—

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

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

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

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

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

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

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

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

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

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

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

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

(*i*) the research association has not applied its income in accordance

with the provisions contained in clause (*a*) of the first proviso; or

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

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

(*iv*) the activities of the research association are not being carried out in accordance with all or any of the conditions subject to which such association was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer;

(*22*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(*22A*) [*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

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

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

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

Provided also that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and

forward a copy of the order rescinding the notification to such agency and to the Assessing Officer:

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

(*23*) [*Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*]

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

Provided that—

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

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

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

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

(*ii*) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of

the order withdrawing the approval to such association or institution and to the Assessing Officer;

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

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

(*a*) the fund—

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

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

(*b*) the fund is approved by the Principal Commissioner or Commissioner in accordance with the rules made in this behalf:

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

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

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

(*ii*) which is approved by the Controller of Insurance or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and

Development Authority Act, 1999 (41 of 1999), as the case may be.

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

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

Provided that—

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

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

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

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

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

(*ii*) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order,

withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.

Explanation.—For the purposes of this clause,—

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

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

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

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

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

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

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

Explanation.—For the purposes of this clause, "European Economic Community" means the European Economic Community established by the Treaty of Rome of 25th March, 1957;

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

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

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

(*23BBF*) [37][***]

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

(*23BBH*) any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);

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

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

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

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

(*iiia*) the National Foundation for Communal Harmony; or

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

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

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

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

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

Explanation.—For the purposes of sub-clauses (*iiiab*) and (*iiiac*), any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year; or

(*iiiad*) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of the person from such university or universities or educational institution or educational

institutions do not exceed five crore rupees; or

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

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

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

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

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

Commissioner; or

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

Provided that the exemption to the fund or trust or institution or university or other educational institution or hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), under the respective sub-clauses, shall not be available to it unless such fund or trust or institution or university or other educational institution or hospital or other medical institution makes an application [38][before the 1st day of October, 2024,] in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

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

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

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

[39][(*iv*) in any other case, where activities of the fund or trust or institution or university or other educational institution or hospital

or other medical institution have—

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

(*B*) commenced and no income or part thereof of the said fund or trust or institution or university or other educational institution or hospital or other medical institution has been excluded from the total income on account of applicability of sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) or section 11 or section 12 for any previous year ending on or before the date of such application, at any time after the commencement of such activities,]

and the said fund or trust or institution or university or other educational institution or hospital or other medical institution is approved under the second proviso:

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso [40][before the 1st day of October, 2024], shall,—

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

(*ii*) where the application is made under clause (*ii*) or clause (*iii*) [41][or sub-clause (*B*) of clause (*iv*)] of the said proviso,—

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

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

(*B*) the compliance of such requirements of any other

law for the time being in force by it as are material for the purpose of achieving its objects; and

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

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

[42][(*B*) if he is not so satisfied, pass an order in writing,—

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

(*II*) in a case referred to in sub-clause (*B*) of clause (*iv*) of the first proviso, rejecting such application,

after affording it a reasonable opportunity of being heard;]

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

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

(*a*) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case

where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years; and

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

(*i*) any assets held by the fund, trust or institution or any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of the fund, trust or institution or any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1973;

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

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

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

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11.

Explanation 1.—For the removal of doubts, it is hereby clarified that for the purposes of this proviso, the income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus.

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

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 1B.—For the purposes of *Explanation 1A*, where any trust or institution referred to in sub-clause (*v*) has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

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

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

Provided that the amount not so treated as application or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit: [43][***]

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

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

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

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

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

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

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

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

[45][(*iii)* any amount credited or paid out of the income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), other than the amount referred to in the twelfth proviso, to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), or trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

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

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

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

(*c*) the statement referred to in clause (*a*) is [46][furnished at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

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

Explanation 4.—Any income referred to in *Explanation 3*, which,—

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

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

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

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*),

shall be deemed to be the income of such person of the previous year—

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

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

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

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

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

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

Provided also that the exemption under sub-clause (*iv*) or sub-clause (*v*) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not

continue to remain so invested or deposited after the 30th day of March, 1993 :

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

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

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

Provided also that any approval granted under the second proviso shall apply in relation to the income of the fund or trust or institution or university or other educational institution or hospital or other medical institution,—

(*i*) where the application is made under clause (*i*) of the first proviso, from the assessment year from which approval was earlier granted to it;

(*ii*) where the application is made under clause (*iii*) of the first proviso, from the first of the assessment years for which it was

provisionally approved;

(*iii*) in any other case, from the assessment year immediately following the financial year in which such application is made:

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

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

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

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

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

tax:

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

Provided also that for the purposes of determining the amount of application under item (*a*) of the third proviso, the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession":

Provided also that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or section 12AB or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established :

Provided also that where the fund or institution referred to in sub-clause (*iv*) or trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*) is approved or provisionally approved under the said clause and subsequently—

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

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

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

the Principal Commissioner or Commissioner, shall,—

(*i*) call for such documents or information from the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

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

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

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

Explanation 1.—For the purposes of this proviso, "specified date" shall mean the day on which the period of six months, calculated from the end

of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (*i*) expires.

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

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

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

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

(*A*) is not genuine; or

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

(*d*) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has [47][attained finality; or]

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

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

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

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

Provided also that the income of a trust or institution referred to in sub-clause (*iv*) or sub-clause (*v*) shall be included in its total income of the previous year if the provisions of the first proviso to clause (*15*) of section 2 become applicable to such trust or institution in the said previous year, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded :

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

to exclude any income received on behalf of such fund or institution or trust or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.

Explanation.—Where, on or after the 1st day of April, 2022 any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*) is notified under clause (*46*) [49][or (*46A*)] of section 10, the approval or provisional approval granted to such fund or institution or trust or university or other educational institution or hospital or other medical institution shall become inoperative from the date of notification of such fund or institution or trust or university or other educational institution or hospital or other medical institution, as the case may be, under clause (*46*) [49][or clause (*46A*)] of the said section:

Provided also that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139, [50][within the time allowed under sub-section (1) or sub-section (4) of that section] :

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

Provided also that where any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) violates the conditions of the tenth proviso or twentieth

proviso, or where the provisions of the eighteenth proviso are applicable, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the fund or institution or trust or university or other educational institution or hospital or other medical institution, subject to fulfilment of the following conditions, namely:—

(*a*) such expenditure is not from the corpus standing to the credit of the fund or institution or trust or university or other educational institution or hospital or other medical institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;

(*b*) such expenditure is not from any loan or borrowing;

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

(*d*) such expenditure is not in the form of any contribution or donation to any person.

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

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

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

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

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

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

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

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

(*23D*) any income of—

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

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

Explanation.—For the purposes of this clause,—

(*a*) the expression "public sector bank" means the State Bank of India

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

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

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

(*b*) "securitisation trust" shall have the meaning assigned to it in the

Explanation below section 115TCA;

(23E) [*Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*]

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

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

(*23EB*) [52][***]

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

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

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

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

Explanation.—For the purposes of this clause,—

(*i*) "recognised clearing corporation" shall have the same meaning as assigned to it in clause (*o*) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) [53-54][*or clause (*n*) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of*

2019)];

(*ii*) "regulations" means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) [53-54][*or the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019)*];

(*iii*) "specified income" shall mean,—

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

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

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

(*iv*) "specified person" shall mean,—

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

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

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

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

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority in accordance with the rules made in this behalf and satisfies the

prescribed conditions :

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

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

Explanation.—For the purposes of this clause,—

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

(*b*) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;

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

(*d*) "infrastructure facility" means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(*23FA*) any income by way of dividends, other than dividends referred to in

section 115-O, or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

(*i*) business of—

(*A*) software;

(*B*) information technology;

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

(*D*) bio-technology;

(*E*) agriculture and allied sectors; or

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

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

(*23FB*) any income of a venture capital company or venture capital fund from investment in a venture capital undertaking :

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

Explanation.—For the purposes of this clause,—

(*a*) "venture capital company" means a company which—

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

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

namely:—

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

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

(*iii*) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking;

(*b*) "venture capital fund" means a fund—

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

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

(*II*) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations [55][*or as referred to in sub-regulation (2) of regulation 18 of the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019),*] and which fulfils the follow-ing conditions, namely:—

(*i*) it has invested not less than two-thirds of

its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(*ii*) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking; [56][***]

(*iii*) the units, if any, issued by it are not listed in any recognised stock exchange; [57][*and*]

[58][(iv) *any other condition as may be prescribed; or*]

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

(*c*) "venture capital undertaking" means—

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

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

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

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

Explanation.—For the purposes of clauses (*23FBA*) and (*23FBB*), the expression "investment fund" shall have the meaning assigned to it in

clause (*a*) of the *Explanation 1* to section 115UB;

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

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

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

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

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

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

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

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

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

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

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

section 115BAA) or clause (*23FCA*);

(*23FE*) any income of a specified person in the nature of dividend, interest [59][, any sum referred to in clause (*xii*) of sub-section (2) of section 56] or long-term capital gains [60]**[***(whether or not such capital gains are deemed as short-term capital gains under section 50AA)***]** arising from an investment made by it in India, whether in the form of debt or share capital or unit, if the investment—

(*i*) is made on or after the 1st day of April, 2020 but on or before the 31st day of March, [61]**[***2030***]**;

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

(*iii*) is in—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that the provisions of sub-clauses (*iii*) and (*iv*) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;

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

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

(*c*) a pension fund, which—

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

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

(*iii*) satisfies such other conditions as may be prescribed;

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

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

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

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

(*ii*) "loan and borrowing" means—

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

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

Explanation 3.—For the purposes of this clause, the Central Government may prescribe that the method of calculation of "fifty per cent" referred to in item (*c*) or "seventy-five per cent" referred to in item

(*d*) or "ninety per cent" referred to in item (*e*), of sub-clause (*iii*) shall be such as may be prescribed;

(*23FF*) any income of the nature of capital gains, arising or received by a non-resident or a specified fund, which is on account of transfer of share of a company resident in India, by the resultant fund or a specified fund to the extent attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such manner as may be prescribed, and such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.

Explanation.—For the purposes of this clause,—

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

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

(*23G*) [*Omitted by the Finance Act, 2006, w.e.f. 1-4-2007;*]

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

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

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

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

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

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

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

(*v*) any income received—

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

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

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

(*26*) in the case of a member of a Scheduled Tribe as defined in clause (*25*) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)] or in the Ladakh region of the State of Jammu and Kashmir, any income which accrues or arises to him,—

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

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

(*26A*) [62][***]

(*26AA*) [***]

[63][(*26AAA*) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

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

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

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

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

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

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

(*iv*) any other individual, whose name does not appear in the Register of Sikkim Subjects but it is established that such individual was domiciled in Sikkim on or before the 26th day of April, 1975; or

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

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

(*26B*) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a

body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them.

Explanation.—For the purposes of this clause,—

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

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

(*i*) by the Central Government; or

(*ii*) by any State Government,

as the case may be, from time to time;

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

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

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

Explanation.—For the purposes of this clause, "ex-serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by

way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;

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

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

(*28*) [***]

(*29*) [*Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*]

(*29A*) any income accruing or arising to—

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

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

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

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

later;

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

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

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

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

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

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

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

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

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

Explanation.—In this clause, "concerned Board" means,—

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

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

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

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

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

(*33*) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and

where the transfer of such asset takes place on or after the 1st day of April, 2002;

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

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

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

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

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

[65][(*34B*) any income of a Unit of any International Financial Services Centre, primarily engaged in the business of leasing of an aircraft [66]**[***or a ship***]**, by way of dividends from a company being a Unit of any International Financial Services Centre primarily engaged in the business of leasing of an aircraft [66]**[***or a ship***]**.

[67]**[**Explanation.—*For the purposes of this clause,—*

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

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

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

(*35*) any income by way of,—

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

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

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

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

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

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

Explanation.—For the purposes of this clause, "eligible equity share" means,—

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

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

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

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

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

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

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

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

(*37A*) any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an

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

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

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

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

(*c*) the reconstituted plot or land, as the case may be, received by the assessee in lieu of land or building or both referred to in clause (*a*) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him;

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

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

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

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

Provided also that nothing contained in sub-clause (*b*) shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency:

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

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

Explanation.—For the purposes of this clause,—

(*a*) "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent of the total proceeds of such fund; and

(*ii*) which has been set up under a scheme of a Mutual Fund specified under clause (*23D*):

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

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

(*c*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of the *Explanation 1* to sub-section (*5*) of section 43;

(*39*) any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(*a*) is approved by the international body regulating the international sport relating to such event;

(*b*) has participation by more than two countries;

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

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

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

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

(*41*) [68][***]

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

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

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

(*c*) is notified by the Central Government in the Official Gazette for

the purposes of this clause.

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

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

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

(*45*) [***]

(*46*) any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) [69][other than those covered under clause (*46A*)] , or a class thereof which—

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

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

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

Explanation.—For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission (by whatever name called) [69][other than those covered under clause (*46A*)], or a class thereof referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;

[70][(*46A*) any income arising to a body or authority or Board or Trust or Commission, not being a company, which—

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

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

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

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

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

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

(*46B*) any income accruing or arising to,—

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

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

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

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

(*48*) any income received in India in Indian currency by a foreign company on account of sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person in

India:

Provided that—

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

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

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

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

Provided that—

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

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

(*48B*) any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (*48A*) or on termination of the said agreement or the arrangement, in accordance with the terms mentioned therein, as the case may be, subject to such conditions as may be notified by the Central Government in this behalf;

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

this behalf:

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

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

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

Provided that the Central Government may, by issuing notification under this clause, extend the period of exemption under this clause for a further period, not exceeding five more consecutive assessment years, subject to fulfilment of such conditions as may be specified in the said notification;

(*49*) [71][***]

(*50*) [72][any income arising from any--

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

(*ii*) e-commerce supply or services made or provided or facilitated on or after the 1st day of April, 2020 but before the 1st day of August, 2024,

and chargeable to equalisation levy under that Chapter:]

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

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

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

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

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

11.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 11 of the Bill seeks to provide for incomes not included in total income and, inter alia, provides for details of income enumerated in Schedules II, III, IV, V and VI which are not to be included in computing the total income of any person for a tax year. It also deals with persons enumerated in Schedule VII who are not chargeable to tax under the proposed legislation for a tax year. The clause corresponds to section 10 of the Act. The provisions related to exemptions are contained in section 10 of the present Act. There are around 140 clauses in said section 10, providing exemption to different persons and incomes. Since section 10 of the Act starts with an opening sentence and different exemptions provided therein are in the form of clauses, there are inherent limitations in the drafting. There are provisos within clauses, Explanations to these provisos and again provisos to the Explanations making the provisions difficult to comprehend. All the clauses of section 10 have been placed in 6 schedules and income eligible for exemption, eligible persons and the applicable conditions have been provided in different columns of the Table under each of these Schedules for the ease of understanding.

11.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the stakeholder interactions, one of the witnesses highlighted that under the current Income-tax Act, capital gains earned by charitable organizations upon disinvestment—if reinvested into other specified modes—are exempt from tax, recognizing it as a mere realignment of corpus within permitted avenues. It was pointed out that this exemption appears to have been omitted in the new Bill, which could adversely affect not-for-profit entities despite there being no change in the underlying charitable intent or the mode of investment. Accordingly, it was suggested that the exemption be reinstated to preserve parity with the existing regime.
Separately, another witness referred to changes in the treatment of anonymous donations under the Bill. While the exemption appears to have been retained for purely religious trusts, the provision appears to exclude mixed-purpose trusts (those with both religious and charitable objects). It was submitted that this exclusion may have been intentional or inadvertent; nonetheless, considering that mixed-purpose trusts serve dual public interest objectives, the exemption for anonymous donations should also be extended to them. Accordingly, it was suggested that the relevant provision be reconsidered and aligned with existing practice.

11.4.2 During the discussion on tax exemptions for Scheduled Tribes Clause 11, concern was raised over the lack of clarity in the current drafting, particularly the omission of Assam and Meghalaya, which are only indirectly covered under the Sixth Schedule. It was suggested that explicitly naming these States would help avoid confusion for taxpayers and authorities alike. The need to consider ST status as lifelong—irrespective of government service—was highlighted, along with a proposal to extend the exemption to individuals working outside Scheduled Areas, given the absence of generational wealth and the need for financial empowerment. Procedural issues around annual exemption certificates were also flagged, with calls for a self-declaration system similar to Forms 15G and 15H. There was general agreement that income earned outside notified areas is currently taxable, but concerns were expressed over burdensome enforcement and the inconsistent treatment of similar economic conditions across the Northeast.

11.4.3 Suggestions on the schedules pertaining to the clause 11 were received, which stated that “

i. Clarity & Interpretation Define ambiguous terms in Schedules II & III (e.g., “allowances” scope) to prevent misinterpretation and litigation. Explicit cross-referencing with relevant sections of the Income-Tax Act to improve understanding (e.g., HUF exemptions in Schedule III). Illustrative examples within schedules to clarify eligibility (e.g., agricultural income in Schedule II).

ii. Tax Incentives & Deductions Expand Schedule IV deductions for R&D and ESG initiatives to encourage corporate investment in innovation and sustainability.

iii. Introduce temporary tax holidays in Schedule VI for startups and green energy firms, aligning with Viksit Bharat 2047 goals.Compliance & Efficiency Automate return filing and assessments in Schedule V to reduce manual errors and enhance efficiency.

iv. Raise TDS thresholds for professional fees and simplify TCS compliance for e-commerce in Schedules VI & VII, supporting MSMEs.

v. Establish a dedicated dispute resolution mechanism in Schedule V with time-bound appeal disposal to ease corporate litigation burdens."

11.4.4 One of the stake holders pointed out that S**.11(4) of** ITB 2025 may raise an ambiguity as to whether the exemption for past years should also be withdrawn, if the conditions are not fulfilled for any subsequent year.To avoid ambiguity, it is suggested that s.11(4) may altogether be omitted, as s.11(3) sufficiently ensures that exemption is granted subject to satisfaction of conditions for the tax year under reference. Without prejudice, if Section 11(4) is to be retained, it may be clarified that the denial of exemption is restricted to the tax year for which the conditions referred to in Schedule VII are not satisfied.The non-fulfilment of conditions for a specific tax year should not lead to denial of the exemption for other tax years where those conditions have been fulfilled.

11.4.5 A different suggestion pointed out a drafting error in the Schedule II.Sl. No.2, In case of ULIPs, in Sl 4, Column C may be modified to provide that exemption is available only if "aggregate of premium for all such policies (in each of the tax years during the term of all of such policies) is <=₹ 2,50,000." The same suggestion applies to Sl 5 as well, where the relevant portions are highlighted in bold in the previous column. Under s.10(10D) of ITA 1961, exemption in respect of ULIP is forfeited if the premium for any tax year exceeds Rs 2.50 lacs. Corresponding provision in ITB 2025 seems to suggest that exemption is forfeited if the aggregate premium for all tax years comprising the policy term exceeds Rs 2.50 lacs.

11.4.6 Another stakeholder suggested that Exemption limit for ULIP & Non ULIP policies ie Rs 2.5 Lakh and Rs 5 Lakh respectively may be linked to some Inflation benchmark , allowing higher exemption for section 10(10D) by modifying premium to Sum Assured ratio 7 times (as against 10 times at present) considering age and health realities of policyholders (as per IRDAI regulations) and the general increase in insurance cost to the customers. Alternatively, the proceeds received on life insurance policy may be exempted without the condition on maximum premium amount, similar to benefits available for IFSC Insurance Office.To align with industry regulations, viz., clause 3 of

IRDAI (Insurance Products) Regulations 2024 & revision due to inflation This will also facilitate reduction in cases of mis-selling or wrong buying as the tax provisions will be aligned with product provisions stipulated by the regulator.

11.4.7 Another suggestion on the Clause 11 was to Consider incorporating a new sub-paragraph in Schedule III, Sub Para 16(a) as under Clause 11 of draft Income Tax Bill 2A25 to read as: - "Pensions granted as War injury Pension to Armed-Forces Pensioners of Indian Defense Services, ar of the Auxiliary Force, India, or of the Indian Territorial Force, in respect of wounds or injuries received in action ar in the pertarmance of their duties as members of such forces otherwise than in action."

11.4.8 Another stakeholder suggested that the Section 10(4H) is only applicable in the case of aircrafts. But the Para 8 of Schedule VI of the New Income-tax Bill, 2025 is also applicable in case of ships.

11.5 Examination by the Committee:

Representatives of the Ministry during the briefing meeting informed the Committee that:

> *"There is one clause in section 10 which has 23 provisos. There are 13 explanations. All these have ended".*

11.5.2 Ministry on the suggestion of the stakeholders in a written reply informed to the Committee that the stakeholder seeks changes in the Schedules to clause 11(which corresponds to section 10 of the I T Act). However, the suggestions are not clear and has incorrect references.As regards suggestion at (i) it is stated that in the schedule terms required to be defined have been provided in the note below the schedule. Thus, the purpose of suggestion is not clear. Other suggestions(ii) to (v) have incorrect references.In view of the above, the proposed amendments are not feasible.

11.5.3 Ministry on the suggestion pointing out the drafting error in Schedule II.Sl. No.2, in a written reply submitted that

> "**Accepted:**It is a drafting error. May be corrected by inserting the word"any" for the word "all" in schedule II, column C, in Table corresponding to serial number 2(a), at serial number 4 and 5. [correction at three places]."

11.5.4 Regarding the stakeholder's suggestion seeking exemption on proceeds received from life insurance without the condition on maximum premium amount. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025.There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961.Further, the proposal

is against the stated policy of the Government to phase out exemption and deduction.The legislative intent of providing exemption under clause (10D) of section 10 of the Act has been to further the welfare objective by subsidising the risk premium for an individual's life and providing benefit to small and genuine cases of life insurance coverage.Therefore the proposed amendment is not feasible.

11.5.5 Ministry further submitted on this particular suggestion that

> *"when we tax the proceeds received from life insurance, then we provide a limit for that exemption. If the premium is up to Rs. 2,50,000 or rupees five lakh, so, for that, we provide exemption under present section 10(10)(D). So, the stakeholder is saying, why do you have this ceiling of Rs. 2.5 lakh and rupees five lakh? You remove the ceiling. So, this exemption is provided to like small tax payers and not for the larger ones. So, that is the thing."*

11.5.6 Further, there was an extensive discussion on war injury pension, its historical context of exemption since 1922, the CBDT circular of 2019 restricting it, the Supreme Court's stay, took place between the representatives of CBDT and Committee.The Department in this regard clarified that there has never been any intention to tax war injury pensions, and no circular has created confusion on this point. The exemption dates back to 1922, when pensions granted to members of His Majesty's naval, military, or air forces—invalided due to bodily disability attributable to or aggravated by service—were made tax-exempt under the Indian Income-tax Act. It was explained that the term "war injury pension" may have been informally used by stakeholders, but the legal position has always applied more broadly to service-related disability, not just war-related injuries. The 2019 CBDT circular reaffirmed this position, stating that exemption is only available to armed forces personnel invalided from service due to such service-related disabilities. The department acknowledged awareness of cases flagged by the Defence Ministry, where individuals retiring at senior levels received disability pensions unrelated to active service conditions. However, it was stated that such instances would require formal clarification and should not be treated as part of the record until verified.
The exemption framework, as clarified, does not hinge on whether the disability occurred in war, but rather on whether it was caused by or aggravated during service—including in difficult terrains or operational postings without direct combat. The term "war" does not appear in the exemption language, and disabilities from adverse service conditions are fully covered. The department assured that there has been no change in this policy and reaffirmed its commitment to re-examining any ambiguities, including a formal consultation with the Defence Ministry.

11.5.7 Ministry in a written reply have further elaborated on the above subject and submitted to the Company that

> "the tax exemption is available only to armed forces personnel who have been invalided from service on account of bodily disability attributable to or aggravated by such service and not to personnel who have been retired on superannuation or otherwise with some disability. This has been clarified by the CBDT's vide Circular No.13/2019 dated 24.06.2019. Instances have come to notice that the exemption granted has been subject to misuse by personnel who retire from service with some disability which is not attributable to or aggravated by service. Consequently there is litigation which is now before the Supreme Court. Hon'ble Supreme Court has ordered (vide its interim order dated 30.08.2019) to "maintain the status quo." in this regard. This will continue even after the new Bill. Thus the matter is presently sub-judice."

11.5.8 Regarding the stakeholder's suggestion on subclause 11(4) Ministry in their written reply submitted that

> "**Accepted:** It is a drafting error. May be corrected by inserting the phrase 'for that tax year' in clause 11(4) as it is there is clause 11(2)"

11.5.9 Ministry on the suggestion Para 8 of Schedule VI in a written reply to the Committee submitted that Stakeholder has suggested that Sl. No. 8 of Schedule VI[Corresponding to section 10(4H)] is applicable to only aircrafts and not ship. Section 10(4H) as amended vide Finance Act, 2025 is also applicable in the case of a Ship. The amendment has been carried out in Sl. No. 8 of Schedule VI also. Therefore, the observation/suggestion is incorrect/ not clear.

11.5.10 Regarding tax exemptions for Scheduled Tribes under Clause 11 and relevant Schedules, and Clause 2(5) relating to "agricultural income", concerns were raised about the need for explicit inclusion of Sixth Schedule areas in states like Assam and Meghalaya, lifelong recognition of ST status for exemption purposes regardless of government service, extension of exemptions to ST individuals working outside notified areas, simplification of procedural requirements such as replacing annual exemption certificates with self-declaration, and the interaction of these exemptions with Clause 6 on "Residence in India" so that a temporary change in place of work does not disqualify individuals from exemptions historically linked to their origin and income source if underlying conditions remain met, to which the Ministry submitted as under:

> "Residential Status as such has no linkages with the provisions of exemption granted to a specific person. However, clause 10(26) of the Act [now Schedule III(Table: S. No. 19) of the Bill] provides exemption to a member of a Scheduled Tribe residing is certain specified area and is available on any income accruing or arising from any source in that specified areas and on dividend or interest on securities. In order to entitle a person to the exemption under section 10(26), three conditions must co-

exist- (i) He should be a member of a scheduled tribe as defined in clause(25) of article 366 of the constitution; (ii)He should be residing in any area specified in Part I or Pat II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or residing in the States mentioned in the said provisions; (iii) the income in respect of which exemption is claimed must be an income which accrues or arises to him-
(a) from any source in the areas or states mentioned in the provisions; or
(b) by way of dividend or interest on securities. In respect of provisions relating to exemptions granted to specific categories of individuals, such as Scheduled Tribes from designated areas there is no change in the provisions of Bill vis-a-vis the Act. Therefore, the Bill does not automatically disqualify them from exemptions historically linked to their origin and the source of specific incomes, if those underlying conditions (as specified in the relevant provisions) are still met.

…..The provisions of section 10(26) clearly specify applicability of the said exemption to a member of scheduled tribe residing in certain specified areas mentioned therein and on certain specified income. All three conditions of being a member of specified Scheduled tribes, residing in a specified area and having specified income must co-exist to be considered as eligible for exemption under said section.
There is no ambiguity in the provisions of clause 11 in respect of exemption available to members of scheduled tribes (as available under section 10(26) of the I T Act). The same has been kept in the Bill."

11.6 Observations/Recommendations of the Committee:

Clause 11(4)

11.6.1 The Committee, after reviewing Clause 11(4), identified a need for greater clarity regarding the period for which a tax exemption denial applies. The Committee, therefore, recommend that Clause 11(4) be amended to explicitly state that the chargeability of tax, in case of non-fulfilment of conditions under Schedule VII, would be "for that tax year" only, aligning it with the language used in Clause 11(2).

Schedule II

11.6.2 The Committee, after a careful review of Schedule II, identified a significant drafting error concerning the tax exemption for Unit Linked Insurance Plans (ULIPs) as outlined in Sl. No. 2, specifically in items 4 and 5, Column C. The Committee, therefore, recommend that in the relevant parts of Schedule II, the word "all" be replaced with the word "any" to ensure parity between the existing Act and the Bill.

The Committee, having examined the clause in its entirety, endorse the remaining provisions of Clause without any modifications.

Clause No.12: Incomes not to be included in total income of political parties and electoral trusts

12.1 Provision proposed in the Income-Tax Bill, 2025:

(1) In computing the total income of any political party or an electoral trust for a tax year under this Act, any income enumerated in Schedule VIII shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in Schedule VIII are not satisfied in any tax year in respect of any income enumerated in the said Schedule, such income shall be charged to tax under this Act for that tax year.

(3) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedule VIII.

12.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision relating to incomes of political parties.

13A. Any income of a political party which is chargeable under the head "Income from house property" or "Income from other sources" or "Capital gains" or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party :

Provided that—

(*a*) such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;

(*b*) in respect of each such voluntary contribution other than contribution by way of electoral bond in excess of twenty thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution;

(*c*) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288; and

(*d*) no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed or through electoral bond.

Explanation.—For the purposes of this proviso, "electoral bond" means a bond referred to in the *Explanation* to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934 (2 of 1934):

Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year:

Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under that section.

Explanation.—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

Special provisions relating to voluntary contributions received by electoral trust.

13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(*a*) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said previous year, ninety-five per cent of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(*b*) such electoral trust functions in accordance with the rules made by the Central Government.

12.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 12 of the Bill provides for income not to be included in total income of political parties and electoral trust enumerated in Schedule VIII which are not to be included in computing their total income for a tax year. The clause corresponds to section 13A and 13B of the Act. The two sections 13A and 13B of the Act have been merged and income eligible for exemption, eligible person and applicable conditions have been placed in tabular form in schedule VIII of the Bill. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause and corresponding schedule VIII.

12.4 Observations/Recommendations of the Committee:

The Committee, after examining Clause 12 of the Income-tax Bill, 2025, note that it relates to the exemption of certain incomes of political parties and electoral trusts from inclusion in total income. The Committee observe that the clause corresponds to Sections 13A and 13B of the Income-tax Act, 1961 and retains the substance of those provisions and present them in a simplified and consolidated manner through a newly introduced Schedule VIII. The Committee also note that the structure of Schedule VIII consolidates information in a tabular format, enhancing clarity and ease of compliance.The Committee find that there is no change in the intent or scope of the provision compared to the existing law, and the proposed drafting seeks to improve accessibility and administrative efficiency. No comments have been raised by stakeholders in this regard. Accordingly, the Committee are of the view that Clause 12 may be accepted as proposed.

CHAPTER IV

COMPUTATION OF TOTAL INCOME

A.Heads of Income

Clause No. 13: Heads of income

13.1 Provision proposed in the Income-Tax Bill, 2025:

Save as otherwise provided in this Act, all incomes shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

(a) Salaries;

(b) Income from house property;

(c) Profits and gains of business or profession;

(d) Capital gains; and

(e) Income from other sources.

13.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

CHAPTER IV

COMPUTATION OF TOTAL INCOME

Heads of income

Heads of income.

14. Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income :—

A. —Salaries.

B. —[***]

C. —Income from house property.

D. —Profits and gains of business or profession.

E. —Capital gains.

F. —Income from other sources.

13.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 13 of the Bill provides for classification under various heads of income for the purposes of charge of income-tax and computation of total income. This clause corresponds to section 14 of the Income-tax Act, 1961 ("the Act"). The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

13.4 Important Views/Suggestions given by Experts/Stakeholders:

One of the suggestion submitted was that the tax framework of ethical taxation where income streams must evolve from the simplicity of five heads to a more nuanced tapestry of sixteen, so as to honour every form of modern endeavor and uphold the noble aims of our Constitutional Architecture under Part XII and Part XIII. The age-worn five-head model—born of a bygone era—cannot encompass the full spectrum of today's livelihoods: the artisan whose creativity blossoms on digital platforms, the gig worker whose skill is engaged by the hour, the rural innovator who benefits from carbon-credit markets, or the small investor who navigates tokenized assets. By distinguishing Active from Passive Income, we pay tribute to both labor and ownership; by separating Investment Income and Financial Instrument Income, we acknowledge the enduring value of traditional capital alongside the promise of new financial innovations; by carving out Digital and Creator Economy, Gig and Platform, and International and Cross-Border Income, we affirm that creativity, flexibility, and global reach deserve their own voice. Alongside these, Government and Social Transfer, Legal and Settlement, and Institutional or Trust Income ensure that public support, judicial awards, and charitable distributions are transparently recognized. The inclusion of Other Natural Resources, Speculative and Contest, Criminal and Illicit, and Unexplained or Undisclosed Income guards our system against evasion and reinforces the rule of law, while a final category for Other Sources leaves room for future innovations yet to be imagined. Rooted firmly in the interdependent design of our Constitution, and ethical taxation foundation, this expanded classification transforms taxation into a tool of ethics, precision and justice—eradicating poverty by organizing and directing the economic compass where it is most needed, fostering prosperity by recognizing every legitimate enterprise, and nurturing public confidence through clarity, inclusiveness, and unwavering respect for the foundational principles entrusted to Parliament by Parts XII and XIII.

13.5 Examination by the Committee:

Ministry on the suggestion regarding increasing the heads of income to 16 instead of the present 5 heads submitted that there is no concrete suggestion which can be examined for law purposes. Providing for 16 separate heads of income is a radical

suggestion and not implementable. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

13.5.2 Ministry during the oral evidence further submitted as under:

> *"they want 16 heads of income. We have already settled heads of income and there is hardly any litigation on that. They want to increase it to 16 heads."*

13.6 Observations/Recommendations of the Committee:

The Committee, after examining Clause 13 of the Income-tax Bill, 2025, note that it relates to the classification of income under specified heads for the purpose of computation, corresponding to Section 14 of the Income-tax Act, 1961. The provision maintains the existing five heads of income viz. salaries, income from house property, profits and gains of business or profession, capital gains, and income from other sources and presents them in a simplified and coherent manner.The Committee observe that the clause retains the scope and intent of the existing provision without any substantive alteration, and therefore accept the clause as proposed in the Bill.

Clause No. 14: Income not forming part of total Income and expenditure in relation to such Income

14.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income.

(2) Where the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with—

(a) the correctness of the claim of expenditure incurred by the assessee; or

(b) the claim made by the assessee that no expenditure has been incurred,

in relation to income which does not form part of the total income under this Act, he shall determine such amount of expenditure in accordance with any method, as prescribed.

(3) Irrespective of anything to the contrary contained in this Act, the provisions of this section shall apply in a case where any expenditure has been incurred during any tax year in relation to income which does not form part of the total income under this Act, but such income has not accrued or arisen or has not been received during that tax year.

14.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Expenditure incurred in relation to income not includible in total income.

14A. (1) Notwithstanding anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.

(2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed, if the AssessingOfficer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

(3) The provisions of sub-section (2) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under this Act :

Provided that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or

reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001.

Explanation.—For the removal of doubts, it is hereby clarified that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where the income, not forming part of the total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.

14.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 14 of the Bill provides for disallowance of certain expenditure incurred in relation to income which does not form part of the total income. This clause corresponds to section 14A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

14.4 Important Views/Suggestions given by Experts/Stakeholders

One of stakeholders suggested that sub-section (2) may be reworded as follows – "The amount of expenditure incurred in relation to such income which does not form part of the total income under this Act to be certified by an accountant, in cases where the assessee is subject to audit under section 63 and self- certified, in other cases." Discretionary power of the Assessing Officer may be removed. The expenditure can be certified by the professional involved in auditing of accounts in cases where the assessee is subject to audit under section 63 and self- certification in other cases. This would reduce litigation.

14.5 Examination by the Committee

Ministry in a written reply submitted that The suggestion seeks to remove the discretionary power of the AO u/s 14A (disallowance of expenditure in relation to the exempt income) and instead rely on the certificate of an accountant. In cases of wrongful claims, the Revenue's right to adjust the claim cannot be circumscribed. This is a settled issue in which the matter has reached the Supreme Court as well. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

14.5.2 Ministry further clarified this during the oral evidence and submitted that:

> *"there is Section 14A in the existing Act. Basically, the idea is this. If an assessee is having incomes, some part of which is taxable and some part of which is exempt, but the expenses are common to both of them, then it*

says that a part of income attributable to whatever is exempt income will be disallowed. And for that, a formula is also there. Rule 8D is existing in the Act. Now they are saying that whatever Auditor certifies that this part of expenditure should be disallowed, that should be accepted and AO should not have any discretionary power. This is one important section. The AO needs to have power to see whether the disallowance made is correct or not or whether any disallowance has been made or not. That is why we have not accepted this."

14.6 Observations/Recommendations of the Committee:

The Committee, upon review of Clause 14 of the Income-tax Bill, 2025, note that it relates to the disallowance of expenditure incurred in relation to income which does not form part of the total income. The clause corresponds to the existing Section 14A of the Income-tax Act, 1961 and seeks to maintain the underlying principle that no deduction shall be allowed for expenses incurred to earn exempt income. The Committee observe that the provision has been retained in substance and merely restated with minor editorial simplifications. No concerns or suggestions were raised by stakeholders regarding the clause. In light of the above, the Committee endorse Clause 14 as proposed, without suggesting any modification.

CHAPTER IV

COMPUTATION OF TOTAL INCOME

B. Salaries

Clause No.15: Salaries

15.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The following income shall be chargeable to income-tax under the head "Salaries":—

(a) any salary due from an employer to an assessee in the tax year, whether paid or not;

(b) any salary paid or allowed to him in the tax year by or on behalf of an employer though not due or before it became due to him;

(c) any arrears of salary paid or allowed to him in the tax year by or on behalf of an employer, if not charged to income-tax for any earlier tax year.

(2) For the purposes of sub-section (1), employer includes former employer.

(3) If any salary paid in advance is included in the total income of any person for any tax year, it shall not be included again in the total income of such person when the salary becomes due.

(4) Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as salary for the purposes of this section.

15.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Salaries.

15. The following income shall be chargeable to income-tax under the head "Salaries"—

(*a*) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;

(*b*) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;

(*c*) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

Explanation 1.—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

Explanation 2.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "salary" for the purposes of this section.

15.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 15 of the Bill provides for income under the head 'Salaries'. This clause corresponds to section 15 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

15.4 Important Views/Suggestions given by Experts/Stakeholders:

A stakeholder suggested that the sub-section (1) may be reworded as follows - Any salary paid or allowed to an assessee in the tax year by or on behalf of an employer shall be chargeable to income-tax under the head "Salaries". Consequently, sub-section (3) can be deleted."

Salary to be chargeable to tax on receipt basis. In cases where salaries are not paid by defunct entities, such amount should not be chargeable to tax on accrual basis in the hands of the employee, as it would cause undue hardship. The taxability on receipt basis would also be in line with the provisions of section 392 which requires tax deduction on payment basis in case of salaries.

15.5 Examination by the Committee

Ministry in a written reply submitted that it is suggested that salary should be taxed on a receipt basis instead of accrual basis. The suggestion would have significant negative impact on exchequer. It may be noted that salary has always been taxed (a) on due basis; and (b) on receipt basis. Changing this would lead to abuse where businesses debit expenditure on accrual whereas employees will offer for tax only on receipt. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

15.5.2 Ministry further clarified this during the oral evidence and submitted that

> *"Sir, coming to Sl. No. 77, the suggestion by the stakeholders is that salary should be taxed on receipt basis instead of accrual basis. So, we have said this will have a significant impact on the exchequer and then whatever salary is due, the salary is taxed on due basis or receipt basis, whichever is earlier. So, whenever it becomes due, it is taxed like that.*

…Sir, on salary, anyway, the TDS has to be made. So, if a salary has been credited but not paid, they must have paid the TDS on that. So that way, I do not think the assessee will suffer any issues."

15.6 Observations/Recommendations of the Committee:

The Committee, after examining Clause 15 of the Income-tax Bill, 2025, note that it pertains to the chargeability of income under the head "Salaries" and corresponds to Section 15 of the Income-tax Act, 1961. The provision continues to follow the principle that salary income is taxable either on due basis or on receipt, whichever is earlier, and covers various categories of payments including advances, arrears, and dues from past employment. Accordingly, the Committee are of the view that Clause 15 may be accepted in its current form without any amendment.

Clause No.16:Income from Salary

16.1 Provision proposed in the Income-Tax Bill, 2025:

For the purposes of this Part, "salary" includes—

(a) wages;

(b) any annuity or pension;

(c) any gratuity;

(d) any fees or commission;

(e) perquisites;

(f) profits in lieu of, or in addition to, any salary or wages;

(g) any advance of salary;

(h) any payment received by an employee in respect of any period of leave not availed of by him;

(i) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax as per paragraph 6 of Part A of Schedule XI;

(j) the aggregate of all sums that are comprised in the transferred balance as referred to in paragraph 11(2) of Part A of Schedule XI of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-paragraphs (4) and (5) thereof;

(k) the contribution made by the Central Government or any other employer in any tax year, to the account of an employee under a pension scheme referred to in section 124; and

(l) the contribution made by the Central Government in any tax year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 125.

16.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

"Salary", "perquisite" and "profits in lieu of salary" defined.

17(1) For the purposes of sections 15 and 16 and of this section,—

(*1*) "salary" includes—

(*i*) wages;

(*ii*) any annuity or pension;

(*iii*) any gratuity;

(*iv*) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(*v*) any advance of salary;

(*va*) any payment received by an employee in respect of any period of leave not availed of by him;

(*vi*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule;

(*vii*) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof; and

(*viii*) the contribution made by the Central Government or any other employer in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;

[7][(*ix*) the contribution made by the Central Government in the previous year, to the *Agniveer* Corpus Fund account of an individual enrolled in the *Agnipath* Scheme referred to in section 80CCH;]

16.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 16 of the Bill provides for different payments made by an employer to an employee which may be taxed under the head 'income from salary'. This includes wages, annuity or pension, gratuity, fees or commission, perquisites, profits in lieu of or in addition to salary or wages, leave encashment, any advance of salary, employer contribution to pension scheme as referred to in clause 124 of the Bill, contribution made by central government to Agniveer corpus fund account of an individual who is enrolled in Agnipath scheme as referred to in clause 125, taxable part of annual accretion in the account of an employee participating in a recognized provident fund and the taxable part of the aggregate of all sums that are comprised in the transferred

balance of the employee participating in a recognised provident fund. This clause corresponds to section 17(1) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

16.4 Observations/Recommendations of the Committee

The Committee, after examining Clause 16 of the Income-tax Bill, 2025, note that it defines the scope of income to be taxed under the head "Income from Salary." The Committee further note that this clause corresponds to Section 17(1) of the Income-tax Act, 1961. It retains the essential components of 'salary'—such as wages, pension, gratuity, and leave encashment—while simplifying the text without making any substantive changes. Accordingly, the Committee recommend that Clause 16 may be accepted as proposed.

Clause No. 17: Perquisite

17.1 Provision proposed in the Income-Tax Bill, 2025:

(1) For the purposes of this Part, "perquisite" includes—

(a) the value of rent-free accommodation provided to the assessee by his employer computed in such manner, as prescribed;

(b) the value of any accommodation provided to the assessee by his employer at a concessional rate which is in excess of rent recoverable from, or payable by, the assessee, computed in such manner, as prescribed;

(c) the value of any benefit or amenity granted or provided free of cost or at concessional rate in the following cases:—

(i) by a company to an employee, who is a director thereof or who has a substantial interest in the company;

(ii) by any employer (including a company) to an employee whose income under the head "Salaries" by way of monetary payment (from one or more employers) exceeds such amount as prescribed;

(d) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the current employer, or former employer, free of cost or at concessional rate to the assessee;

(e) the value of any other benefit or amenity, as prescribed;

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

(g) any sum payable by the employer to effect an assurance on the life of the assessee or to effect a contract for an annuity, whether directly or through a fund, other than—

(i) a recognised provident fund; or

(ii) an approved superannuation fund; or

(iii) a Deposit-linked Insurance Fund established under—

(A) section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948; or

(B) section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

(h) aggregate amount of any contribution, in excess of seven lakh and fifty thousand rupees in a tax year, made to the account of the assessee by the employer—

(i) in a recognised provident fund;

(ii) in the scheme referred to in section 124(1); and

(iii) in an approved superannuation fund;

(i) the annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the fund or scheme referred to in clause (h), computed in such manner, as prescribed (to the extent it relates to the contribution referred to in the said clause in any tax year).

(2) Nothing in sub-section (1) shall apply to—

(a) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(b) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(i) in any hospital maintained by the Government, or any local authority, or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(ii) in respect of the prescribed diseases or ailments, in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to such guidelines as specified;

(c) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved, for the purposes of section 30(c), by the—

(i) Central Government; or

(ii) Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999;

(d) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of

any member of his family under any scheme, approved for the purposes of section 126, by the—

(i) Central Government; or

(ii) Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999;

(e) any expenditure incurred by the employer for the use of any vehicle for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence;

(f) any expenditure incurred by the employer, or any sum paid by the employer in respect of any expenditure actually incurred by the employee, on—

(i) medical treatment of the employee or any family member of such employee outside India;

(ii) travel and stay abroad for the employee or any member of the family of such employee for medical treatment;

(iii) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment.

(3) For the purposes of sub-section (2)(f),—

(a) the expenditure on medical treatment and stay abroad shall be excluded from the perquisite only to the extent permitted by the Reserve Bank of India; and

(b) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed such amount as prescribed.

(4) In this section,—

(a) "fair market value" means the value determined in accordance with the method, as prescribed;

(b) "family", in relation to an individual, shall have the meaning assigned to it in Schedule III (Note 2);

(c) "gross total income" shall have the meaning assigned to it in section 122(10);

(d) "hospital" includes a dispensary or a clinic or a nursing home;

(e) "option" means a right but not an obligation, granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(f) "specified security" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme, includes the securities offered under such plan or scheme;

(g) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(h) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, on the date on which the option is exercised by the assessee, as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares.

17.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

17."Salary", "perquisite" and "profits in lieu of salary" defined.

17(*2*) "perquisite" includes—

(*i*) the value of rent-free accommodation provided to the assessee by his employer [8][computed in such manner as may be prescribed];

[9][(*ii*) the value of any accommodation provided to the assessee by his employer at a concessional rate.

Explanation.—For the purposes of this sub-clause, it is clarified that accommodation shall be deemed to have been provided at a concessional rate, if the value of accommodation computed in such manner as may be prescribed, exceeds the rent recoverable from, or payable by, the assessee;]

(*iii*) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases—

(*a*) by a company to an employee who is a director thereof;

(*b*) by a company to an employee being a person who has a substantial interest in the company;

(*c*) by any employer (including a company) to an employee to whom the provisions of paragraphs (*a*) and (*b*) of this sub-clause do not apply and

whose income under the head "Salaries" (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds [10]**[***fifty thousand rupees***]**:

Explanation.—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause;

(*iiia*) [***]

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

(*v*) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), to effect an assurance on the life of the assessee or to effect a contract for an annuity;

(*vi*) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

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

(*a*) "specified security" means the securities as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(*b*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*c*) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares;

(*d*) "fair market value" means the value determined in accordance with the method as may be prescribed;

(*e*) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(*vii*) the amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer—

(*a*) in a recognised provident fund;

(*b*) in the scheme referred to in sub-section (1) of section 80CCD; and

(*c*) in an approved superannuation fund,

to the extent it exceeds seven lakh and fifty thousand rupees in a previous year;

(*viia*) the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme referred to in sub-clause (*vii*) to the extent it relates to the contribution referred to in the said sub-clause which is included in total income under the said sub-clause in any previous year computed in such manner as may be prescribed; and

(*viii*) the value of any other fringe benefit or amenity as may be prescribed:

Provided that nothing in this clause shall apply to,—

(*i*) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(*ii*) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(*a*) in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(*b*) in respect of the prescribed diseases or ailments, in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to the prescribed guidelines:

Provided that, in a case falling in sub-clause (*b*), the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital;

(*c*) in respect of any illness relating to COVID-19 subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*iii*) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), for the purposes of clause (*ib*) of sub-section (1) of section 36;

(*iv*) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), for the purposes of section 80D;

(*v*) [***]

(*vi*) any expenditure incurred by the employer on—

(*1*) medical treatment of the employee, or any member of the family of such employee, outside India;

(*2*) travel and stay abroad of the employee or any member of the family of such employee for medical treatment;

(*3*) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment,

subject to the condition that—

(*A*) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

(*B*) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed [11]**[***two lakh rupees***]**;

(*vii*) any sum paid by the employer in respect of any expenditure actually incurred by the employee for any of the purposes specified in clause (*vi*) subject to the conditions specified in or under that clause :

Provided further that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head "Salaries" (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.

Explanation.—For the purposes of clause (*2*),—

(*i*) "hospital" includes a dispensary or a clinic or a nursing home;

(*ii*) "family", in relation to an individual, shall have the same meaning as in clause (*5*) of section 10; and

(*iii*) "gross total income" shall have the same meaning as in clause (*5*) of section 80B;

17.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 17 of the Bill provides for an inclusive definition of perquisites. This clause lays out the types of sums which form part of perquisites and sums which are not to be considered as perquisites in the hands of the assessee. This clause corresponds to section 17(2) of the Act. However, the exemption provided for any sum paid by the employer in respect of expenditure incurred by the assessee for his or his family's

medical treatment in respect of any illness related to COVID-19 has not been included on account of it being redundant.

17.4 Important Views/Suggestions given by Experts/Stakeholders:

One of stakeholders submitted to the Committee that “in the present Act, in explanation value of accommodation as computed in the prescribed manner is being compared with the rent recoverable from or payable by the assessee to make it provision of accommodation at concessional rate. However, in the proposed clause, the ‘concessional rate’ is being compared with the rent recoverable from or payable by, the assessee.Hence, it is suggested that the proposed clause be modified as under:
17(1)(b) the value of any accommodation provided to the assessee by his employer at a concessional rate computed in such manner, as prescribed which is in excess of rent recoverable from, or payable by, the assessee. computed in such manner, as prescribed;”

17.4.2 Another stakeholder suggested that the "(a) and (b) can be combined (a) the value of rent-free accommodation or any accommodation provided at a concessional rate to the assessee by his employer computed in such manner, as prescribed;
For the purposes of (a), any accommodation is deemed to be provided at a concessional rate if its value is in excess of rent recoverable from, or payable by, the assessee."In (g), sum payable can be replaced with sum paid.
The conditions for similar payments for medical expenditure, whether in India or abroad, should be allowed as deduction. There should be no distinction between expenditure incurred in Government hospital, Government approved hospital and private hospital. The check should be by way of prescribed limit which would apply in all cases. This will make the provisions simple to understand and ensure compliance with."

17.5 Examination by the Committee

Ministry in their written replies on the aforementioned suggestions submitted that:

> *“**ACCEPTED:** This is a drafting Correction. The phrase " computed in the prescribed manner" may be inserted. This is the provision in the old act, so the wording may be retained. This is acceptable.”*
> *(i) The suggestion is regarding merging of two separate clauses which provide for separate items viz. rent free accommodation & concessional accommodation. It is not clear what benefit it will entail.*
> *(ii) It is suggested that any payment made by the employer for the medical expenditure of an employee, in any hospital, either in India or abroad should be exempted from treatment as a perquisite. Presently payments to govt./approved hospitals are not treated as perquisite. The provisions are in nature of guardrails so that only such hospital which fulfil specified conditions are allowed benefit. The suggestion made by the*

stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

17.5.2 Ministry on the suggestion regarding merging of the two clauses submitted during the meeting that:

> *"there are two separate clauses for perquisite for rent, that are, free accommodation and concessional accommodation. They want it to be clubbed. We do not see any benefit in that. They have been clearly defined separately. And, secondly, they say that medical expenditure paid to employees anywhere in the world, in any hospital, should be allowed, and not be treated as perquisite. So far as medical expenditure is concerned, in approved hospitals and Government hospitals, it is allowed, and some guardrails have been made. There are certain rules which specify that under what circumstances, that will be allowed. To make it without any guardrail or rule will not be beneficial for the purposes of the Act."*

17.5.3 During their deliberations, the Committee took note of the provisions related to the taxation of perquisites in the form of Employee Stock Option Plans (ESOPs), and discussed the fairness of taxing ESOPs at the time of exercise rather than only at the time of sale as covered under Clause 17(1)(d). To this Ministry submitted the following detailed written Note on ESOP taxation in India and alignment with global best practices:

> **"**There are two transactions in ESOP. One is when the option is exercised. The second is when the security is sold. The employee benefits at the time of both the transactions. For the first time the ESOP has been granted to the employee as part of his employment. It is not taxed when the option is granted but it is taxed as a perquisite only at the time of exercising the option. This is because it has been given to him for the services provided by him to the employer. Further, the amount of the ESOP on which tax is paid is allowed as Cost in the computation of Capital Gains when the Shares are sold. Taxation at exercise of option is common in jurisdictions like India, France, Mauritius, and Singapore. The gain (FMV – exercise price) is taxed as salary. This is considered fair since the employee acquires a valuable asset at a discount. A detailed note on the same is given below:
>
> **1. Indian Framework for ESOP Taxation**
>
> In India, the taxation of Employee Stock Option Plans (ESOPs) is structured around two tax events and provides deferral benefits for eligible start-ups:
>
> **A. At the time of Exercise:**

- **Tax Nature:** Perquisite, taxed as salary income under Section 17(2)(vi).
- **Taxable Amount:** Fair Market Value (FMV) on exercise date - Exercise price paid by employee.
- **TDS Obligation:** Employer must deduct TDS on this perquisite.

B. At the time of Sale of Shares:

- **Tax Nature:** Capital Gains.
- **Computation:** Sale price - FMV at the time of exercise.
- **Tax Rate:**
  - **Listed shares:**
    - LTCG (>12 months): 10%
    - STCG (≤12 months): 15%.
  - **Unlisted shares:**
    - LTCG (>24 months): 20% with indexation, 12.5% without indexation.
    - STCG (≤24 months): Slab rate.

C. Start-up Tax Deferral Benefit (Section 191(2), Section 192(1C) and Section 156(2)):

Recognizing cash-flow issues at the time of exercise, eligible start-ups can defer tax deduction on ESOPs to the earlier of:

- 5 years from exercise,
- Date of sale of shares, or
- Date of employee resignation.

2. Alignment with Global Best Practices

India's ESOP taxation framework reflects international trends in the following ways:

Global Principle	India's Alignment
Tax on Exercise, Not Grant	Like France, Germany, Singapore - tax arises on exercise, not at grant or vesting.
Capital Gains Tax on Sale	As in UK, France, and Germany - India applies CGT upon sale of shares.
Lower CGT for Long-Term Holding	Long-term capital gains receive concessional rates, promoting long-term investment.
Start-up Focused Reliefs	India defers TDS on ESOPs for DPIIT-recognized start-ups - similar to Germany's deferment.
Clear Employer TDS Rules	Indian employers have a statutory TDS obligation at exercise, aligning with Singapore.
No Tax on Vesting Alone	Like most jurisdictions (Mauritius, France, Singapore),

Global Principle	India's Alignment
	India does not tax on vesting.
FMV Based Valuation	India requires FMV certified by merchant bankers - similar to valuation norms globally.
Separation of Income and Capital Components	India bifurcates salary (exercise) and capital gain (sale) taxation, per global norms.

Based on the above table, a thematic analysis of India's ESOP taxation shows the following:

1. Tax Timing: No Tax on Grant

   Globally, including in France, Germany, Singapore, and Mauritius, there is no tax at the time of grant of stock options. India also follows this norm, aligning well with the international approach that taxation should arise only when economic benefit is realized.

2. Tax at Exercise: Salary Income

   Taxation at exercise is common in jurisdictions like India, France, Mauritius, and Singapore. The gain (FMV - exercise price) is taxed as employment income. This is considered fair since the employee acquires a valuable asset at a discount.

3. Capital Gains at Sale

   Most countries levy capital gains tax on the difference between the sale price and the acquisition price (FMV at exercise), and India is no exception. Importantly, India offers preferential CGT rates (10-20%) for long-term holdings, consistent with regimes in the UK and Germany.

4. Start-up Relief Mechanisms

   India's startup-specific tax deferral under Section 192(1C) is akin to Germany's 2021 reforms (Fondsstandortgesetz*), which defer taxation for startup employees until a liquidity event. This is a major step toward fostering innovation and entrepreneurship.

5. No CGT: Exceptions and Tax Havens

   Countries like UAE and Mauritius do not levy personal income tax or capital gains tax. However, these are unique cases and do not represent the norm. India's practice of taxing both perquisites and capital gains is globally standard.

*Fondsstandortgesetz: Germany introduced a startup friendly tax regime in 2021 under the (Fund Location Act). Under this law, employees of qualifying startups—

- Less than 12 years old
- Fewer than 250 employees,
- Revenue below 50 Million euros.

Can defer taxation on the benefit they received from receiving shares (i.e., exercise of option) until the earlier of three events:

- They sell the shares
- They leave the company, or
- 12 years have passed.

3. Comparison Table: ESOP Taxation Across Jurisdictions:

Country	Tax at Exercise	Tax on Sale	Special Reliefs / Notes
India	Perquisite Tax (FMV - Exercise Price)	CGT on FMV - Sale Price	Deferral for start-ups; concessional CGT
Germany	Salary tax on discount	CGT @ 25% + surcharges	Start-up deferral (2021 reform) up to 12 years or sale/exit
UK (EMI)	None (if EMI conditions met)	CGT (10% with BADR)	EMI schemes highly tax-efficient
France (OSA)	Income Tax + Social Charges (~70%)	CGT (PFU 30% or progressive with rebates)	AGA & BSPCE offer social/tax breaks
Singapore	Employment income based on FMV	CGT exempt (no CGT regime)	Tax deferral via QEEBR or deemed exercise rule
Mauritius	Income tax on (FMV - Exercise Price)	No CGT	TDS deducted under PAYE
UAE	No personal income tax	No capital gains tax	Tax-free jurisdiction
Cyprus	Benefit-in-kind taxed on FMV	CGT possible (as per income tax rates)	Based on residency status

4. Policy Strengths of India's ESOP Tax Framework

- **Global Compatibility:** Mirrors most OECD and APAC practices.
- **Two-Stage Taxation:** Clear separation of income vs capital gain taxation.
- **Start-up Support:** Section 191(2) and 192(1C) promotes liquidity-aligned taxation.

- **Administrative Clarity:** Employers have well-defined TDS roles and FMV requirements.
- **Capital Market Integration:** Listed share ESOPs align with capital market investor policies.

Conclusion

India's ESOP taxation framework substantially aligns with global best practices. It follows a well-defined, dual-tax regime with specific support for start-ups, tax deferral, and capital gain incentivization comparable to mature regimes in the UK, France, Germany, and Singapore."

17.6 Observations/Recommendations of the Committee:

The Committee note that while Clause 17(1)(a) includes the phrase "computed in such manner, as prescribed," the corresponding provision in Clause 17(1)(b) lacks this reference, potentially leading to ambiguity in interpreting the valuation method for concessional accommodation.The Committee, therefore, recommend that in Clause 17(1)(b), the phrase "computed in such manner, as prescribed" be explicitly inserted, mirroring the language used in Clause 17(1)(a). Accordingly, the Committee recommend that the Ministry amend the clause as proposed. The Committee further accept the remaining provisions of the Clause 17 as proposed.

Clause No. 18: Profits in lieu of Salary

18.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) For the purposes of this Part, "profits *in lieu* of salary" includes,—

(*a*) any amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the—

(*i*) termination of his employment; or

(*ii*) modification of the terms and conditions relating thereto;

(*ii*) from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions; or

(*b*) any amount due to or received, whether in lump-sum or otherwise, by any assessee from any person—

(*i*) before his joining any employment with that person; or

(*ii*) after cessation of his employment with that person;

(*c*) any payment due to or received by an assessee—

(*i*) from an employer or a former employer; or

(*ii*) from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions; or

(*iii*) any sum received under a Keyman insurance policy as defined in Schedule II (Note 1), including the sum allocated by way of bonus on such policy.

(*2*) The payment referred in sub-section (*1*)(*c*) shall not include any payment referred to in—

(*a*) Schedule II (Table: Sl. No. 3);

(*b*) Schedule II (Table: Sl. No. 4);

(*c*) Schedule II (Table: Sl. No. 8); and

(*d*) Schedule III (Table: Sl. No. 11).

18.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

17."Salary", "perquisite" and "profits in lieu of salary" defined.

17(3)"profits in lieu of salary" includes—

(*i*) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(*ii*) any payment (other than any payment referred to in clause (*10*), clause (*10A*), clause (*10B*), clause (*11*), clause (*12*), clause (*13*) or clause (*13A*) of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (*10D*) of section 10;

(*iii*) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(*A*) before his joining any employment with that person; or

(*B*) after cessation of his employment with that person.

18.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 18 of the Bill defines different payments in the nature of “profits in lieu of salary” This clause corresponds to section 17(3) of the Act. The provisions of the existing section have been textually simplified making it easy to read and understand. It has done away with the complicated language and has been retained with the same intent.

18.4 Observations/Recommendations of the Committee:

The Committee, after examining Clause 18 of the Income-tax Bill, 2025, note that it relates to the definition and scope of "profits in lieu of salary," and corresponds to section 17(3) of the Income-tax Act, 1961. The Committee observe that the clause seeks to enumerate various payments such as compensation on termination or modification of employment terms, amounts received before joining or after cessation of employment, payments from funds not comprising employee contributions, etc. that are to be treated as profits in lieu of salary for taxation purposes.The Committee note that the provision retains the substance of the existing law but improves readability. Accordingly, the Committee are of the view that Clause 18 may be accepted as proposed.

Clause No 19: Deductions from salaries

19.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The income chargeable under the head "Salaries" shall be computed after making the deductions of the nature as mentioned in column B of the following Table, to the extent as mentioned in column C of the said Table:—

Sl. No.	Nature of sum	Amount of deduction
A	B	C
1.	Sum paid by the assesseeas a tax on employment as per article 276(*2*) of the Constitution, leviable by or under any law.	Entire amount.
2.	Standard deduction.	(*a*) ₹ 75,000 or the salary, whichever is less, where income-tax is computed under section 202(*1*); (*b*) ₹ 50,000 or the salary, whichever is less, in any other case.
3.	Death-cum-retirement gratuity received as referred to in sub-section (*2*)(*g*).	Entire amount.
4.	Payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services.	Entire amount.
5.	Gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972).	Amount received, as restricted to the amount calculated as per the provisions of section 4(*2*) and (*3*) of that Act.

6.	Any other gratuity received by an employee— (*i*) on his retirement; or (*ii*) on his becoming incapacitated before such retirement; or (*iii*) on termination of his employment.	Amount being minimum of— (*a*) actual gratuity received; (*b*) amount specified by the Central Government, by notification, having regard to the limit applicable in this behalf to the employees of the Central Government; and

A	B	C
		(*c*) half month's salary for each completed year of service, calculated as under:— Amount = $\frac{1}{2}$ x B) where,— A=average salary for ten months immediately preceding the monthwhen event occurs; B=number of such completed years.
7.	Payment in commutation of pension received— (*a*) under the Civil Pensions (Commutation) Rules of the Central Government; or (*b*) under any similar scheme applicable to— (*i*) the members of the civil services of the Union or holders of posts connected with	Entire amount.

	defence or of civil posts under the Union, [such members or holders not covered under (*a*)]; (*ii*) the members of the all-India services; (*iii*) the members of the defence services; (*iv*) the members of the civil services of a State, or the holders of civil posts under a State; or (*v*) the employees of a local authority or a corporation established by a Central Act or State Act or Provincial Act.	
8.	Payment in commutation of pension is received under any scheme from any other employer.	(*a*) If the employee has received gratuity, the commuted value of one-third of the pension, which he is normally entitled to receive; (*b*) in any other case, the commuted value of one-half of such pension;

A	B	C
		(*c*) such commuted value being determined having regard to the age of the recipient, thestate of his health, the rate of interest and officially recognised tables of mortality.
9.	Payment in commutation of pension received from a fund as specified in Schedule VII	Entire amount.

(Table: Sl. No. 3).

10.	Compensation received by a workman at the time of his retrenchment— (*a*) under the Industrial Disputes Act, 1947 (14 of 1947); or (*b*) under any other Act or rules, orders or notifications issued thereunder; or (*c*) under any standing orders; or (*d*) under any award, contract of service or otherwise.	Minimum of— (*a*) compensation received; (*b*) amount calculated as per provisions of section 25F(*b*) of the Industrial Disputes Act, 1947 (14 of 1947); (*c*) such amount, not being less than ₹ 50,000 as notified by the Central Government.
11.	Compensation received by a workman in accordance with any scheme which the Central Government may approve in this behalf, having regard to— (*a*) the need for extending special protection to the workmen in the undertaking to which such scheme applies; and (*b*) other relevant circumstances.	Compensation received.
12.	Amount received or receivable on voluntary retirement or termination of service under a scheme or schemes of voluntary retirement, by an employee as referred to in sub-section (*2*)(*h*).	Minimum of— (*a*) compensation received; and (*b*) ₹ 5,00,000.

13.	Payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise.	Entire amount.

A	B	C
14.	Payment of the nature referred against serial number 13 received by an employee who is not a Central Government or State Government employee.	Amount being minimum of — (*a*) the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement, whether on superannuation or otherwise (entitlement of earned leave shall not exceed thirty days for every year of actual service); (*b*) amount "A", where,— A =10×B; B = average monthly salary for the ten months immediately preceding his retirement whether on superannuation or otherwise; (*c*) amount as the Central Government may, by notification, specify in this behalf having regard to the

limit applicable in this behalf to the employees of that Government; and

(*d*) actual payment received.

(*2*) For the purposes of the Table referred to in sub-section (*1*),—

(*a*) in respect of the entries against serial number 6 thereof, if gratuity or gratuities was or were received from one or more than one employer in the same tax year (whether or not any gratuity or gratuities was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of gratuity or gratuities which was or were received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from the total income of any such tax year or years;

(*b*) in respect of the entriesagainst serial numbers6and 14 thereof,"Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(*c*) in respect of the entriesagainst serial numbers 10 and 11 thereof, the following amounts shall be deemed to be compensation received at the time of retrenchment:—

(*i*) compensation received by a workman at the time of the closing down of the undertaking in which he is employed;

(*ii*) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, if—

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

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

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

(*d*) in respect of the entriesagainst serial numbers 10 and 11 thereof, the expressions "employer" and "workman" shall have the same meanings as respectively assigned to them in the Industrial Disputes Act, 1947;

(*e*) the provisions of the entries against serial number 12 thereof shall be subject to the following conditions:—–

(*i*) the applicable schemes of the said companies or authorities or societies or Universities or the institutes referred to in clauses (*h*)(*vii*)(*x*) and (*j*) in column B of the said serial number, governing the payment of such amount are made as per such guidelines (including,*inter alia*, criteria of economic viability) as prescribed;

(*ii*) where deduction has been allowed to an employee in respect of the said item for any tax year, no deduction thereunder shall be allowed to him in relation to any other tax year; and

(*iii*) where any relief under section 157 has been allowed to an assessee for any tax year in respect of any amount referred to in the said item, such amount shall not be allowed as a deduction from the compensation received or receivable in any tax year;

(*f*) in respect of the entries against serial number 14 thereof, if any payment on account of cash equivalent to leave salary is received from one or more than one employer in the same tax year (whether or not any such payment or payments was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

Where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of payment or payments which was received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from total income of any such tax year or years;

(*g*) the death-cum-retirement gratuity referred to in sub-section(*1*)(Table: Sl. No. 3) shall be—

(*A*) received under the revised pension rules of the Central Government, or the Central Civil Services (Pension) Rules, 2021; or

(*B*) received under any similar scheme applicable—

(*i*) to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said rules);

(*ii*) to the members of the All-India services;

(*iii*) to the members of the civil services of a State or holders of civil posts under a State; or

(*iv*) to the employees of a local authority;

(*h*) the schemes of voluntary retirement or termination of service as referred to in sub-section(*1*)(Table: Sl. No. 12) shall be for the employees of—

(*i*) a public sector company (under a scheme of voluntary separation); or

(*ii*) any other company; or

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

(*iv*) a local authority; or

(*v*) a co-operative society; or

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

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

(*viii*) the Central or any State Government; or

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

(*x*) such institute of management, as the Central Government may, by notification, specify in this behalf.

19.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

10.(*10*) (*i*) any death-*cum*-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the

Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services ;

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

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

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

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

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

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

or holders of civil posts under a State or to the employees of a local authority or a corporation established by a Central, State or Provincial Act ;

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

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

(*b*) in any other case, the commuted value of one-half of such pension,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality ;

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

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

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

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

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

Explanation.—For the purposes of sub-clause (ii),—

the entitlement to earned leave of an employee shall not exceed thirty

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

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

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

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

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

whichever is less :

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

Explanation.—For the purposes of this clause—

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

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

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

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

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

(*c*) the expressions "employer" and "workman" shall have the same

meanings as in the Industrial Disputes Act, 1947 (14 of 1947);

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

(*i*) a public sector company ; or

(*ii*) any other company ; or

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

(*iv*) a local authority ; or

(*v*) a co-operative society ; or

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

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

(*viia*) any State Government; or

(*viib*) the Central Government; or

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

(*viii*) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf,

on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (*i*), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees :

Provided that the schemes of the said companies or authorities or societies or Universities or the Institutes referred to in sub-clauses (*vii*)

and (*viii*), as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including *inter alia* criteria of economic viability) as may be prescribed :

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

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

Deductions from salaries.

16. The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely :—

(*i*) [***]

(*ia*) a deduction of fifty thousand rupees or the amount of the salary, whichever is less:

[6][**Provided** *that in a case where income-tax is computed under clause (*ii*) of sub-section (1A) of section 115BAC, the provisions of this clause shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted;*]

(*ii*) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;

(*iii*) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276 of the Constitution, leviable by or under any law.

(*iv*) [***]

(*v*) [***]

19.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 19 of the Bill provides for deductions available against income from salary. This clause is a combination of Section 16 of the Act; which pertains to standard deduction from salaries; and sections 10(10) [gratuity], 10(10A)[commutation of pension], 10(10AA)[leave encashment], 10(10B)[compensation], 10(10C)[amount received on voluntary retirement] of the Act; which were earlier part of "Chapter III: Incomes which do not form part of Total Income". This clause has combined the aforesaid sections and has been restructured in a tabular format for comprehensive understanding and ease of computation of Income under the head "Salaries". However, there is no change in intent of the law and this clause only brings together under one clause the provisions of similar nature which were earlier placed in different sections.

19.4 Important Views/Suggestions given by Experts/Stakeholders:

During the Committee's deliberations, a submission was made regarding the treatment of payments made by employees to their previous employers in the form of Notice Period Pay. It was pointed out that while the Income-tax Bill, 2025 allows for a standard deduction under salary income, no provision currently exists for permitting deductions in cases where employees are required to pay out of pocket to buy out their notice period. This, it was argued, creates an inequitable tax outcome where an employee's net salary income is effectively lower, yet the tax is computed without regard to this compulsory expense. The witness proposed that such payments should be expressly recognized as allowable deductions under Clause 19 of the Bill, so as to reflect the true income of the employee and ensure parity in treatment with other employment-related deductions.

19.4.2 One of the stakeholder suggested that the deduction provided in sr. No 9 of Table at clause 19 of ITB 25 should be replicated under the head 'Income from Other Sources'.

It may be clarified that capital portion of pension amount (to the extent of contribution made earlier for which no deduction was claimed in the past years) would not be subject to tax.

Proposed change would:

1. Eliminate potential tax litigation.
2. Make tax laws simple and lucid for taxpayers and tax administration.

A taxpayer may contribute to pension funds either in his capacity as an employee or otherwise. Any pension / commutation of pension which is not taxed under the head 'Income from Salaries' would be taxed under the head 'Income from other sources'.

19.4.3 Another stakeholder suggested that The employees are required to serve notice period for a stipulated time before leaving the organization. The notice period

varies from organization to organization. It is proposed to allow the deduction of the amount of 'notice period pay' actually paid by the employees to an employer while computing income under the head salary.

19.5 Examination by the Committee:

Ministry on the suggestion sr. No 9 of Table at clause 19 pertaining to written reply submitted that

> **"ACCEPTED:** It is suggested that in cases where a non-employee receives commuted pension from a fund (made by insurer), a deduction may be allowed under Income from other sources as it is allowed in Clause 19 against Salaries for the commuted pension amount. This is a drafting correction and the suggestion is acceptable."

19.5.2 Regarding the suggestion on the Notice Period Pay Ministry in their written replies have submitted that :

> "*The suggestion made by the stakeholder is in the **nature of policy change** which is beyond the scope of the objectives of the IT Bill, 2025.*"

19.5.3 Ministry during the oral evidence further corroborated their stance with the following oral submission:

> "The suggestion is, 'that a deduction for notice period pay'. So, that should be allowed from the salary. But what we are saying is that exemption from taxation on severance pay is already available for employees who are under the Industrial Disputes Act, 1947. Then, for compensation, during the retrenchment period, that is also exempt under Section 10(10)(B) of the Act and severance pay under VRS Scheme or termination of employment, that is also exempted under Section 10(10)(C). So, a general deduction from salary for notice period pay is also there.
> ….Sir, here, nowadays, if we are working in a company, now, they have this notice period that if you want to leave the company, then give notice of 2 or 3 months. Now, somebody is in a hurry. He wants to leave the job immediately. In that case, company may ask him that you pay me back the salary of two months. Now, they are saying that at the time of leaving the job, if I am paying back this salary of two months, then I should be given deduction for that.
> He has earned the salary. Now, this is in the nature of penalty which is being levied by the employer for leaving the job too early without fulfilling the terms and conditions of that employment contract....
> *...कंपनी के केस में एक बार उसने डिडक्शन क्लेम किया, उसके अंगेस्ट में इनकम हो गई तो नेट इफैक्ट जीरो हो जाता है। उसमें कोई एक्स्ट्रा टैक्स नहीं आता है। वह खर्चा था, उसे आपने वापस ले लिया तो वह जीरो हो गया। यहां पर केवल एंप्लॉई का प्रश्न है।..*

सर,यह फाइनैंस बिल का इश्यूस लिए भी है कि इसके ऊपर जो एक्रुअल ऑफ इनकम सब्सिक्वेंटली गीविंग अप द इनकम, ये सब मामले माननीय सुप्रीम कोर्ट तक पहुंच चुकेहैं। मोरबी केस में यही हुआ कि कमीशन एक्रू हुआ और बाद में कमीशन को फोरगो किया गया। माननीय सुप्रीम कोर्ट ने कहा कि एक बार इनकम एक्रू हो गई, तो it cannot be foregone. सर, इश्यू है। आप जैसा सजैशंस देंगे, we will examine it."

19.5.4 Regarding "Deductions from salaries" under Clause 19, a suggestion was made on the fairness and feasibility of allowing a deduction for amounts recovered from an employee as "notice period pay" by a former employer, and whether such recovery could be considered for tax deduction by the employee; to this, the Ministry clariefied their stance as under:

"The issue here is that whether the payment of notice pay is application of income or it is reduction of salary income earned /accrued? This is a recovery and an expense made from the income received by the assessee. The employee is fully aware of the contract w.r.t notice period and yet chooses to leave/ quit early. The amount paid in lieu of contract i.e. employment conditions cannot be treated as reduction in salary received. It should be seen as expense made from income and hence no deduction should be allowed."

19.6 Observations/Recommendations of the Committee:

The Committee, after a careful review of Clause 19, identified a gap in the equitable tax treatment of commuted pension for different types of recipients. The Committee, therefore, recommend that a deduction for commuted pension, similar to that available to employees under Clause 19, be explicitly allowed under the head "Income from other sources" for non-employees who receive such pension from a fund. Accordingly, the Committee finds no further modifications are necessary for Clause 19 and recommend the acceptance of its remaining provisions as drafted.

C. Income from house property

Clause No. 20: Income from house property

20.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The annual value of property consisting of any buildings or lands appurtenant thereto, owned by the assessee shall be chargeable to income-tax under the head “Income from house property”.

(2) The provisions of sub-section (1) shall not apply to such portions of the property, as occupied by the assessee for his business or profession, the profits of which are chargeable to income-tax.

20.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

C.—Income from house property

Income from house property.

22. The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".

20.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 20 of the Bill provides for income from house property. This clause corresponds to section 22 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

20.4 Important Views/Suggestions given by Experts/Stakeholders:

For clause 20(2) stakeholder suggested to Retain the language i.e ‘as he may occupy’ instead of ‘as occupied’. Rationale for the suggestion:
(1) Improve ‘nyaya’ or fairness in the provisions of the ITB 25.
(2) Reduce tax litigation thereby providing certainty.
Under ITA 61, provisions relating to ‘Income from house property’ exclude from its scope any property (residential or commercial) that an owner ‘may occupy’ for his business / profession These would be dealt with under the head ‘Profits and gains of business or profession’. The language in ITB 25, ‘as occupied’ suggests that only such properties which have already been occupied by the owner will be out of ‘House Property’ scheme ITB 25 replaces the term “may occupy” with “occupied”, which could

lead to the taxability of properties that are 'ready to use' for business use but not actively occupied. Extending the benefit to properties which taxpayers are in the process of occupying / intend to shortly occupy would only further 'nyaya' or 'fairness' in the tax law.

20.5 Examination by the Committee:

Ministry on the suggestions of the stakeholders, in a written reply to the Committee submitted that:

> ***"Accepted.*** *The suggestion seeks to retain 'as he may occupy' instead of 'as occupied' in clause 20 income from house property so that portion meant for business is not covered under the head. For better clarity, the phrase 'as he may occupy' will be retained instead of 'as occupied'."*

20.6 Observations/Recommendations of the Committee:

The Committee, upon reviewing of Clause 20, identified a change in wording in 20(2) from the previous Act that could lead to an incorrect tax treatment for certain business properties . The Committee, therefore, recommend that in Clause 20(2), the word “occupied” be replaced with the phrase “as he may occupy” to ensure that temporarily unutilized or ready-to-use business properties are clearly excluded from taxation under the house property head. Accordingly, the Committee, recommend that the Ministry amend the clause as proposed to accurately delineate the scope of "Income from house property". The Committee further accept the remaining provision of the Clause 20 as proposed.

Clause No.21: Determination of annual value.

21.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) For the purposes of section 20, the annual value of any property shall be deemed to be the higher of the following:—

(*a*) the sum for which it might reasonably be expected to let from year to year; or

(*b*) the actual rent received or receivable by the owner, if the property or any part of it is let.

(*2*) In case the property or any part of it is let in normal course and was vacant for the whole or any part of the tax year, the annual value of such property shall be computed as per sub-section (*1*)(*b*).

(*3*) The annual value of the property shall be reduced by the taxes (including service taxes) levied by a local authority in respect of such property, actually paid during the tax year by the owner, irrespective of when such taxes became payable.

(*4*) The rent which cannot be realised by the owner shall not be included in computing the actual rent received or receivable, subject to the rules as may be made in this behalf.

(*5*) In respect of a property or its part held as stock-in-trade and not let wholly or partly at any time during the tax year, the annual value shall be *nil* for two years from the end of the financial year in which completion certificate is obtained from the competent authority.

(*6*) The annual value of the property consisting of a house or any part thereof shall be taken as *nil*, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.

(*7*) The provisions of sub-section (*6*)—

(*a*) shall apply only in respect of two of such houses as specified by the assessee in this behalf;

(*b*) shall not apply, if the house or any part thereof is actually let during any time of the tax year, or if the owner derives any other benefit from it.

21.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Annual value how determined.

23. (1) For the purposes of section 22, the annual value of any property shall be deemed to be—

(*a*) the sum for which the property might reasonably be expected to let from year to year; or

(*b*) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (*a*), the amount so received or receivable; or

(*c*) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (*a*), the amount so received or receivable :

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (*b*) or clause (*c*) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

[12]**[***(2) The annual value of the property consisting of a house or any part thereof shall be taken as* nil*, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.***]**

(3) The provisions of sub-section (2) shall not apply if—

(*a*) the house or part of the house is actually let during the whole or any part of the previous year; or

(*b*) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than two houses—

(*a*) the provisions of that sub-section shall apply only in respect of two of such houses, which the assessee may, at his option, specify in this behalf;

(*b*) the annual value of the house or houses, other than the house or houses in respect of which the assessee has exercised an option under clause (*a*), shall be determined under sub-section (1) as if such house or houses had been let.

(5) Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to two years from the end of the financial year in which the certificate

of completion of construction of the property is obtained from the competent authority, shall be taken to be *nil*.

21.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 21 of the Bill provides for determination of annual value. This clause corresponds to section 23 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

21(2) The proposed provision was drafted for not allowing misuse of vacancy allowance in income from house property.

21.4 Important Views/Suggestions given by Experts/Stakeholders:

For Clause 21(1) a suggestion was received that annual Value should be on actual rent received or receivable and it should be within the range of rent fetching capacity as derived by the Municipal corporation or other government agencies. To avoid litigation on the fetching capacity of rent of house.

21.4.2 Stakeholder suggested to consider use of the earlier language ie ‘property is let’ as against use of the phrase ‘in normal course’ Rationale for the suggestion: 1 Simplify and rationalize scenarios when the benefit is available. 2 Eliminate subjective analysis on what is ‘normal course’ and what is not 3 Further, to achieve the avowed objective of ITB 25 (i) making it easy to read and understand (ii) reducing dispute and litigation (iii) provide certainty.Under ITB 25, vacancy allowance benefit may sought to be denied, where there is no track record of ‘letting’ and therefore may not meet the requirement of ‘normal course’, causing difficulty where the property is sought to be let-out for the first time / there is ‘irregular letting’ of property With words ‘it is let in normal course’, failure to ‘let it out’ may lead to taxing the fair rental value in the hands of taxpayer, even where the intent is to let out the property.

21.4.3 Another stakeholder submitted that Delete "in normal course" to avoid litigation. Various Courts [Illustratively, Sachin R Tendulkar v DCIT [2018] 172 ITD 266 (Mum)(Trib), ITO vs. Metaoxide (P.) Ltd (2018) (170 ITD 235) (Mum.)] have extended vacancy allowance benefit to properties where taxpayer demonstrated efforts put in by them to let out the property but could not succeed. The insertion of phrase "in normal course" for vacancy allowance is unclear and can lead to litigation.

21.4.4 Further suggestion on the clasue 21(2) were received in which it was suggested that the provisions of proposed section 21(2) may be modified as below: “(2) In case the property or any part of it is let and was vacant for the whole or any part of the tax year, if

the actual amount received or receivable from such property is less than the sum referred in section 21(1)(a) owing to such vacancy, the annual value shall be the actual amount received or receivable."

21.4.5 Proposed section 21(2) is substitute for old section 23(1)(c) but the proposed section conveys different meaning and is prone to misuse The present law provides that 'where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy, the actual rent received or receivable is less than the annual letting value, the sum so received or receivable shall be the annual value In case the actual rent received or receivable during the year is less than the annual letting value, but not because of vacancy, it is the annual letting value which will be taken to be the annual value The proposed section 21(1)(c) straight away says that if the property was vacant for the whole or any part of the tax year, the annual value of such property shall be computed as per sub-section (1)(b) i.e.Page No 2 of 20 the actual rent received or receivable There will be no comparison with the expected letting value The use of the word "normal course' will also open floodgate of litigation and so may be removed .

21.5 Examination by the Committee:

On the Suggestion pertaining to clause 21(1) Ministry submitted that The suggestion seeks to determine annual value on basis of actual rent receivable or rent fetching capacity. The present provision is also built on the same lines. The sum for which the property might reasonably be expected to let is the rent fetching capacity. The suggestion is already provided for in the Bill.

21.5.2 Ministry during the oral evidence further submitted in detail that :

> *"is about determining the value of a house property. How is the annual value of a house property determined? So, the suggestion is that it should be determined on the basis of actual rent receivable or the rent fetching capacity of the property. That is how it has been built in the law.*
> *Some litigations do takes place. But for property tax, local authorities also determine the value of the what rent should come. That becomes one of the yardsticks. Sometimes we do get the information about other properties in the same complex. Like, how much others are paying in the same complex. That becomes a source to know about it. The Rent Control Act is there, and that becomes the final.*
> *Sir, if you look at column 'b' of the Section, it says that the annual value of any property shall be deemed to be higher of the following: One is, the sum of which it may reasonably be expected to be let, and two, the actual rent which is received or receivable. The point which is being raised by the stakeholder is that this sum which it might be reasonably expected to let, restrict it saying only 'as per the rent fetching capacity derived by the municipal corporation'.*

सर, मैं उसी पर आ रहा ह । वे यह कह रहे हैं डक और कोई चॉइस मत दीडजए। आप इस रीजनेबल शब्द को डिफाइन कर दीडजए डक डसफि म्युडनडसपाडलटी का रेंट कैपेडसटी है। यह पूरे देश में यूडनफॉमिली यह नहीं हो पाएगा।"

21.5.3 Committee deliberated upon whether there exists comprehensive and reliable information to accurately establish instances where the deemed annual value of a property particularly in cases where the property is not let out is being underreported. The Committee also deliberated on whether reliance on the Rent Control Act continues to serve as an effective benchmark for determining the base rental value in such cases, especially in urban markets where prevailing market rents may significantly exceed standard controlled rents. In response to this the Ministry submitted as under:

> "Section 23 of the Act provides that annual value of the any property shall be deemed to be higher of the following:
>
> - The actual rent received or receivable, or
> - The reasonable expected rent (may be based on valuation, fair rent, or rent as per Rent Control Act).
>
> If the actual rent declared is significantly lower than this expected rent, such cases indicate underreporting. However, determining underreporting depends on:
>
> - Municipal valuation records,
> - Comparable market rents in the locality,
> - Standard rent under Rent Control Act (if applicable), considering the fact that property is in city where the Rent Control Act is in force.
> - Actual letting history of similar properties.
>
> Thus, it is very difficult to accurately determine the under-reporting of the deemed annual value of the property.
>
> Further, the Rent Control Act is one of the benchmarks, for determining the deemed annual value of the property. But there are several places, where Rent Control Act is not in force. Thus, Rent Control Act cannot be the only effective measure to determine the deemed annual value of the property."

21.5.4 Ministry on the suggestions pertaining to clause 21(2) submitted in a written reply that:

> **"Accepted.** Vacancy allowance is allowed in the bill for such property which is let in normal course and was vacant for part of a year. The suggestion seeks to retain original Act language and delete 'normal course' in clause 21 determination of annual value.For better clarity, "in normal course" in clause 21(2) of the Bill will be omitted.

Accepted. The suggestion seeks to amend clause 21(2) to provide the comparison of actual rent (owing to vacancy) received with deeming rent as available in existing Act.In order to align the provision of the Bill vis-a-vis Act, clause 21(2) of the Bill will be amended to provide the comparison of actual rent (owing to vacancy) received with deeming rent."

21.6 Observations/Recommendations of the Committee:

The Committee, after a careful review of Clause 21, identified drafting issues in 21(2) that could lead to ambiguity in determining the annual value for properties experiencing vacancy. The Committee, therefore, recommend two key changes: first, that the phrase "in normal course" be deleted, and second, that the clause be amended to explicitly provide for a comparison of the actual rent received with the "deeming rent," as was available in the existing Act. Committee believe these adjustments are vital for enhancing fairness, reducing ambiguity in the valuation of vacant properties, and leading to a more equitable tax treatment for property owners. The Committee, further, recommend that rest of the Clasues may be accepted in their current form.

Clause No.22: Deductions from income from house property.

22.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The income under the head "Income from house property" shall be computed after allowing the following deductions:—

(*a*) 30% of the annual value;

(*b*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

(*2*) In case of property or properties referred to in section 21(*6*), the aggregate amount of deduction under sub-section (*1*)(*b*) shall not exceed—

(*a*) two lakh rupees, subject to the following conditions:—

(*i*) the property has been acquired or constructed with borrowed capital and such acquisition or construction is completed within five years from the end of tax year in which capital was borrowed;

(*ii*) if capital is borrowed during any period prior to the tax year in which the property has been acquired or constructed, any interest payable for the said prior period shall be allowed as a deduction in five equal instalments for the said tax year and for each of the four immediately succeeding tax years;

(*iii*) the assessee furnishes a certificate from the person to whom interest is payable on such capital; and

(*b*) thirty thousand rupees in any other case.

(*3*) The deduction under sub-section (*2*)(*a*)(*ii*) shall be computed after reducing any amount already allowed as a deduction under any other provisions of this Act.

(*4*) The certificate referred to in sub-section (*2*) shall specify—

(*a*) the amount of interest payable on capital borrowed; and

(*b*) the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital.

(*5*) The aggregate of the amounts of deduction under sub-section (*2*) in respect of properties of the nature referred to in section 21(*6*) shall not exceed two lakh rupees.

(*6*) Any interest chargeable under this Act which is payable outside India shall not be allowed as a deduction under this section, if—

(*a*) tax has not been paid or deducted on such interest under Chapter XIX-B; and

(*b*) in respect of such interest, there is no agent in India as per section 306.

22.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deductions from income from house property.

24. Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(*a*) a sum equal to thirty per cent of the annual value;

(*b*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23, the amount of deduction or, as the case may be, the aggregate of the amount of deduction shall not exceed thirty thousand rupees :

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed, the amount of deduction or, as the case may be, the aggregate of the amounts of deduction under this clause shall not exceed two lakh rupees.

Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years:

Provided also that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

Explanation.—For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the assessee subsequent to the capital borrowed, for the purpose of repayment of such capital:

Provided also that the aggregate of the amounts of deduction under the first and second provisos shall not exceed two lakh rupees.

22.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 22 of the Bill provides for deductions from income from house property. This clause corresponds to section 24 and 25 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and rationalised. Rs 2 lakh deduction was allowed for loans taken on or after 1.4.1999 for self-occupied property. This date has been removed. Vacancy allowance is proposed to be allowed where a property is let in 'normal course' and has not been let for a part of the year.

22.4 Important Views/Suggestions given by Experts/Stakeholders:

A submission was made, during a meeting, recommending a revision to Clause 22 of the Income-tax Bill, 2025 to ensure that interest on housing loans is allowable as a deduction even under the default tax regime. It was pointed out that the current structure of the default regime restricts several deductions, including those relating to housing loan interest, thereby limiting relief for taxpayers who have significant financial commitments towards home ownership. The suggestion emphasized that the benefit of interest deduction on self-occupied property serves an important socio-economic objective by incentivizing investment in housing. Denying this deduction under the default regime, it was argued, disproportionately impacts middle-class taxpayers and discourages long-term asset creation. Accordingly, it was proposed that Clause 22 be amended to permit deduction of housing loan interest irrespective of the tax regime chosen by the assessee.

22.4.2 Suggestions were received from thye stakeholders that after end of clause 22(1)(a), the following may be added: "as adjusted by amounts mentioned in sub-cl (3) of clause 21" Rationale for the suggestion: 1 Make tax law lucid and clear. 2 Reduce tax litigation and providing certainty.ITA 61 allows taxpayer to claim deduction of 'property taxes' (or any tax levied by municipal authorities) while determining the Annual Value ('AV') of the property The AV after giving the effect of deduction of taxes is then to be considered while computing standard deduction, which is 30% of the AV Clause 21(1) of ITB 25 provides the AV of the property is deemed to be higher of (i) reasonable letting value; or (ii) actual rent received or receivable Clause 22(1) of ITB 25 proposes deduction of 30% of AV One plausible reading suggests that such AV is the one referred to in Clause 21(1), before deduction of property taxes In other words, the standard deduction is available on a higher basis vis-à-vis the ITA 61 Whether the change is conscious and intended to provide additional benefit to taxpayers? If not, suitable amendment may eliminate possible interpretation on a higher claim (which is

not consistent with the policy intent), thereby further the objective of the ITB 25 viz, provide certainty and reduce litigation.

22.4.3 Another stakeholder gave the following suggestion on this particular subclause:
(i)Limit of Rs 2,00,000 be increased to Rs 500,000 for metro and Rs 300,000 for non metro; (ii) The pre-construction interest amortized deduction over 5 years be made available for all house properties and not restricted to self-occupied house property. Considering the rise in cost of residential units limit of interest be increased Further limit of Rs 200,000 more than decade old Under ITA 1961, the pre- construction interest amortized deduction over 5 years is available for all house properties and not restricted to self-occupied house property (Refer Explanation to s.24) Under ITB 2025, it is restricted to self-occupied house property. (Refer clause 22(2)(a)(ii)) This restricts the scope of deduction contrary to avowed intent of no change in policy Hence, it is recommended to reinstate the position as per ITA 1961.

22.4.4 Further suggestion on clause 22 stated that in deductions from income from house property, proposed section 22(2)(a)(ii) is being put as a condition for claiming deduction of higher amount of interest while the said provision is for allowing the deduction of interest incurred during construction phase It applies for both let out and self-occupied property Hence, the said clause be made a separate sub-section (2) as under:
“(2) If capital has been borrowed during any period prior to tax year in which the property has been acquired or constructed, any interest payable for the said prior period shall be allowed as deduction in section 22(1)(b) in five equal instalments for the said tax year and for each of the four immediately succeeding tax year.
22.4.5 Another stakeholder suggested that suggested that lease rent paid by the lessee to the lessor be allowed as a deduction while computing “Income from House Property” in cases where the lessee, being the deemed owner as per section 25, sub- leases the property This may be included as (c) in sub-section (1) of section 22."The opening para in sub-section (2) may be modified as follows - (2) In case of any property or two properties referred to in section 21(5), the aggregate amount of deduction under sub-section (1)(b) shall not exceed—"; A lessee is deemed to be the owner of the premises leased for a term of not less than 12 years When such a lessee sub-leases the property, the income derived from the sub-lease is taxed under the head "Income from House Property, since the lessee is the deemed owner as per section 25 However, the lease rent paid by the lessee to the lessor is not allowed as a deduction while computing income from house property. The language of sub- section (2) is modified to restrict deduction of interest on self-occupied property to two houses here This restriction is required in this sub-section (1), since we have suggested that the annual value of all houses which are self-occupied or not let out would be Nil.

22.5 Examination by the Committee:

On the suggestion seeking to increase the limit of deduction of interest on capital borrowed for house property from existing Rs. 2 lakhs to Rs. 5 lakhs in metro/3 lakhs in non-metro.It is in the nature of Policy Change which is outside the scope of the Bill.There is no change in the provisions of the Bill vis-a-vis Act.The present limit of Rs. 2 lakhs is only applicable to self-occupied properties. Already, vide Finance Act, 2025, annual value of two self-occupied properties have been made NIL irrespective of any reason. This limit is sufficient as there is no limit for the rented properties Thus, the suggestion is not feasible.

22.5.2 Ministry on the suggestion pertaining to 22(1)(a) submitted in a written reply that:

> **"Accepted.**The suggestion seeks to amend clause 22(1)(a) to deduct the municipal taxes from the annual value of the property before computing 30% deduction.In order to align the provision of the Bill vis-a-vis Act, the clause 22(1)(a) shall be amended to deduct the municipal taxes from the annual value of the property before computing 30% deduction."

22.5.3 Ministry on the suggestion pertaining to 22(2)(a)(ii) submitted in a written reply that:

> **"Accepted.** The suggestion seeks to amend clause 22(2) to provide for deduction of pre-construction interest on capital borrowed to let out property as available in existing Act.In order to align the provision of the Bill vis-a-vis Act, clause 22(2) of the Bill will be amended to provide for deduction of pre-construction interest on capital borrowed to let out property also."

22.5.4 Ministry on the suggestion of stakeholders seeking to increase the scope of clause 22 deductions from income from house property by allowing lease rent paid by the lessee to the lessor as a deduction while computing income from house property.It is in the nature of Policy Change which is outside the scope of the Bill.There is no change in the provisions of the Bill vis-a-vis Act.In such case of lessee being treated as deemed owner, 30% of the Annual Value is already allowed as standard deduction, along with interest on borrowed capital. Since primary condition for computing Income from house property is ownership of the property, no other deduction including that of lease rent paid, can be allowable as deduction. Thus, the suggestion is not feasible.

22.5.5 Ministry during the oral further elaborated on the issue as under

> *"The suggestion is that you increase the scope of deductions and allow lease rent paid by the lessee to the lesser, that is, lease rent paid by the lessee to the lesser as a deduction while computing. The provisions of house property are like this. Whatever annual value is there, against that, 30 per cent is allowed as a deduction for rent, repair, and other things. And then interest is also allowed as a deduction, whatever interest is there*

on a loan which has been taken. After that, the sum is charged to tax. So, we have additional deductions.

The Act provides certain conditions when the person who is not the actual owner, but he is deemed to be owner. For example, if I have transferred my property to my wife without any consideration, then I will be deemed to be an owner, not my wife. Here, if there is a lease of more than 12 years, then the lessee is deemed to be the owner of the property. And if he is again renting it out, then whatever he is receiving is taxed as income from house property in its hand. And accordingly, all the deductions are allowed to him, 30 per cent of the annual value, etc. Now they are saying that you also allow the lease rent paid. So, now they will be getting double deductions. They will be getting 30 per cent of the entire rent and this lease rent also. This provision has been like this for many years, and it is almost settled issue."

22.6 Observations/Recommendations of the Committee:

The Committee, after deliberations on Clause 22, identified the need to clarify the computation of deductions to enhance fairness and transparency for property owners. The Committee, recommend two key amendments: firstly, in Clause 22(1)(a), to explicitly state that the standard 30% deduction is computed on the annual value after deducting municipal taxes; and secondly, in Clause 22(2), to ensure the deduction for pre-construction interest is available for let-out properties in addition to self-occupied ones, aligning it with the existing Act. Further, the Committee accept the remaining provisions of Clause 22 as proposed in the Bill.

Clause No. 23: Arrears of rent and unrealised rent received subsequently.

23.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant shall deemed to be the income from house property in respect of the tax year in which such rent is received or realised.

(*2*) The amount deemed to be income from house property under sub-section (*1*) shall be included in the total income of the assessee under the head “Income from house property”, whether the assessee is the owner of the property or not in that tax year.

(*3*) A sum equal to 30% of the arrears of rent or the unrealised rent referred to in sub-section (*1*) shall be allowed as deduction.

23.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for arrears of rent and unrealised rent received subsequently.

25A. (1) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that financial year.

(2) A sum equal to thirty per cent of the arrears of rent or the unrealised rent referred to in sub-section (1) shall be allowed as deduction.

23.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 23 of the Bill provides for arrears of rent and unrealised rent received subsequently. This clause corresponds to section 25A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

23.4 Observations/Recommendations of the Committee:

After thorough deliberation on Clause 23, the Committee observe that its provisions for taxing subsequently received arrears of rent and unrealised rent correspond to Section 25A of the 1961 Act. Finding that the clause is a textual simplification which retains the original substance, the Committee recommend its acceptance as it stands.

Clause No.24: Property owned by co-owners

24.1Provision proposed in the Income-Tax Bill, 2025:

(*1*) For property co-owned with definite and ascertainable share, the co-owners shall not be assessed as an association of persons and their income computed separately as per their respective share under this Chapter shall be included in their total income.

(*2*) The relief available under section 21(*6*) shall be provided as if each co-owner is individually entitled to the said relief.

24.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Property owned by co-owners.

26. Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.

Explanation.—For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.

24.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 24 of the Bill provides for property owned by co-owners. This clause corresponds to section 26 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

24.4 Important Views/Suggestions given by Experts/Stakeholders:

One of the stakeholders suggested to change the heading of the clause and submitted that the House property owned by co- owners.Heading can be changed to “House property owned by co-owners” in line with the heading for other sections in this Part of the chapter.

24.5 Examination by the Committee:

Ministry on the suggestion submitted that The suggestion seeks to replace heading of clause 24 i.e. from “Property owned by co-owners." to “House property owned by co-

owners” in line with the heading for other sections in this Part of the chapter.The language is presently aligned with provisions of the Act. Annual value of any building or land appurtenant thereto is taxed under the head 'income from house property'. But to say that only 'house property' is covered under the head is not a reasonable interpretation. The suggestion may not be feasible.

24.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 24, corresponding to Section 26 of the Income-tax Act, 1961, sets out the provisions for taxing income from properties that are co-owned with definite and ascertainable shares.The Committee observe that the proposed clause is a textual simplification of the existing law, preserving its core intent and application without any substantive deviation. Therefore, the Committee accept Clause 24 as proposed by the Ministry and recommend no modification.

Clause No.25 : Interpretation.

25.1 Provision proposed in the Income-Tax Bill, 2025:

For the purposes of sections 20 to 24, the “owner” in relation to a property shall include—

(*a*) an individual who transfers without adequate consideration, any property to the spouse (except under an agreement to live apart), or to a minor child (other than a married daughter);

(*b*) the holder of an impartible estate;

(*c*) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association;

(*d*) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882;

(*e*) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or its part—

(*i*) by virtue of transfer of such property by way of sale or exchange or original or extendible lease for a term of not less than twelve years; or

(*ii*) accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

25.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

"Owner of house property", "annual charge", etc., defined.

27. For the purposes of sections 22 to 26—

(*i*) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

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

(*iii*) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof;

(*iiia*) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), shall be deemed to be the owner of that building or part thereof;

(*iiib*) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (*f*) of section 269UA, shall be deemed to be the owner of that building or part thereof;

(*iv*) [***]

(*v*) [***]

(*vi*) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

25.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 25 of the Bill provides for interpretation in respect of “owner” in relation to a property. This clause corresponds to section 27 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

25.4 Important Views/Suggestions given by Experts/Stakeholders:

Stakeholders suggested that the opening portion and section 25 may be reworded as follows - For the purposes of sections 20 to 24, the “owner” in relation to a house property shall include— (a) an individual who transfers without adequate consideration, any property to the spouse (except under an agreement to live apart), or to a minor child (other than a married daughter);""In the opening portion, “house property” may be used instead of “property” for consistency and greater clarity. (ii) It was further suggested that granting property ownership rights to women is a significant step toward making them self-reliant and enhancing their economic standing Several State Governments have incentivized registration of property in the name of women, by offering reduced stamp duty rates However, the provisions under section 25 of the

Income-tax Act, 1961 and section 27 of the Income-tax Bill, 2025 act as a deterrent by deeming the transferor-spouse as the owner The provision discourages gifts or transfers of property to a spouse.

25.5 Examination by the Committee:

The ministry in response to the suggestions submitted in a written reply that (i)The suggestion seeks to use "In the opening portion of clause 25 Interpretation, the phrase “house property” instead of “property” for consistency and greater clarity. The language is presently aligned with provisions of the Act. Annual value of any building or land appurtenant thereto is taxed under the head 'income from house property'. But to say that only 'house property' is covered under the head is not a reasonable interpretation. The suggestion may not be feasible.

(ii) On the suggestion seeking to amend the definition of the deemed ownership when a property is transferred to spouse without adequate consideration.It is in the nature of Policy Change which is outside the scope of the Bill.There is no change in the provisions of the Bill vis-a-vis Act. It is an anti-abuse provision. The deeming ownership will come into effect only when one person transfers such house property to its spouse without adequate consideration. Further, it will defeat the purpose of clubbing of income. Properties will be transferred to spouse without adequate consideration for separately claiming the minimum threshold for taxable income. Thus, the suggestion is not feasible.

25.6 Observations/Recommendations of the Committee:

The Committee deliberated upon Clause 25, which provides the interpretative definition of 'owner' for the purposes of computing income from house property. This clause, corresponding to Section 27 of the Income-tax Act, 1961, consolidates the various scenarios of deemed ownership into a single, cohesive provision. The Committee observe that the clause retains the established legal principles and preserves necessary anti-abuse provisions while simplifying the language. Therefore, the Committee accept Clause 25 as proposed and recommend no change.

CHAPTER IV: D.—PROFITS AND GAINS OF BUSINESS OR PROFESSION

Clause No.& Title:

26.Income under head “Profits and gains of business or profession”.

26.1 Provision proposed in the Income-Tax Bill, 2025:

26. (1) The income from any business or profession carried on by the assessee at any time during the tax year shall be chargeable to income-tax under the head “Profits and gains of business or profession”.

(2) The income under sub-section (1) shall include—

(a) the profits and gains of any business or profession carried on by the assessee at any time during the tax year;

(b) any compensation or other payment, due to, or received, by any person by whatever named called,—

(i) wholly or substantially managing the affairs —

(A) of an Indian company; or

(B) in India, of any other company; or

(ii) holding any agency in India for any part of business activities of any other person; or

(iii) for any contract relating to business,

in connection with termination of management, office or agency or contract, as the case may be, or modification of terms and conditions relating thereto;

(c) any compensation or payment, due to, or received by, any person for vesting of the management of any property or business in the Government, including any corporation owned or controlled by the Government under any law in force;

(d) income derived by a trade, professional or similar association from specific services performed for its members;

(e) the amount of any profit on sale of input licence, cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable;

(f) the value of any benefit or perquisite arising from business or the exercise of a profession, whether—

(i) convertible into money or not; or

(ii) in cash or in kind or partly in cash and partly in kind;

(g) an amount being interest, salary, bonus, commission or remuneration, by whatever name called, which is due to, or received by, a partner of a firm from such firm to the extent allowed under Chapter IV-D as a deduction in computing the income of the firm;

(h) any sum, received or receivable, in cash or in kind—

(i) under an agreement for not carrying out any activity in relation to any business or profession, not being–

(A) a consideration received on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession which is chargeable under the head “Capital gains”;

(B) any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, as per the terms of agreement entered into with the Government of India; or

(ii) under an agreement for not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature, or information or technical know-how likely to assist in the manufacture or processing of goods or provision for services;

(i) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(j) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the manner, as prescribed; and

(k) any sum which is received or receivable in cash or kind, when—

(i) a capital asset other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred; and

(ii) the whole of the expenditure on it has been allowed as a deduction under section 46.

(3) Where speculative transactions carried on by an assessee are of such nature to constitute a business, the business (herein referred to as speculation business) shall be deemed to be distinct and separate from any other business.

(4) Any income from letting out of a residential house or a part of it by the owner shall not be included in income under sub-section (1) and shall be chargeable only under the head “Income from house property”.

26.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Profits and gains of business or profession.

28. The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

(i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year ;

(ii) any compensation or other payment due to or received by,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

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

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

(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;

(e) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;

(iii) income derived by a trade, professional or similar association from specific services performed for its members;

(iiia) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947);

(iiib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;

(iiic) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;

(iiid) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(iiie) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

[13][(iv) the value of any benefit or perquisite arising from business or the exercise of a profession, whether--

(a) convertible into money or not; or

(b) in cash or in kind or partly in cash and partly in kind;]

(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted;

(va) any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business or profession; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services:

Provided that sub-clause (a) shall not apply to—

(i) any sum, whether received or receivable, in cash or kind, on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession, which is chargeable under the head "Capital gains";

(ii) any sum received as compensation, from the multilateral fund of the

Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.

Explanation.—For the purposes of this clause,—

(i) "agreement" includes any arrangement or understanding or action in concert,—

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(ii) "service" means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as accounting, banking, communication, conveying of news or information, advertising, entertainment, amusement, education, financing, insurance, chit funds, real estate, construction, transport, storage, processing, supply of electrical or other energy, boarding and lodging;

(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10;

(via) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner;

(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.

Explanation 1.—[Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

Explanation 2.—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

[14][Explanation 3.— It is hereby clarified that any income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head

"Profits and gains of business or profession" and shall be chargeable under the head "Income from house property".]

26.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 26 of the Bill seeks to provide charging of income-tax on income under the head “Profits and gains of business or profession”. The clause corresponds to section 28 of the Income-tax Act, 1961 (the Act). It provide for inclusive definition of income under the head “Profits and gains of business or profession”. Section 28(iiia) to (iiie) of Income-Tax Act, 1961 deals with taxing of specific export incentives. There were disputes on taxation of some export incentives not specifically mentioned in the Income-Tax Act, 1961. Correspondingly Section 26(1)(e) of the Income-Tax bill, 2025 has been rationalised with a view to reduce litigation and now it provides for the taxation of the amount of any cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable as business income. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

26.4 Important Views/Suggestions given by Experts/Stakeholders:

- With regard to 26(2)(f) Ministry of Corporate Affairs recommended that any waiver of loans pursuant to the resolution plans approved under the Code may not be subject to tax under the Income-Tax Bill. In case of companies undergoing insolvency resolution process under the IBC, as a part of the resolution plan, the lenders/creditors agree to waive-off the outstanding dues comprising loans, interest and other payables partly, or as a whole and any such waiver should not be subject to Income-Tax.

- Neither S. 26(2)(k) not S. 536(2)(h) envisage claw back for sale of capital assets post 1 April 2026, whose expenditure was allowed under Section 35AD of ITA 1961. Gains on disposal of such assets would be taxed as capital gains, not business income, leading to potential controversy on offsetting past losses of specified business. It is suggested to modify Section 26(2)(k) of ITB 2025 to apply claw back to expenditure allowed under both Section 46 of ITB 2025 and Section 35AD of ITA 1961 which will ensure smooth transition and avoid ambiguity on taxing gains from sale of capital assets as business income or capital gains.

- While the profits earned by a Real estate developer on residential houses sold, are chargeable to tax as Business income, however the rental income earned on letting out such residential house are proposed to be taxed under the head 'Income from House property'. This creates anomaly in chargeability of income specially in case of the assessee who are in the real estate business or renting business. It is suggested that the head of taxability must be determined in accordance with the nature of business of the assessee Where the assessee is in the business of renting/sale/purchase of immove-ableproperty, the rental income must be taxed as Business income.

- With respect to 26(2)(e), it is recommended to give a clear definition of the term 'Input License' or replace it with 'Import License' if it is a typographical error. Also, it is recommended to add the words 'Any amount received from Government under any scheme, etc' to keep the scope of new section in line with the existing section of ITA, 1961.

26.5 Examination by the Committee:

26.5.1 On the issue of usage of word 'input' in 26(2)(e), the Ministry admitted that it is an inadvertent drafting error and instead of "input" license the word shall be "import" license.

26.5.2 Secretary MCA during the sitting held on 17.04.2025 stated the following with regard to waiver of loan to not be considered as an income subject to Income-Tax:

> *"Then we come to the suggestion with respect to the IBC. This is an important aspect because the objective of the IBC is to essentially provide for resolution of a concern as a going concern. And we know these concerns are already reeling under losses and they handle financial stress. Prior to 2023, a loan waiver was not treated as a cash receipt and therefore was not subject to the income which is chargeable for tax. There was a Supreme Court judgment in Mahindra and Mahindra in 2018 where the waiver of loan was treated as a cash receipt. Subsequently, the amendment was brought in and it is now being proposed as a part of the Income-Tax Bill also. But our earnest request is that the waiver of loan should not be considered as an income subject to Income-Tax because that actually will really impact negatively the purpose behind the IBC. If that can be considered, it will be good."*

26.5.3 The Ministry in their comments on the suggestion with regard to waiver of loan to not be considered as an income subject to Income-Tax stated that, 'the suggestion

made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

The Committee further probed the Ministry to clarify the rationale for continuing to treat waivers of loans pursuant to resolution plans approved under the IBC as taxable income and the Ministry in this regard submitted that, 'Government has already incentivized the companies undergoing Corporate Insolvency Resolution Process (CIRP) by amending the section 79 of Income-Tax Act' 1961 which now allows to carry forward and set off the accumulated losses, even if there is a change in shareholding. Thus, a company which has undergone CIRP due to serious financial crunches should be having substantial amount of accumulated losses which can be set-off against the income arising under sections 28(iv) and 41(1) of the Income-Tax Act'1961. On the other hand, situations, where the company was not having accumulated losses at the beginning of CIRP indicate that the company was not in serious financial trouble and in such cases exemption u/s 28(iv)/41 of Income-Tax Act' 1961 shall be unjust enrichment. It may also be pointed out that Indian Accounting Standard (Ind AS) 109, para 3.3.3 also provides that upon waiver of loan, the difference between the carrying amount of loan and the consideration actually paid towards such waiver would be routed through profit and loss account. Thus, as per Ind AS also, waived amount is required to be shown as profit in the P&L account. Moreover, the Government has already foregone a major portion of statutory dues which were outstanding at the beginning of CIRP due to lower priority in waterfall mechanism. There are various judgements wherein the Courts have held that loan waived off as one time settlement will be taxable as income of the assessee. (a) Bombay High Court in case of Solid Containers Ltd. v. Dy. CIT [2009] 178 Taxman 192 (b) Delhi High Court in case of Logitronics (P.) Ltd. v. CIT [2011] 9 taxmann.com 302/197 taxman 394/333 ITR 386 (c) Delhi High Court in case of Rollatainers Ltd. v. CIT [2011] 15 taxmann.com 111/203 Taxman 31 (Mag.)/339 ITR 54'**.**

26.5.4 On the issue of claw back for sale of capital assets, the Ministry in their response furnished that, 'to address cases where deduction is claimed earlier under section 35AD of ITA, 1961 and to provide taxability of the same after 1.4.2026 (i.e. after the commencement of the Income-Tax bill, 2025), necessary amendments shall be carried out in the Bill. The suggestion of the stakeholder is acceptable' and the drafting is to be corrected.

26.5.5 On the suggestion pertaining to taxability of income from letting out of residential house property, the Ministry in their response stated that, 'The suggestion seeks to amend clause 26(1) by allowing assessee in the business of renting/sale/ purchase of immoveable property to offer the rental income from letting of residential house or part of house under the head 'Income from Business. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a-vis Act. The amendment that income from letting of residential house or part of house

shall not be taxed under business head and will be taxed under the house property head was made by the Finance (No.2) Act, 2024 to bring clarity and eliminate litigation. Thus, the suggestion is not feasible'.

26.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note some drafting errors i.e. the usage of words 'named' and 'input' in Clause 26(2)(b) and in Clause 26(2)(e) respectively. The Committee thus, recommend that in Clause 26(2)(b), the word *'named'* be replaced with *'name'*, and in Clause 26(2)(e), the word *'input'* be substituted with *'import'*.

Furthermore, the Committee recommend that necessary amendments be carried out in the Bill to ensure consistent application and smooth transition of Section 35AD into the new Income-Tax Bill (ITB), 2025. Specifically, Clause 26(2)(k) should incorporate a provision stating that any amount received from the sale of a capital asset acquired and used for the purpose of a specified business for which 100% deduction was claimed under Section 35AD of the Income-Tax Act, 1961 shall be taxed as business income if such asset is sold on or after the date on which the new Income-Tax Bill comes into effect.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause subject to the above proposed modifications.

Clause No.& Title:

27.Manner of computing profits and gains of business or profession.

27.1 Provision proposed in the Income-Tax Bill, 2025:

27.The income referred to in section 26 shall be computed as per the provisions of sections 28 to 60, except section 58.

27.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from profits and gains of business or profession, how computed.

29. The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43D.

27.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 27 of the Bill provides for the manner of computing income under the head “Profits and gains of business or profession”. The clause corresponds to section 29 of the Act. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

27.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands.

Clause No.& Title:

28.Rent, rates, taxes, repairs and insurance.

28.1 Provision proposed in the Income-Tax Bill, 2025:

28. (1) The following amounts shall be allowed as deduction in respect of premises, machinery, plant or furniture, wholly and exclusively, used for the purposes of the business or profession:—

(a) any premium paid in respect of insurance against risk of damage or destruction thereof;

(b) land revenue, local rates or municipal taxes paid;

(c) rent paid, when the premises are occupied by the assessee as a tenant;

(d) amount paid on account of current repairs, not being capital expenditure, when the premises are occupied by the assessee otherwise than as a tenant; and

(e) cost of repairs, not being capital expenditure, when the premises occupied by the premises occupied by the assessee as a tenant.

(2) In case where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, the deduction allowable under sub-section (1) shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession.

28.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Rent, rates, taxes, repairs and insurance for buildings.

30. In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

(a) where the premises are occupied by the assessee—

(i) as a tenant, the rent paid for such premises ; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs ;

(ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises ;

(b) any sums paid on account of land revenue, local rates or municipal taxes ;

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

Explanation.—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (i), and the amount paid on

account of current repairs referred to in sub-clause (ii), of clause (a), shall not include any expenditure in the nature of capital expenditure.

28.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 28 of the Bill provides for deduction for expenses on account of rent, repairs, insurance premium, local taxes, etc. The clause corresponds to section 30, 31 and 38(2) of the Act. The corresponding sections 30 and 31 of the Act have been merged. Further, the provision of Section 38(2) of the Act wherein Assessing Officer have the power to restrict the allowance under section 30 and 31 of the Act to the fair proportionate value of the assets (premises, machinery, plant or furniture) in case these assets have not been used wholly and exclusively for the purpose of business is also incorporated in clause 28 of the Bill. The provisions of the existing section has been textually simplified and retained with the same intent in this clause. (The phrase “wholly and exclusively” from clause 28(1) is to be omitted)

28.4 Important Views/Suggestions given by Experts/Stakeholders:

- Under the new Bill, it is sought to be added that such use must be wholly and exclusively for the purposes of business. Consequently, a provision is sought to be added to provide for partial disallowance in the event of partial use for business purposes. The Assessing Officer would determine the part of eligible deduction in such case. This could lead to uncertainty in the determination of amount of claim and will result into litigations.
  It is recommended the word “wholly and exclusively” be omitted from the section 28 of the ITB. This will simplify implementation of the tax provisions and reduce potential litigation.

- Correction of language of 28(1)(e) to convey the correct meaning- ‘cost of repairs, not being capital expenditure, when the premises is occupied ~~by the premises occupied~~ by the assessee as a tenant.’

- The clauses (a) to (e) of section 28(1) of the IT Bill, 2025 do not cover deduction for current repairs to machinery, plant or furniture. Thus, new clause (f) is proposed.
  (f) the amount paid on account of current repairs to machinery, plant or furniture.

28.5 Examination by the Committee:

28.5.1 The Ministry in their comments accepted the suggestion with regard to unnecessary insertion of phrase “wholly and exclusively” in clause 28(1) and stated that, ‘The insertion of phrase “wholly and exclusively” in clause 28(1) of the Bill is not required and the same is to be deleted. More so, as if the premises etc. are used for the business partly only, then provision for making disallowance has been provided in clause 28(2). Hence the suggestion is acceptable.’

28.5.2 With regard to correction of language of 28(1)(e) to convey the correct meaning, the Ministry stated that, it is an inadvertent drafting error and the phrase " by the premises occupied" is wrongly written in clause 28(1)(e).

28.5.3 And on the issue of deduction for current repairs to machinery, plant or furniture not being covered under the clauses (a) to (e) of section 28(1) of the IT Bill, 2025, the Ministry accepted that it is an inadvertent drafting error and deduction provided u/s 31(i) of the Act on the amount of current repairs in respect of machinery, plant and furniture is inadvertently missed to be provided in the Bill.

28.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that in Clause 28(1), the words "wholly and exclusively" are not necessary as if the premises, etc., are used only partly for business purposes, then provision for making disallowance has already been made under Clause 28(2). The Committee, thus recommend that in Clause 28(1), the words "wholly and exclusively" be omitted.

The Committee further recommend that in Clause 28(1)(e), the phrase "by the premises occupied" be omitted to convey the correct meaning. Clause 28(1)(e) may accordingly be revised to read as follows:

"(e) cost of repairs, not being capital expenditure, when the premises are occupied by the assessee as a tenant."

The Committee also recommend that a new clause (f) be inserted after Clause 28(1)(e), since the current clause does not cover deductions for current repairs to machinery, plant or furniture. The proposed clause may read as follows:

"(f) the amount paid on account of current repairs to machinery, plant or furniture."

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

29.Deductions related to employee welfare.

29.1 Provision proposed in the Income-Tax Bill, 2025:

29. (1) The following sums, when paid by the assessee as an employer, shall be allowed as deduction in computing income chargeable under section 26:—
(a) any contribution paid to a recognised provident fund or an approved superannuation fund, subject to—
(i) the limits as prescribed for recognising the provident fund or approving the superannuation fund; and
(ii) the conditions, as the Board may specify, for cases where the contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head “Salaries” or the contributions or to the number of members of the fund;
(b) any contribution paid to a pension scheme referred to in section 124, for an employee up to 14% of the salary of the employee in the tax year, where such salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;
(c) any contribution paid to an approved gratuity fund created by the assessee for the exclusive benefit of his employees under an irrevocable trust;
(d) any provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year;
(e)(i) the amount of contribution received from an employee by the assessee to which the provisions of section 2(49)(o) apply, if it is credited by the assessee to the account of the employee in the relevant fund or funds by the due date;
(ii) for the purposes of sub-clause (i), “due date” means the date by which the assessee is required as an employer to credit employee contribution to the account of an employee in the relevant fund under any Act, rule, order or notification issued under it or under any standing order, award, contract of service or otherwise and the provisions of section 37 shall not apply for determining the “due date” under this clause.
(2) (a) For the purposes of sub-section (1)(d), no deduction shall be allowed for any provision made for the payment of gratuity to the employees on their retirement or termination for any reason; and
(b) in case deduction has been allowed for any provision made under sub-section (1)(d), then no deduction shall be allowed on actual payment made from such provision.
(3) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the

Societies Registration Act, 1860, or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under sub-section (1)(a) or (b) or (c), or as required by or under any other law in force.

29.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other deductions.

36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;

(ia) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(ib) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

(A) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(B) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

(iia) [Omitted by the Finance Act, 1999, w.e.f. 1-4-2000;]

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession :

Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

Explanation.—Recurring subscriptions paid periodically by share holders, or

subscribers in Mutual Benefit Societies which fulfil such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

(iiia) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

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

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond and the amount payable by such company or fund or public sector company or scheduled bank on maturity or redemption of such bond;

(ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) [***]

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the super-annuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed [16][fourteen] per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or

funds on or before the due date.

Explanation 1.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

Explanation 2.—For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:

Provided that in the case of an assessee to which clause (viia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause:

Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.

Explanation 1.—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee.

Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account

shall relate to all types of advances, including advances made by rural branches;

(viia) in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :

Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:

Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent" had been substituted :

Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the fore going provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession."

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;

(b) a bank, being a bank incorporated by or under the laws of a country

outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);

(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):

Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year;

(d) a non-banking financial company, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A).

Explanation.—For the purposes of this clause,—

(i) "non-scheduled bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

(ia) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

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

(iv) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(v) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of this sub-section;

(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(vii) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) "specified entity" means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,—

(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(g) "infrastructure facility" means—

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" means any loan or advance where the terms under

which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(viiia) [***]

(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) and sub-section (5) of section 35, of sub-section (3) of section 41 and of Explanation 1 to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;

(x) [***]

(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system :

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act :

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs

functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;

(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;

(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities trans actions entered intoin the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered intoin the course of his business during the previous year, if the income arising from such taxable

commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;

(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government;

(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply—

(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year), but the Assessing Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) and the Assessing Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;

(v) where such debt or part of debt relates to advances made by an assessee to

which clause (viia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.

29.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 29 of the Bill seeks to provide for deduction related to employee welfare including contribution to various funds, etc., that need to be allowed while computing the income under the head “Profits and gains of business or profession”. The clause corresponds to provisions related to employee welfare covered in section 36 and section 40A of the Act. In the Income-Tax Act, 1961, provisions related to expenses for contributions to Provident Fund, Gratuity Fund, Superannuation Fund and Pension scheme, were spread across various sections, such as 40A(7), (9) and 36(1)(iv), (iva), (v), (va). To determine the allowability of these expenses, one had to refer to multiple provisions in addition to the charging sections. In the new tax bill, these provisions have been consolidated under a single clause, making them easier to understand and comply with. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

29.4 Important Views/Suggestions given by Experts/Stakeholders:

- It is recommended to omit section Clause 29(1)(c) of the new Bill to remove the duplication; or a clarification may be provided in respect of interplay of the two sections. Deductibility for contribution to approved gratuity fund is governed by two separate provisions, wherein one provision limits deductibility to 8.33% of salary, whereas other provision provides deductibility if the sum is paid/ payable during the year. The above has lead to an ambiguity amongst taxpayers as to which provisions will be applicable on payment towards approved fund.

- It is suggested that the clause 29(1)(e) may be amended so as to provide that the disallowance is not made in a case where the payment of Employees’ Contribution to PF / ESIC etc. is made within a reasonable period of time. The recommended time of 90 days as is a reasonable period of time for this purpose. Alternatively, it may be provided that the disallowance will not be made in cases of delay being caused due to reasonable cause. The Board may consider coming out with some Rules in this regard.
  Although the provisions of Income-tax Act, 1961 and Income-tax Bill 2025 are same, there is a good case for amending the provisions while enacting the new

code as explained hereunder : The provisions of the section are such that it results in permanent disallowance of the expenses even for a small delay in payment. At times the delay in payment is purely unintentional and are due to various factors beyond the control of the assessee. For Example, there are cases where the payment could not be made due to the website of the respective welfare fund being not working or supportive for few days. Also it is possible that the payment could not be made where the bank account of the assessee is attached by various government agencies for any reason. It is absolute unfair to make a permanent disallowance in relation to such unintentional delay in making payment of the welfare funds.

29.5 Examination by the Committee:

29.5.1 On the issue of omitting section Clause 29(1)(c) of the new Bill to remove the duplication, or providing clarification, the Ministry has responded stating that, 'The stakeholder seeks to omit clause 29(1)(c) relating to business deduction to employer for contribution to approved gratuity fund [36(1)(v) of the Act]. The rationale for the request has not been given. In the alternative, clarification has been sought on interplay of cl 29(1)(c) with cl. 29(1)(d) [40A(7) relating to non-allowance of deduction for provision for gratuity fund]. There is no change in the provisions of the Bill vis a vis Act. The two clauses are for different purposes. One provision is related to amount of deduction which can be claimed and the other is related to non-deductibility where a provision is created without any actual payment. There is no ambiguity in the provisions. The suggestion is not feasible.

29.5.2 Further, elaborating on the issue during the sitting held on 05.06.2025, the representatives from the Ministry on the issue deposed as below:

'…employer makes contribution to a gratuity fund that is allowed as a deduction. So, if the employer makes only a provision for gratuity and does not actually pay the gratuity, that is not allowed as a deduction. So, there is one clause, one section that for this thing, if you make contribution to gratuity fund, it will be allowed. If you make a provision, that will not be allowed. So, basically the stakeholder is saying to omit clause 29(1)(c) or in alternative, they are requesting for a clarification. So, we think, it is very clear where contribution is made for gratuity, that is allowed as a deduction to the employer. Where he is making only a provision, not actual contribution, that is not allowed as a deduction'.

29.5.3 And on the suggestion to amend clause 29(1)(e) so as to provide that the disallowance is not made in a case where the payment of Employees' Contribution to PF / ESIC etc. is made within a reasonable period of time, the Ministry responded stating that, 'The stakeholder seeks to amend clause 29(1)(e) to provide that disallowance shall not be made in a case where the payment of Employees' Contribution to PF / ESIC etc is made within a reasonable period of time. The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The above issue has already been settled by the Hon'ble Supreme Court in the favour of the employees. Further the corresponding provisions of the Act are to protect the employee's interest and to ensure that the employer makes the payment to PF/ESIC within the due date prescribed under the respective Acts'.

29.6 Observations/Recommendations of the Committee:

The Committee after thorough examination and deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 29 to be acceptable as it is without any modifications.

Clause No.& Title:

30.Deduction on certain premium.

30.1 Provision proposed in the Income-Tax Bill, 2025:

30. The following sums shall be allowed as deduction in computing income chargeable under section 26, being premium paid:—

(a) by any assessee in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of business or profession;

(b) by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(c) by the assessee, as an employer, through any mode of payment other than cash, to effect or to keep in force an insurance on the health of its employees under a scheme framed in this behalf by—

(i) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government; or

(ii) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999.

30.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other deductions.

36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;

(ia) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(ib) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

(A) the General Insurance Corporation of India formed under section 9 of

the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(B) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

(iia) [Omitted by the Finance Act, 1999, w.e.f. 1-4-2000;]

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession :

Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

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

(iiia) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

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

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond and the amount payable by such company or fund or public sector company or scheduled bank on maturity or redemption of such bond;

(ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) [***]

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the super-annuation fund, as the case may be; and subject

to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed [16][fourteen] per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation 1.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

Explanation 2.—For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:

Provided that in the case of an assessee to which clause (viia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit

balance in the provision for bad and doubtful debts account made under that clause:

Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.

Explanation 1.—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee.

Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches;

(viia) in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :

Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:

Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent" had been substituted :

Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the fore going provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession."

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;

(b) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);

(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):

Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year;

(d) a non-banking financial company, an amount not exceeding five per cent of the total income (computed before making any deduction under

this clause and Chapter VI-A).

Explanation.—For the purposes of this clause,—

(i) "non-scheduled bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

(ia) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

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

(iv) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(v) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of this sub-section;

(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(vii) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits

derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) "specified entity" means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,—

(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary

co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(g) "infrastructure facility" means—

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(viiia) [***]

(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) and sub-section (5) of section 35, of sub-section (3) of section 41 and of Explanation 1 to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;

(x) [***]

(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system :

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act :

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;

(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same

meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;

(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities trans actions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;

(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government;

(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply—

(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the

business of banking or money-lending which is carried on by the assessee;

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year), but the Assessing Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) and the Assessing Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;

(v) where such debt or part of debt relates to advances made by an assessee to which clause (viia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.

30.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 30 of the Bill deals with deductions allowed on certain premiums. The clause corresponds to provisions of section 36 of the Act. Provisions of deductions related to the premiums paid by the assessee (in respect of insurance of stocks, insurance on the health of employees, insurance of the cattle) have been carved out and made a separate section. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

30.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause in entirety.

Clause No.& Title:

31.Deduction for bad debt and provision for bad and doubtful debt.

31.1 Provision proposed in the Income-Tax Bill, 2025:

31. (1) The amount mentioned in column C of the Table below, in respect of any provision for bad and doubtful debts made by the assessee specified in column B thereof, shall be allowed as a deduction in computation of income chargeable under section 26.

Sl No.	Specified assessee	Amount of deduction
A	B	C
1.	(a) A scheduled bank, other than a bank incorporated by or under the laws of a country outside India; or (b) a non-scheduled bank; or (c) a co-operative bank, other than— (i) a primary agricultural credit society; or (ii) a primary co-operative agricultural and rural development bank.	(a) not more than 8.5% of the total income of the tax year computed before making any deduction under this clause and Chapter VIII, and an additional amount up to 10% of the aggregate average advances made by rural branches computed in the manner as prescribed; (b) for an assessee mentioned in clauses (a) and (b) of column B, at its option, an additional amount in excess of clause (a) of this

		column but not more than the income from redemption of securities as per a scheme framed by the Central Government, when such income has been disclosed in the return of income under the head "Profits and gains of business or profession".
2.	(a) A bank incorporated by or under the laws of a country outside India; or (b) a public financial institution or a State Financial Corporation or a State Industrial Investment Corporation; or (c)a non-banking financial company.	Not more than 5% of the total income of a tax year computed before making any deduction under this clause and Chapter VIII.

(2) Any amount of bad debt, or part of it, in the tax year in which such amount is written off as irrecoverable in the accounts of the assessee, shall be allowed as deduction in computation of income chargeable under section 26, subject to the following conditions:—

(a) it has been taken into account in computing the income of the assessee of the tax year in which it is written off, or any earlier tax year, or represents the money lent in the ordinary course of the business of banking or money lending which is carried on by the assessee;

(b) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the tax year in which the ultimate recovery is made;

(c) where it relates to an assessee to which sub-section (1) applies,—

(i) only that amount which exceeds the credit balance in the provision for bad and doubtful debts account made under that sub-section shall be allowed as deduction;

(ii) it shall be allowed only when the assessee has debited such amount in that tax year to the provision for bad and doubtful debts account made under that sub-section; and
(d) the account referred to in clause (c) shall be only one such account under sub-section (1) and such account shall be related to all types of advances, including advances made by rural branches.
(3) For the purposes of this sub-section (2),—
(a) any bad debt or part of it written off as irrecoverable shall not include any provision for bad and doubtful debt;
(b) any amount of bad debt or part of it, which has been taken into account in computing the income of the assessee of the tax year in which the amount of bad debt or part of it becomes irrevocable or of an earlier tax year, as per income computation and disclosure standards notified under section 276(2) without recording it in the accounts, shall be allowed as a deduction in computing the income of the assessee of the tax year in which it becomes irrecoverable and such bad debt or part of it shall be deemed to be written off as irrevocable in the accounts for the purposes of sub-section (2).

31.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other deductions.
36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;
(ia) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;
(ib) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—
(A) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or
(B) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

(iia) [Omitted by the Finance Act, 1999, w.e.f. 1-4-2000;]

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession :

Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

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

(iiia) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

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

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond and the amount payable by such company or fund or public sector company or scheduled bank on maturity or redemption of such bond;

(ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) [***]

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the super-annuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on

account of an employee to the extent it does not exceed 16[fourteen] per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation 1.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

Explanation 2.—For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:

Provided that in the case of an assessee to which clause (viia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause:

Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or

part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.

Explanation 1.—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee.

Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches;

(viia) in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :

Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:

Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent" had been substituted :

Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the fore going provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession."

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;

(b) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);

(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):

Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year;

(d) a non-banking financial company, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A).

Explanation.—For the purposes of this clause,—

(i) "non-scheduled bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

(ia) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of

Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

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

(iv) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(v) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of this sub-section;

(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(vii) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) "specified entity" means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,—

(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(g) "infrastructure facility" means—

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(viiia) [***]

(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) and sub-section (5) of section 35, of sub-section (3) of section 41 and of Explanation 1 to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;

(x) [***]

(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system :

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act :

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;

(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;

(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities trans actions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered intoin the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;

(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane

at a price which is equal to or less than the price fixed or approved by the Government;

(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply—

(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year), but the Assessing Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) and the Assessing Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;

(v) where such debt or part of debt relates to advances made by an assessee to which clause (viia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.

31.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 31 of the Bill deals with provisions related to Deduction for bad debt and provision for bad and doubtful debt. The clause corresponds to provisions of section 36 of the Act. In the Income-Tax Act, 1961, provisions related to the deduction for bad debts are contained in Section 36(1)(vii), (viia), and 36(2), which include 10 clauses/subsections, 6 provisos and 4 explanations. These provisions have now been consolidated into a separate section. Additionally, for banks and financial institutions, the allowance for bad debt provisions has been presented in a tabular format. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

31.4 Important Views/Suggestions given by Experts/Stakeholders:

- In the third and eighth lines of Clause 31(3)(b), it is submitted that the word "irrecoverable" may be more appropriate than "irrevocable" in the context of bad debts.
  31(3)(b): "...amount of bad debt or part of it becomes irrecoverable… …..shall be deemed to be written off as irrecoverable..."
- In view of rising NPAs and related provisioning requirement, it is recommended that the deduction for provision for NPA at 8.5% of gross total income as per section 36(1)(viia) of the Act be increased to 12%-15% in the new section 31(1)(a) of the ITB, 2025.

31.5 Examination by the Committee:

31.5.1 On the issue of use of the word "irrecoverable" being more appropriate than "irrevocable", the Ministry in their response furnished that, ‘It is an inadvertent drafting error. Instead of the word "irrevocable", words "irrecoverable" should be used as provided in the corresponding provision in the IT Act.’

31.5.2 With regard to the suggestion seeking to increase the deduction for provision for Non Performing Assets (NPA) from 8.5% of total income to 12-15%. [s. 36(1)(viia) -- cl. 31(1)(a)], the Ministry furnished that, ‘The suggestion is in the nature of policy. For banks, in addition to deduction of 8.5% of GTI on account of provision for NPAs, deduction of 10% of aggregate average advances made by rural branches is also provided. This is a significant deduction. The limit of 8.5.% was increased in 2017 from earlier 7.5% (In 2002 it was raised from 5 to 7.5). The suggestion is not feasible’.

31.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that the word *"irrevocable"* has been used in the third and eighth lines of Clause 31(3)(b). The Committee feel that the word *"irrecoverable"* is more appropriate in the context of bad debts. The Committee, thus, recommend that in the third and eighth lines of Clause 31(3)(b), the word *"irrevocable"* may be substituted with *"irrecoverable"*.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

32.Other deductions

32.1 Provision proposed in the Income-Tax Bill, 2025:

32. The following amounts shall be allowed as deduction in computing income chargeable under section 26:—

(a) bonus or commission paid to an employee for services rendered, but only when such sum would not have been payable to the employee as profits or dividend if it had not been paid as bonus or commission;

(b) interest paid in respect of capital borrowed for the purposes of business or profession, where—

(i) interest shall not include interest on capital borrowed for acquisition of an asset, whether capitalised in the books of account or not, for any period beginning from the date the capital was borrowed for acquisition of the asset till the date that asset was first put to use;

(ii) recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies fulfilling the conditions as prescribed, shall be deemed to be capital borrowed;

(c) contribution paid by a public financial institution to the credit guarantee fund trust for small industries as the Central Government may, by notification, specify;

(d) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner, as prescribed, where—

(i) “discount” means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond, and the amount payable on maturity or redemption of such bond;

(ii) “period of life of bond” means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(e) the amount carried to a special reserve created and maintained by a specified entity, subject to the following conditions:—

(i) the deduction shall not exceed 20% of the profits derived from an eligible business computed under the head “Profits and gains of business or profession” before any deductions under this clause; and

(ii) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of

general reserves of the specified entity, no deduction shall be allowable on such excess,

and for the purposes of this clause,—

(A) “specified entity” means—

(I) a financial corporation as specified in section 2(72) of the Companies Act, 2013;

(II) a financial corporation which is a public sector company;

(III) a banking company;

(IV) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(V) a housing finance company; and

(VI) any other financial corporation including a public company;

(B) “eligible business” means,—

(I) in respect of any of the specified entities referred to in clauses (e)(A)(I) to(IV), the business of providing long-term finance for—

(a) industrial or agricultural development;

(b) development of infrastructure facility in India; or

(d) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner, as prescribed, where—

(i) “discount” means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond, and the amount payable on maturity or redemption of such bond;

(ii) “period of life of bond” means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(e) the amount carried to a special reserve created and maintained by a specified entity, subject to the following conditions:—

(i) the deduction shall not exceed 20% of the profits derived from an eligible business computed under the head “Profits and gains of business or profession” before any deductions under this clause; and

(ii) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of general reserves of the specified entity, no deduction shall be allowable on such excess,

and for the purposes of this clause,—

(A) “specified entity” means—

(I) a financial corporation as specified in section 2(72) of the Companies Act, 2013;

(II) a financial corporation which is a public sector company;

(III) a banking company;

(IV) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(V) a housing finance company; and

(VI) any other financial corporation including a public company;

(B) “eligible business” means,—

(I) in respect of any of the specified entities referred to in clauses (e)(A)(I) to(IV), the business of providing long-term finance for—

(a) industrial or agricultural development;

(b) development of infrastructure facility in India; or

(c) development of housing in India;

(II) in respect of the specified entity referred to in clause (e)(A)(V), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(III) in respect of the specified entity referred to in clause (e)(A)(VI), the business of providing long-term finance for development of infrastructure facility in India;

(C) “infrastructure facility” means—

(I) an infrastructure facility as defined in Explanation to section 80-IA(4)(i) of the Income-tax Act, 1961 or any other public facility of a similar nature as notified by the Board in this behalf and which fulfils the conditions as prescribed;

(II) an undertaking referred to in section 80-IA(4)(ii) or (iii) or (iv) or (vi) of the Income-tax Act, 1961; and

(III) an undertaking referred to in section 141(5);

(f) any expenditure, not being capital expenditure, incurred by a corporation or a body corporate, by whatever name called, if,—

(i) it is constituted or established by a Central Act or State Act or Provincial Act;

(ii) it is notified by the Central Government for the purposes of this clause

having regard to the objects and purposes of the Act referred to in sub-clause (i); and

(iii) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(g) the expenditure incurred by a co-operative society engaged in the business of manufacture of sugar, on purchase of sugarcane at a price equal to or less than the price fixed or approved by the Government;

(h) marked to market loss or other expected loss as computed as per the income computation and disclosure standards notified under section 276(2) and no deduction or allowance for such loss shall be allowed under any other provision of this Act;

(i) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees, subject to the following conditions:—

(i) if such expenditure or any part of it is of capital nature, one-fifth of it shall be deducted for the tax year in which it was incurred and the balance shall be deducted in equal instalments for each of the four immediately succeeding tax years;

(ii) the provisions of sections 33(11) and 112(3) shall apply to deduction under this clause as they apply in relation to deductions allowable in respect of depreciation;

(iii) the provisions of sections 38(1)(c), 39(4)(Table: Sl. No. 9) and 45(6), shall apply to an asset representing capital expenditure for promoting family planning, to the extent they apply to an asset representing capital expenditure on scientific research;

(j) the amount being difference between the cost of animals used for the purposes of the business or profession otherwise than as stock-in-trade, as reduced by the amount realised from the carcasses or animals, where such animals have died or become permanently useless; and

(k) the amount paid as securities transaction tax or commodities transaction tax, if–

(i) the taxable securities transactions or taxable commodities transactions are entered into the course of the business during the tax year; and

(ii) the income arising from such taxable securities transactions or taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

32.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other deductions.

36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;

(ia) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(ib) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

(A) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(B) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

(iia) [Omitted by the Finance Act, 1999, w.e.f. 1-4-2000;]

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession :

Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

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

(iiia) the pro rata amount of discount on a zero coupon bond having regard to the

period of life of such bond calculated in the manner as may be prescribed.

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

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond and the amount payable by such company or fund or public sector company or scheduled bank on maturity or redemption of such bond;

(ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) [***]

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the super-annuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed [16][fourteen] per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation 1.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule,

order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

Explanation 2.—For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(vii) subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:

Provided that in the case of an assessee to which clause (viia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause:

Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.

Explanation 1.—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee.

Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches;

(viia) in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding eight and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :

Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:

Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent" had been substituted :

Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the fore going provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession."

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;

(b) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);

(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):

Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year;

(d) a non-banking financial company, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A).

Explanation.—For the purposes of this clause,—

(i) "non-scheduled bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

(ia) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

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

(iv) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(v) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of this sub-section;

(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(vii) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) "specified entity" means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,—

(i) in respect of the specified entity referred to in sub-clause (i) or

sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(g) "infrastructure facility" means—

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(viiia) [***]

(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) and sub-section (5) of section 35, of sub-section (3) of section 41 and of Explanation 1 to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;

(x) [***]

(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system :

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act :

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;

(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;

(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities trans actions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered intoin the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;

(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government;

(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply—

(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year), but the Assessing Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) and the Assessing Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;

(v) where such debt or part of debt relates to advances made by an assessee to which clause (viia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of

debt in that previous year to the provision for bad and doubtful debts account made under that clause.

32.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 32 of the Bill deals with other deductions allowed to the assessees. The clause corresponds to section 36 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. (Cl. 32(1)(h) is to be amended to provide for disallowance of MTM losses not computed as per ICDS)

32.4 Important Views/Suggestions given by Experts/Stakeholders:

- Drafting suggestion w.r.t. use of word “financial corporation”. Section 2(72) of the CA-13 defines the term “public financial institution” and the term “financial corporation” has not been used/defined therein.

- Absence of a specific provision like Section 40A(13) in ITB 2025 may reignite past controversies regarding the applicability of ICDS I and whether it is binding on taxpayers.
  Insert a specific provision similar to Section 40A(13) of ITA 1961 to deny deduction of any MTM or expected loss not in accordance with ICDS, ensuring clarity and avoiding litigation.

- It is suggested to include Provision for claims incurred but not reported (IBNR) in clause (d) of Part B of Schedule XIV of New Income-Tax Bill, 2025 as under:
  “such amount carried over to reserve for unexpired risk and Provision for claims IBNR shall be allowed as deduction.”
  Separate adjustment in clause (e) in part B of Schedule XIV for amount carried over to catastrophe reserve. Similar amendment in section 32(1) (e) of New Tax Bill,2025 is also required for allowing deduction.
  As per Clause 32(1)(e) of New Income-Tax Bill,2025, a specified entity carrying on eligible business gets deduction for amount transfer to special reserve created and maintained by it which shall be least of the following:
  (a)Amount transfer to special reserve;
  (b) 20% of profits derived from eligible business (before this deduction);
  (c) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of general reserves of the specified entity, no deduction shall be allowable on such excess.
  We would therefore suggest amendments under the provisions of New Tax Bill, for claiming deduction of Provision for Catastrophe Reserve under clause

32(1)(e) as under:

(a) Reinsurance Company to be covered as “specified entity” under Explanation (A) to clause 32 (1)(e) ,

(b) Company carrying on reinsurance business to be covered as “eligible business” under Explanation (B) to clause 32 (1)(e) ;

and

(c) Corresponding amendment under Schedule XIV of having separate clause (e) for amount carried over to catastrophe reserve as per clause 32 (1)(e) to be allowed as deduction.

- The definition of Infrastructure facility consists of three limbs both in the new bill as well as in the existing Act. Sub point 1 and 2 in both the definitions are the same i.e.,the new bill is in line with the provisions of the existing ITA, 1961 as the said sub points in the new bill directly refer to the existing provisions of the Income-Tax Act, 1961. Sub point 3 in both the definitions refer to two different sections. In the existing Act, it refers to Section 80-IB(10) of the existing Act whereas the new bill refers to Section 141(5) of the new bill. There is no Section 141(5) in the whole new Income-Tax Bill, 2025 and it has only two sub clauses (a) and (b) and accordingly a part of definition is missing in the new law.

  Thus, it is recommended to include the same item (III) from the existing law i.e., “an undertaking referred to in sub-section (10) of section 80-IBof the Income-tax Act, 1961” in place of the words “an undertaking referred to in section 141(5)”.

- "Infrastructure Facility" and "Undertaking" definitions should be reproduced in this section. There should be no requirement to refer to the provisions of the Income-Tax Act 1961 after it is repealed, otherwise the very purpose of simplification gets defeated if one has to refer to the provisions of a repealed Act even many decades after its repeal.

32.5 Examination by the Committee:

32.5.1 With regard to the suggestion of replacing the words " financial corporation" with words "public financial institution", the Ministry stated that the suggestion made by the stakeholder is acceptable. The words" financial corporation" may be replaced with words "public financial institution" as provided in section 2(72) of the Companies Act 2013**.**

32.5.2 With regard to the suggestion seeking deduction for Provision for claims incurred but not reported (IBNR) for insurance business, the Ministry in their response furnished that, ‘The suggestion is in the nature of policy change which is beyond the scope of the

objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act.It has been firther stated that, ‘IBNR claims is the amount owed by an insurer to all valid claimants who have had a covered loss but have not yet reported it. Since the insurer knows neither how many of these losses have occurred, nor the severity of each loss, IBNR is necessarily an estimate. Since the IBNR is not an ascertained liability, its deduction would result in undue deferment of taxes’.

32.5.3 With regard to the suggestion seeking to provide definition of "infrastructure facility" and "undertaking" in clause 32(1)(C) itself instead of making reference to the provisions of sec 80IA of Income-Tax Act, 1961, the Ministry responded that ‘The definition of 'infrastructure facility' shall be examined to be included in the Bill’.
And the following has been furnished on the issue by the Ministry, ‘The draft shall be incorporated in consultation with the Ministry of Law’.

32.5.4 On the issue of including the same item (III) from the existing law i.e., “an undertaking referred to in sub-section (10) of section 80-IBof the Income-tax Act, 1961” in place of the words “an undertaking referred to in section 141(5)” the Ministry stated that ‘It is an inadvertent drafting error. The referencing in 32(1)(c) is incorrect which is to be corrected’.

32.5.5 On the issue of provision for disallowance of MTM losses not computed as per ICDS, the Ministry in their response furnished that, ‘There is an inadvertent error in cl. 32(1)(h) as there is no provision for disallowance of MTM losses not computed as per ICDS. The same has to be provided in cl. 32(1)(h) of the Bill. The suggestion is acceptable.’

32.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that the term *"financial corporation"* has been used in Clause 32(1)(e)(ii)(A)(I) which is not defined under Section 2(72) of the Companies Act, 2013 (CA-13). The Committee, thus recommend that in Clause 32(1)(e)(ii)(A)(I), the term *"financial corporation"* be replaced with *"public financial institution"*, as the latter is the term defined under Section 2(72) of the Companies Act, 2013 (CA-13), whereas the term *"financial corporation"* is not defined therein.

Further, with respect to Clause 32(1)(e)(ii)(C)(III), the Committee recommend that the expression *"an undertaking referred to in sub-section (10) of Section 80-IB of the Income-tax Act, 1961"* be used instead of *"an undertaking referred to in section 141(5)"*, as no such Section 141(5) exists in the draft Income-Tax Bill, 2025. The Committee on similar lines of reproducing definition of 'infrastructure facility' in the Bill from the Income-Tax Act, 1961, also urge for reproducing the definition of 'undertaking' instead of the expression "*an undertaking referred to in sub-section (10) of Section 80-IB of the Income-tax Act, 1961".* The same may be appropriately done by clubbing in the savings clause 536.

With regard to provision 32(1)(h) for disallowance of Marked to Market (MTM) losses not computed as per Income Computation and Disclosure Standards (ICDS), the Committee recommend that the same be provided for in Clause 32(1)(h) of the Bill.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

33.Deduction for depreciation

33.1 Provision proposed in the Income-Tax Bill, 2025:

33. (1) A deduction in respect of depreciation of—

(a) buildings, machinery, plant or furniture, being tangible assets;

(b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired, not being goodwill of a business or profession,

owned wholly or partly by the assessee and used wholly and exclusively for the purposes of the business or profession, shall be allowed, as per the provisions of this section.

(2) In case of assets referred to in sub-section (1) of an undertaking engaged in generation or generation and distribution of power, the depreciation shall be a percentage of its actual cost to the assessee, as prescribed.

(3) (a) In case of any block of assets, depreciation shall be a percentage of its written down value, as prescribed;

(b) when anyasset forming part of the block of assets is partly, or not wholly and exclusively, used for the purposes of the business or profession, the deduction allowable shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession;

(c) when deduction of actual cost in respect of any machinery or plant has been allowed under section 54, no deduction under this sub-section shall be allowed.

(4) The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in sub-sections (1), (2) and (8) is—

(a) acquired by the assessee during the tax year; and

(b) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.

(5) The allowable deduction calculated at the prescribed rates under this section shall be allowed on pro rata basis based on number of days for which assets were used by the following:—

(a) predecessor and successor, in case of a succession under section 70(1)(zd) or (ze) or (zf), or section 313; or

(b) amalgamating company and the amalgamated company in case of an amalgamation; or

(c) demerged company and the resulting company in case of a demerger.

(6) Where a building, not owned by the assessee, is held on lease or by any other right of occupancy is used for the purposes of business or profession, and if any capital expenditure is incurred by the assessee for the purposes of business or profession on construction of any structure or any work by way of renovation, extension or improvement to such building, then such structure or work shall be treated as a building owned by the assessee for the purposes of this section.

(7) The provisions of this section shall apply even when the assessee has not claimed deduction for depreciation in computing the total income.

(8) Further sum in addition to deduction under sub-section (3) shall be allowed, when–
—

(a) the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power;

(b) the assessee acquires and installs any new machinery or plant;

(c) the new machinery or plant is first put to use by the assessee for the purposes of business; and

(d) the new machinery or plant—

(i) is not a ship or an aircraft;

(ii) was not used either within or outside India by any other person before its installation by the assessee;

(iii) is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iv) is not in the nature of any office appliances or road transport vehicle; and

(v) is not of a class of asset on which the whole of the actual cost is allowable as a deduction (whether by way of depreciation or otherwise) in computing the income under the head “Profits and gains of business or profession” of any tax year.

(9) The additional deduction referred to in sub-section (8) shall be—

(a) 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; or

(b) 10% of the actual cost, if the new machinery or plant is acquired and put to use for less than one hundred and eighty days in the relevant tax year, and the remaining 10% shall be allowed in the immediately succeeding tax year.

(10) The difference between the written down value and the money payable including the scrap value, if any, shall be allowed as deduction when any tangible asset in respect of which depreciation is claimed and allowed under sub-section (2)—

(a) is sold, discarded, demolished or destroyed in the tax year not being the tax year in which it is first put into use;

(b) the money payable including the scrap value, if any, is less than its written down value; and

(c) such deficiency is actually written off in the books of account of the assessee.

(11) (a) Where the profits and gains chargeable for the tax year before allowing the deduction under sub-section (1) is less than the allowable deduction under that sub-section, then—

(i) if such profits and gains is not a loss, the deduction under sub-section (1) shall be allowed to the extent of the available profits and gains;

(ii) if such profits and gains is a loss, no deduction under sub-section (1) shall be allowed;

(b) the amount of deduction which has not been allowed under clause (a) shall be added to the allowable deduction under this section, whether available or not, for the succeeding tax year and the total amount shall be deemed to be eligible for deduction in that year, and so on for the succeeding tax years;

(c) the provisions of this sub-section shall be subject to the provisions of sections 112(3) and 113(4); and

(d) any deduction in respect of any depreciation carried forward to the succeeding tax year under this sub-section shall be deemed to be depreciation, actually allowed.

(12) In this section,—

(a) "assets" mean—

(i) tangible assets, being buildings, machinery, plant or furniture;

(ii) intangible assets being—

(A) know-how;

(B) patents;

(C) copyrights;

(D) trademarks;

(E) licences;

(F) franchises; or

(G) any other similar business or commercial rights, but not being goodwill of a business or profession;

(b) "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(c) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of a banking company, as referred to in section 5(c) of the Banking Regulation Act, 1949 with a banking institution as referred to in section 45(15) of the

said Act, sanctioned and brought into force by the Central Government under section 45(7) of that Act, of any asset by the banking company to the banking institution;

(d) "written down value of the block of assets" shall have the same meaning as in section 41(1)(Table: Sl. No. 3)

33.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Depreciation.

32. (1) In respect of depreciation of—

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998, not being goodwill of a business or profession,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—

(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;

(ii) in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:

Provided that no deduction shall be allowed under this clause in respect of—

(a) any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975 but before the 1st day of April, 2001, unless it is used—

(i) in a business of running it on hire for tourists ; or

(ii) outside India in his business or profession in another country ; and

(b) any machinery or plant if the actual cost thereof is allowed as a deduction in one or more years under an agreement entered into by the Central Government under section 42 :

Provided further that where an asset referred to in clause (i) or clause (ii) or clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such

asset shall be restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii) or clause (iia), as the case may be :

Provided also that where an asset referred to in clause (iia)or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (iia)for that previous year, then, the deduction for the balance fifty per cent of the amount calculated at the percentage prescribed for such asset under clause (iia)shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset:

Provided also that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.

Explanation.—For the purposes of this proviso,—

(a) the expression "commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller";

(b) the expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988):

Provided also that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under this clause shall, in the case of a company, be restricted to seventy-five per cent of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991:

Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the

predecessor and the successor in the case of succession referred to in clause (xiii), clause (xiiib) and clause (xiv)of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.

Explanation 1.—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

Explanation 2.—For the purposes of this sub-section "written down value of the block of assets" shall have the same meaning as in clause (c) of sub-section (6) of section 43.

Explanation 3.—For the purposes of this sub-section, the expression "assets" shall mean—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession.

Explanation 4.—For the purposes of this sub-section, the expression "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto).

Explanation 5.—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;

(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by

an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power, a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii) :

Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia)shall have effect, as if for the words "twenty per cent", the words "thirty-five per cent" had been substituted :

Provided further that no deduction shall be allowed in respect of—

(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of aguest-house; or

(C) any office appliances or road transport vehicles; or

(D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof :

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in

respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of that Act, of any asset by the banking company to the banking institution.

(iv) [***]

(v) [***]

(vi) [***]

(1A) [***]

(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.

33.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 33 of the Bill provides for deduction of depreciation in respect of assets owned and used for the purposes of business. The clause corresponds to section 32 of the Act. Section 32 included 6 clauses/subsections, 8 provisos, and 6 explanations. In the new bill, all provisos and explanations have been converted into subsections/clauses. These changes make the provision easier to understand and comply with. There has been no change in the rate of depreciation, eligibility, or method of allowance. Some of the provisions have been removed which have become redundant as they were applicable for very old years and not relevant now (For example 1st Proviso to Section 32(1), 4th Proviso to Section 32(1) and 5th Proviso to Section 32(1)). The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

33.4 Important Views/Suggestions given by Experts/Stakeholders:

- In the existing provisions, the word intangible asset is specifically attached to a period i.e., any intangible asset acquired on or after the 1stday of April, 1998. Whereas, under the new bill only the word acquired is used and it is not supported by any period. As per the existing law, the provisions are very clear in stating that depreciation would be applicable only on those assets which are acquired after a particular date and not on all assets. The provisions of the new bill now leaves an open question of whether any intangible asset which is acquired prior to 01-04-1998 and on which no depreciation was allowed under the existing law, would also be eligible to claim depreciation as per the new law. Thus, it is proposed to add the words 'acquired on or after the 1st day of April, 1998' in the provisions of the new bill as well to avoid any other possible interpretation.

- Section 38 restricts depreciation to the fair proportionate part as determined by the Assessing Officer in case of tangible assets partly, or not wholly and exclusively, used for business purposes. Clause 33 refers to block of assets in case of utilization of assets partly, or not wholly and exclusively, used for business purposes. Therefore, also includes intangible assets. Use of the term "block of assets" suggests that intangible assets are also covered for purpose of computing proportionate part, used for business purposes in addition to tangible assets. We suggest to retain the term "tangible assets" instead of "block of assets".

To align it with the benefit provided under the current at as the intent of the bill is only to bring clarity and not to make amendments to the existing Income-Tax provisions.

- Reference to sub-section (8) can be removed in sub-section (4). Sub-section (4) may be re-drafted as under -
  (4) The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in subsections
  (1) and (2) and (8) is—
  (a) acquired by the assessee during the tax year; and
  (b) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.
  Reference to sub-section (8) can be removed in subsection (4), since subsection (9) contains the specific provision for restricting additional depreciation to 50%, where the asset is acquired and put to use for less than 180 days.

- The provision 33(4) restricts rate of depreciation to 50% in case of asset being put to use for less than 180 days. The provisions as proposed do not make reference to section 33(3) which provides rate of depreciation in case of block of assets. Thus, changes are proposed as below:
  The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in subsections (1), (2), (3) and (8) is (a) acquired by the assessee during the tax year; and (b) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.

- Sub-section (9) can be redrafted by bringing the condition before the rate in (a) and (b) for greater clarity i.e. Sub-section (9) can be redrafted as follows -
  (9) The additional deduction referred to in sub-section (8) shall be—
  (a) If the new plant and machinery is acquired and put to use for 180 days or more in the relevant tax year, 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; or
  (b) In other cases, 10% of the actual cost, and the remaining 10% shall be allowed in the immediately succeeding tax year.

- With respect to 33 (11) (a) changes as below proposed to convey the right meaning. (11) (a) Where the profits and gains chargeable for the tax year before allowing the deduction under sub-section (1) is less than the allowable deduction under that subsection, then— (i) in case of ~~if such~~ profits and gains ~~is not a loss~~, the deduction under sub-section (1) shall be allowed to the extent

of the available profits and gains; (ii) ~~if such profits and gains is a loss~~ in case of loss, no deduction under sub-section (1) shall be allowed;

- 33(12)(c) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of co-operative bank, of any asset by the amalgamating co-operative bank to the amalgamated co-operative bank or in a scheme of amalgamation of a banking company, as referred to in section 5(c) of the Banking Regulation Act, 1949 with a banking institution as referred to in section 45(15) of the said Act, sanctioned and brought into force by the Central Government under section 45(7) of that Act, of any asset by the banking company to the banking institution;
  “Sale” to also exclude transfer in a scheme of amalgamation of cooperative bank, of any asset by the amalgamating cooperative bank to the amalgamated co-operative bank.

- With a view to avoid litigation with respect to nature of expenditure (i.e., capital or revenue) in case of purchase of small items of assets, provisions should be introduced to treat cost of such assets as depreciation allowance. The limit of cost of small items of asset Rs. 25,000 can be fix-up to treat the cost of such assets as depreciation allowance. Such a provision will provide accounting simplification and avoid possible litigations.

- Recognition of Goodwill as a deductible item. The Government should unshackle itself from narrow construct of whether goodwill could actually depreciate or not and allow the benefit as an amortization over a 5-10 years period. To avoid any misuse, this benefit can be restricted to transactions where the transferor is taxable.

- Energy Storage Systems as an infrastructure sector was included in the Harmonized list of infrastructure sub-sectors in 2022 to promote foreign investment. Currently, the rate of depreciation on such energy storage systems is 15%. In order to further promote investment in this sector, higher rate of depreciation i.e. 40% should be allowed on Energy Storage Systems and related assets. To amend depreciation schedule to provide 40% depreciation rate on Energy Storage Systems.

- The rate of depreciation for EVs is 40%. However, EV batteries are not specifically eligible for 40% depreciation. Thus, replacement batteries or

purchasing of spare batteries for commercial EV companies are eligible only for 15% depreciation. In order to further promote investment in this sector, higher rate of depreciation i.e 40% should be allowed on EV batteries as well. To amend depreciation schedule to provide 40% depreciation rate on EV batteries.

- Depreciation rates be brought in line with the rates prescribed in the Companies Act. If the rates of depreciation in the Income-tax Act are aligned with the Companies Act, it would reduce the difference between the income as per the Income-Tax Act and the book profit.

33.5 Examination by the Committee:

33.5.1. On the suggestion to add the words 'acquired on or after the 1st day of April, 1998' for intangible assets in Clause 33(1)(b), the Ministry stated that, 'It is an inadvertent drafting error. The words" acquired on or after the 1st day of April, 1998" is to be added for intangible assets in clause 33(1)(b) of the Bill'.

33.5.2 On the suggestion to retain the term "tangible assets" instead of "block of assets" in clause 33(2)(b), the Ministry stated that, 'It is an inadvertent drafting error. The current provision of sec 38 of the Act provide for restriction on allowance of depreciation on tangible assets which are not fully used for the purposes of business. The corresponding provision of the Bill i.e. clause 33(2)(b) inadvertently covers intangible assets also. The provision shall be aligned with the Act.

33.5.3 With respect to reference to sub-section (8) being removed in sub-section (4), the Ministry accepted that it is an inadvertent drafting error and restriction of additional depreciation to 50% of prescribed rate where asset is used for less than 180 days has been mentioned twice. The same needs to be corrected.

33.5.4 And with regard to the provision 33(4) not making reference to section 33(3) which provides rate of depreciation in case of block of assets, the Ministry stated that 'It is an inadvertent drafting error. The reference of clause 33(3)(a) has been inadvertently missed in clause 33(4)'.

33.5.5 On the issue of Sub-section (9) being redrafted by bringing the condition before the rate in (a) and (b) for greater clarity, the Ministry furnished that 'It is an inadvertent drafting error. Clause 33(9) which provides for rate of additional depreciation is to be redrafted to align it with the present provisions of the Act to remove any ambiguity'.

33.5.6 Regarding the suggestion to redraft provision of clause 33(11)(a), the Ministry stated that, 'The suggestion is a drafting improvement without indicating whether the

present drafting has any ambiguity. A provision could be drafted in hundreds of ways. The suggestion is not feasible'.

33.5.7 On the issue of recognition of 'Goodwill' as a deductible item, the Ministry in their written response furnished that 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.' And in a detailed reply on the issue, the Ministry furnished that,

(i) 'Goodwill was specifically excluded from intangible assets in 2021 as there was no specific mechanism to compute goodwill.
(ii) Goodwill can appreciate also. Therefore, it would be incorrect to contend that goodwill is only a depreciable asset and therefore should be provided depreciation benefit.
(iii) A loss-making entity can assign astronomical value to goodwill and sell it to a profit-making entity. The profit-making company will set-off its profits by depreciation and the loss-making entity will not pay any tax on receipts from goodwill.
(iv) This will encourage tax avoidance and tax arbitrage.'

33.5.8 Furthermore, during the sitting of the Committee held on 26.05.25 the Members deliberated on the issue of depreciation of goodwill and agreed with the Ministry officials who stated that: *'…depreciation on goodwill…It is liable to misuse'*.

And during the sitting held on 17.06.2025, representatives from the Department of Revenue stated:

> *"…So, regarding goodwill, in 2021, it was specifically excluded from the definition of intangible assets because of two, three reasons. One was that there was no specific mechanism to compute goodwill. Secondly, with respect to goodwill, they are asking for depreciation. Our position is that goodwill is not a depreciable asset. We cannot say that goodwill is a depreciable asset only because it can appreciate also. It is because of its very nature; it can be assigned astronomical value. Sir, and a loss-making company can transfer goodwill to a profit-making company. A profit-making company reduces its tax liability and then the loss-making company does not pay anything because it is loss-making".*

33.5.9 On the suggestion seeking to change the definition of "sold" so as to exclude transfers by way of amalgamation of co-operative banks in clause 33(12)(c) of the Bill, the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. The amalgamation of co-operative bank is not monitored by courts. Therefore, it may not be possible to extend the exclusion to the amalgamation of co-operative bank'.

33.5.10 The Ministry in their comments on the suggestion with regard to limit of cost of small items of asset Rs. 25,000 be fixed-up to treat the cost of such assets as depreciation allowance stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

33.5.11 With regard to the suggestion to change the depreciation rate for Energy storage system and EVs, the Ministry stated that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Depreciation rate is linked to the period for useful life of an asset. It has not been shown as to what is the useful life of an energy storage system. The suggestion is not feasible'.

33.5.12 On the suggestion to align the depreciation rate with that of Companies Act the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Under the Income-Tax Act, 1961, depreciation is calculated on Written down Value (WDV) method. In the Companies Act, depreciation is allowed on straight line method. WDV is closer to the actual business practices. Also, the change will have significant revenue impact. The suggestion is not feasible'.

33.6 Observations/Recommendations of the Committee:

The Committee, upon examination of Clause 33 of the Income-Tax Bill, 2025, observe that the phrase "intangible assets acquired" under Clause 33(1)(b) does not specify a cut-off date. Under the provisions of the Income-Tax Act, 1961, depreciation on intangible assets is allowed only for those acquired on or after 1st April, 1998. The Committee thus, recommend that in Clause 33(1)(b), the words *"acquired on or after the 1st day of April, 1998"* be inserted after the phrase *"intangible assets acquired"*, to ensure that depreciation is allowed only on those intangible assets acquired after the specified date, in line with the provisions of the 1961 Act, and not on all such assets.

Further, with regard to the Clause, the Committee recommend that the term *"tangible assets"* be used in place of *"block of assets"*. This is because the term "block of assets" implies the inclusion of intangible assets as well for the purpose of computing the proportionate part used for business. However, under the 1961 Act, depreciation in such cases is restricted to a fair proportion as determined by the Assessing Officer and is applicable only to tangible assets that are either partly or not wholly and exclusively used for business purposes.

In addition, the Committee recommend that the reference to sub-section (8) be deleted from sub-section (4), since sub-section (9) already contains a specific provision that restricts additional depreciation to 50% where the asset is acquired and put to use for less than 180 days.

The Committee also recommend that a reference to Clause 33(3) be added in Clause 33(4), as Section (3) deals with the rate of depreciation applicable in the case of a block of assets.

To enhance clarity in Clause 33(9), the Committee recommend that the condition precede the rate in sub-clauses (a) and (b), and that the sub-section be redrafted as follows:

(9) The additional deduction referred to in sub-section (8) shall be—–

(a) If the new plant and machinery is acquired and put to use for 180 days or more in the relevant tax year, 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; or

(b) In other cases, 10% of the actual cost, and the remaining 10% shall be allowed in the immediately succeeding tax year.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

34.General conditions for allowable deductions.

34.1 Provision proposed in the Income-Tax Bill, 2025:

34 (1) Any expenditure (not being an expenditure of the nature specified in sections 28 to 33 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession”.

(2) For the purposes of sub-section (1), an expenditure laid out or expended wholly and exclusively for business or profession by the assessee shall not include any of the following:—

(a) an expenditure incurred for any purpose which is an offence or is prohibited by law; or

(b) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013; or

(c) an expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet or the like, published by a political party.

(3) The expenditure mentioned in sub-section (2)(a) shall include expenditure incurred for—

(a) any purpose which is an offence under, or is prohibited by, any law in force in or outside India; or

(b) providing a benefit or perquisite in any form to a person, who may or may not be carrying on a business or exercising a profession, when its acceptance by the person is in violation of any law or rule or regulation or guide line governing the conduct of that person; or (c) compounding an offence under any law in force in or outside India; or

(d) settling proceedings initiated in relation to contravention under any law notified by the Central Government in this behalf.

34.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

General.

37. (1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the asses see), laid out or expended wholly and exclusively for the purposes of the

business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 1.—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

Explanation 3.—For the removal of doubts, it is hereby clarified that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,—

(i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or

(ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or

(iii) to compound an offence under any law for the time being in force, in India or [17][outside India; or

(iv) to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in the Official Gazette in this behalf].

(2) [***]

(2B) Notwithstanding anything contained in sub-section (1), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.

(3) [***]

(3A) [***]

(3B) [***]

(3C) [***]

(3D) [***]

(4) [***]

(5) [***]

34.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 34 of the Bill provides for general conditions for allowing expenditure (other than capital and personal expenditure) incurred wholly and exclusively for the purposes of business or profession being carried on by assessee. The clause corresponds to section 37 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

34.4 Important Views/Suggestions given by Experts/Stakeholders:

- The absence of a clear provision for the deduction of prior period expenses in the proposed ITB continues to perpetuate confusion and litigation, making it imperative to address this issue to provide certainty to taxpayers.
  A suitable provision should be inserted in section 37(1) of the Act (corresponding section 34 of ITB) that allows for the deduction of prior period expenses in the current year if they have not been claimed in earlier years. A limit (e.g., not exceeding 1% of turnover) may be established for such expenditures to facilitate administrative ease and avoid complications in claiming deductions for previous years. This clarification should not result in revenue loss for the Government, as corporate tax rates have remained relatively stable over the years, ensuring that the interests of both taxpayers and the Government are balanced.

- Clause (b) of sub-section (2) of section 34 be removed.
  (b) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013; or
  CSR expenses are connected to social and charitable causes. It is, therefore, rational to allow the same as deduction under section 34. There is no bar on allowability of CSR expenditure falling under the specific deductions allowable in this chapter. Therefore, there is a need to revisit this provision and allow deduction to companies of CSR expenditure incurred by them under section 34 also.

34.5 Examination by the Committee:

34.5.1 On the suggestion seeking deduction related to prior period expenses, the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the

provisions of the Bill vis a vis Act. Clause 44 of the Bill already provides for amortisation of certain preliminary expenses for five successive years beginning with the year in which business commenses. The suggestion is already taken care of.

34.5.2 On the suggestion of Clause (b) of sub-section (2) of section 34 being removed, the Ministry furnished that, 'The stakeholder seeks deductibility of the expenditure made towards Corporate Social Responsibility (CSR). The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. CSR expenses are a below the line item. They can not be made above the line item of expense. Moreover, allowing deduction of CSR would mean that part of CSR liability has been refunded to the companies by way of tax subsidy. That is not the intention of the Statute, whether it be income-tax or the companies law. It may also be stated that the CSR expenses is a responsibility cast upon the corporate which cannot be said to be incurred wholly and exclusively for the purposes of business'.

34.6 Observations/Recommendations of the Committee:

The Committee after thorough deliberation upon the provisions of the Clause and the justification given by the Ministry of Finance find the provisions of the proposed Clause 34 to be acceptable as it is without any modifications.

Clause No.& Title:

35.Amounts not deductible in certain circumstances

35.1 Provision proposed in the Income-Tax Bill, 2025:

35. Irrespective of any other provision of Chapter IV-D, the following amounts shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession":—

(a) any amount on account of—

(i) tax paid on income; or

(ii) tax paid by employer referred to in Schedule III(Table: Sl. No. 10); or

(iii) tax paid in any other country for which relief is eligible under section 159 or 160,

and shall include any surcharge or cess on such tax, by whatever name called;

(b)(i) 30% of any sum payable to a resident on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax has not been deducted or after deduction, has not been paid up to the due date specified in section 263(1), where—

(A) tax is deducted and paid during any subsequent tax year, deduction of such sum shall be allowed as a deduction in computing the income in any subsequent tax year, in which such tax has been paid;

(B) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause, the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee referred to in section 398(2);

(ii) any interest, royalty, fees for technical services or other sum chargeable under this Act which is payable—

(A)outside India; or

(B)in India to a non-resident (which is not a company) or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax, has not been deducted or after deduction, has not been paid up to the due date specified in section 263(1), where—

(I) tax is deducted and paid during any subsequent tax year, deduction of such sum shall be allowed as a deduction in computing the income in any subsequent tax year, in which such tax has been paid;

(II) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee as referred to in section 398(2);

(iii) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source under Chapter XIX-B from any payments made from the fund which are chargeable to tax under the head “Salaries”;

(c) any payment chargeable under the head “Salaries”, payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction, has not been paid;

(d)(i) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under Chapter VIII of the Finance Act, 2016 and such levy has not been deducted or, after deduction, has not been paid up to the due date specified in section 263(1);

(ii) deduction of such consideration shall be allowed in any subsequent tax year, in which such levy has been paid;

(e) any amount—

(i) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(ii)which is appropriated, directly or indirectly, from a State Government undertaking, by the State Government;

(f) the expenditure incurred by a firm, assessable as such—

(i) in the nature of salary, bonus, commission or remuneration, by whatever name called(herein referred as remuneration) to a partner, who is not a working partner; or

(ii) on the remuneration to a working partner and interest to any partner, if it is—

(A) not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid; or

(B) authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed; or

(iii) on the aggregate remuneration to all working partners as authorised by the partnership deed, exceeding the amount computed as under:—

(A) on the first six lakh rupees of the book profit or in case of a loss, three lakh rupees or 90% of the book profit, whichever is higher;

(B) on the balance of the book profit at the rate of 60%; or

(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, and where an individual is a partner in a firm, on behalf of or for the benefit of any other person, such partner and any other person shall be referred as a "representative partner" and the "person so represented", respectively, then the provisions of sub-clause (ii) and this sub-clause—

(A) shall not be applicable in respect of interest paid to such individual not as a representative partner;

(B) shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;

(C) shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person; or

(v) In this clause—

(A) "book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IV-D as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(B) "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(g) the expenditure incurred by an association of persons or a body of individuals(other than a company, or a co-operative society or society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India)—

(i) in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, made to a member of such association or body;

(ii) where the interest has been paid by the association or the body to its member and such member has also paid interest to the association or the body, then only such excess interest, if any, paid by the association or body shall not be allowed under sub-clause (i);

(iii) where an individual is a member of an association or a body on behalf, or for benefit of any other person, such member and any other person shall be referred as “representative member” and “person so represented”, respectively, then, the provisions of this clause—

(A) shall not be applicable in respect of interest paid to or received from such individual not being a representative member;

(B) shall be applicable in respect of interest paid to or received from an individual as a representative member and the person so represented;

(C) shall not be applicable in respect of interest paid to a member, otherwise than as representative member, on behalf or for the benefit of any other person.

35.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Amounts not deductible.

40. Notwithstanding anything to the contrary in sections 30 to 38, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—

(a) in the case of any assessee—

(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139 :

Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid:

Provided further that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the

purposes of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee referred to in the said proviso.

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

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

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

(ia) thirty per cent of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139 :

Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, thirty per cent of such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid :

Provided further that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the purpose of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee referred to in the said proviso.

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

(i) "commission or brokerage" shall have the same meaning as in clause (i) of the Explanation to section 194H;

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

(iii) "professional services" shall have the same meaning as in clause (a) of the Explanation to section 194J;

(iv) "work" shall have the same meaning as in Explanation III* to section 194C;

(v) "rent" shall have the same meaning as in clause (i) to the Explanation to section 194-I;

(vi) "royalty" shall have the same meaning as in Explanation 2 to

clause (vi) of sub-section (1) of section 9;

(ib) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under the provisions of Chapter VIII of the Finance Act, 2016, and such levy has not been deducted or after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139 :

Provided that where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid;

(ic) any sum paid on account of fringe benefit tax under Chapter XIIH;

(ii) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains.

Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes and shall be deemed always to have included any sum eligible for relief of tax under section 90 or, as the case may be, deduction from the Indian income-tax payable under section 91.

Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes any sum eligible for relief of tax under section 90A.

Explanation 3.—For the removal of doubts, it is hereby clarified that for the purposes of this sub-clause, the term "tax" shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax;

(iia) any sum paid on account of wealth-tax.

Explanation.—For the purposes of this sub-clause, "wealth-tax" means wealth-tax chargeable under the Wealth-tax Act, 1957 (27 of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in

computing the amount with reference to which such tax is charged, but does not include any tax charge able with reference to the value of any particular asset of the business or profession;

(iib) any amount—

(A) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(B) which is appropriated, directly or indirectly, from,

a State Government undertaking by the State Government.

Explanation.—For the purposes of this sub-clause, a State Government undertaking includes—

(i) a corporation established by or under any Act of the State Government;

(ii) a company in which more than fifty per cent of the paid-up equity share capital is held by the State Government;

(iii) a company in which more than fifty per cent of the paid-up equity share capital is held by the entity referred to in clause (i) or clause (ii) (whether singly or taken together);

(iv) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(v) an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;

(iii) any payment which is chargeable under the head "Salaries", if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;

(iv) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the

head "Salaries";

(v) any tax actually paid by an employer referred to in clause (10CC) of section 10;

(b) in the case of any firm assessable as such,—

(i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration") to any partner who is not a working partner; or

(ii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(iii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(iv) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at the rate of twelve per cent simple interest per annum; or

(v) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder :—

(a) on the first [18][Rs. 6,00,000] of the book-profit or in case of a loss

(b) on the balance of the book-profit

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

Explanation 1.—Where an individual is a partner in a firm on behalf, or for the

benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

Explanation 3.—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Explanation 4.—For the purposes of this clause, "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(ba) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India] any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the association or body to such individual or by such

individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

(c) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier, it was amended by the Finance Act, 1963, w.e.f. 1-4-1963, Finance Act, 1964, w.e.f. 1-4-1964, Finance Act, 1965, w.e.f. 1-4-1965, Finance Act, 1968, w.e.f. 1-4-1969, Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, Finance Act, 1984, w.e.f. 1-4-1985 and Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

(d) [Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.]

35.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clauses 35 of the Bill provides for amounts not to be allowed while computing the income under the head “Profit and gains of business or profession”. The clause corresponds to section 40 of the Act. Section 40(a)(ic) of the Act has been removed as it has become redundant as it was applicable for old year and not relevant now. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. (It is proposed to redraft clause 35(b)(i) and (ii) of the Bill to provide better clarity)

35.4 Important Views/Suggestions given by Experts/Stakeholders:

- With respect to Clause 35(a)(ii) reference is made to Schedule III (Table, S.No.10). Item (c) of S.No.10 in the Table which makes a reference to section 200 of Companies Act, 1956, but the referenced provision pertains to the erstwhile Companies Act, 1956, for which no corresponding provision exists under the currently applicable Companies Act, 2013. It is requested to kindly review the applicability of the said provision.

- Section 40(a)(i)/(ia) of the 1961 Act provides for disallowance of 100%/30% of sum payable to nonresident/resident in case of default in TDS compliance. Scenario A: TDS is not deducted during the tax year in which expense is incurred. Expense deduction is granted in the subsequent tax year when TDS is deducted and paid. Scenario B: TDS is deducted during the tax year in which expense is incurred but not paid before the due date of filing the tax return. Expense deduction is granted in the subsequent tax year when TDS is paid.

- An amendment to section 40(a)(ii) of the Act by Finance Bill 2006 (which corresp onds to Section 35(a)(iii) of the Bill) clarified that the claim relating to deduction of eligible FTC is prohibited, and conversely, ineligible FTC should be deductible, but multiple disputes have arisen related to this issue.
  Specific provision to be inserted in section 35(a)(iii) of the Bill to allow ineligible Foreign Tax Credit (FTC) as a business loss, as this represents actual loss su ffered by the taxpayer (due to lower realization of export turnover).

- Section 35(b)(ii) (I) can be redrafted as given below -
  (I) tax is deducted during the tax year and paid after the due date specified in section 263(1), or where tax is deducted in any subsequent tax year, such sum shall be allowed as a deduction in computing the income of such subsequent tax year in which such tax has been paid;
  The current provisions of the Income-tax Act, 1961 are clear that deduction would not be allowed if –
  (i) Deduction is during the subsequent year
  (ii) Deduction is during the relevant previous year but deposit is after the due date.
  The Bill mentions that where tax is deducted and paid during any subsequent year, deduction will be allowed in the year when the tax is paid. The Phrase in section 35(b)(ii)(I) can be redrafted for clarity to cover the situation where tax is deducted during the subsequent year also.

- Section 35(c) may be omitted. Clause (c) may be removed since it is already covered in (b)(ii) with the benefit of availability of deduction in the tax year in which the tax has been deducted, if the same is paid on or before the due date. Thereafter, the benefit would be available in the year of payment.

- Section 35(d) may be omitted. This needs to be omitted consequent to the amendment made by the Finance Act, 2025 removing equalization levy on specified service.

- Section 35(f) (iv) and (v) to read as follows -

(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, ~~and where an individual isa partner in a firm, on behalf of orfor the benefit of any other person,such partner and any other personshall be referred as a~~
~~"representative partner" and the "person so represented", respectively, then the provisions of sub-clause (ii) and this sub-clause –~~
~~shall not be applicable in respect of interest paid to such individual not as a representative partner;~~
~~shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;~~
~~shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person; or~~

(v) In this clause—

(A)"book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IVD as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(B)"working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(C) where an individual is a partner in a firm, on behalf of or for the benefit of any other person, such partner and any other person shall be referred as a "representative partner" and the "person so represented", respectively, then the provisions of sub-clause (ii) and (iv)—
shall not be applicable in respect of interest paid to such individual not as a representative partner;
shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;
shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person.

The portion in bold in Section 35(f)(iv) can be removed and placed as (C) in section 35(f)(v) for better presentation and clarity.

Since Section 35(f)(iv) relates to disallowance and Section 35(f)(v) contains clarification on meaning of certain terms. The bold portion gives a clarification and hence can be included as (C) in Section 35(f)(v).
For the words sub-clause (ii) and this sub-clause, the words “sub-clause (ii) and (iv)” shall be substituted when placed as (C) in (f)(v).

- Business incurs certain expenses to earn income outside income, out of which taxes deducted in foreign countries are one of those expenditures.
  However, at times, either due to lower tax rate in India or no taxable profit during the year or whatsoever reason, business are unable to claim entire credit of taxes paid in foreign country. Other countries such as UK, USA, etc., provides FTC as a tax deductible expenditure. It is therefore recommended to:
  - An exception to Clause 35 of the existing Bill may be inserted to exclude taxes paid in foreign country from the term ‘tax on income’.
  - Alternatively, in Clause 34 a clarificatory provision may be added to include unclaimed FTC as a business expenditure.
  - This could bring certainty to the issue thereby reducing litigation. It will also help in reducing tax losses for businesses and encourage Indian businesses to bring in foreign income leading to a boost in foreign currency inflow.

- Due to separate demands being raised with respect to the same issue there is duplication of demand, which creates cash flow and work capital difficulties for the genuine taxpayers, even if appeal is filed before the appellate authorities. Alternate options:

  - Disallowance under Clause 35 of the Bill may be deleted as clause 398 is adequate to compensate for the loss of tax revenue on non-compliance of withholding of tax; or
  - Demand may be stayed without any payment, if another demand is already raised for same transaction under separate proceedings and appeal is pending.

- With respect to 35(e), the phrase “a State Government undertaking or by the State Government” applies to both the clauses. To bring the provision under the IT Bill 2025 in line with IT Act, 1961, it is suggested that:
  (e) any amount— (i) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on by; or (ii) which is appropriated, directly or indirectly, from a State Government undertaking or by the State Government;

35.5 Examination by the Committee:

35.5.1 The Ministry in their comments on the suggestion with regard to non-existence of provisions corresponding to section 200 of the Companies Act, 1956 in the Companies Act, 2013 stated that, 'The suggestion is correct as far as non-existence of provisions corresponding to section 200 of the Companies Act, 1956 in the Companies Act, 2013. It may be mentioned that Section 200 of the Companies Act, 1956 prohibits tax free payments to any officer or employee. However, as regards exemption on perquisite, it is mentioned that the relevant provisions of the Bill [Schedule III, Table: Sl.No.10(c)] specifies that such exemption on perquisite is available even if such perquisite is paid irrespective of section 200 of the Companies Act, 1956.Therefore, said provisions in Schedule III, in the Table, at S.No.10(c) may be omitted. Therefore, suggestion is acceptable. No reference to the Companies Act, 1956 or 2013 is required.'

35.5.2 Further, with regard to Scenario B i.e. where tax has been deducted in one year and paid after the due date of filing of return in the subsequent year not being captured presently in clause 35(b)(i)(A) and also clause in 35(b)(ii)(A), the Ministry in their comments stated that, 'Scenario B i.e. where tax has been deducted in one year and paid after the due date of filing of return in the subsequent year is not being captured presently in clause 35(b)(i)(A) and also clause 35(b)(ii)(A) and has to be provided for. The suggestion for amendment is acceptable.'

35.5.3 Further, on the issue of specific provision to be inserted in section 35(a)(iii) of the Bill to allow ineligible Foreign Tax Credit (FTC) as a business loss, the Ministry in their response furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

35.5.4 On the suggestion to omit Section 35(c), the Ministry furnished that 'The stakeholder seeks for omission of clause 35(c) which provide for non-allowability of salary paid to non-resident on which tax has not been deducted/ paid on ground that same payment is covered in clause 35(b)(ii). There is no change in the provisions of the Bill vis a vis Act. Clause 35(c) and cl. 35(b)(ii) provide for different treatment of payment. While cl. 35(b)(ii) provides for disallowance if tax is not deducted or if deducted but not paid by due date of filing of return of income, cl. 35(c) provides for disallowance if tax is not deducted / paid as per due date of payment. Thus, there is differential treatment for two types of payment. Hence clause 35(c) cannot be deleted'.

35.5.5 On the suggestion to omit Section 35(d), the Ministry furnished that 'It is an inadvertent drafting error. Government amendments to Finance Act, 2025 has removed the Equalization Levy on specified services and thus clause 35(d) of the Bill needs to be omitted'.

35.5.6 With respect to redrafting of 35(e), the Ministry furnished that it is an inadvertent drafting error. The phrase “a State Government undertaking or by the State Government” applies to both the sub-clauses of clause 35(e) of the Bill.

35.5.7 On the suggestion to redraft clause 35(f)(iv) and (v), the Ministry furnished that, ‘The stakeholder has proposed redrafted clause 35(f)(iv)and (v). There is no change in the provisions of the Bill vis a vis Act. However, the suggestion has been noted and will be examined further for consideration’.

35.5.8 With regard to the suggestion seeking allowance of expenditure on which witholding tax has not been deducted, the Ministry furnished that ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Current provisions act as a tool to discourage taxpayers' non-compliance with the withholding provisions. These are required to maintain TDS discipline. The suggestion is not feasible.

35.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that the reference to Section 200 of the Companies Act, 1956, in Schedule III, Table, at S. No. 10(c), as cited in Clause 35(a)(ii), is erroneous. The corresponding provisions under Section 200 of the 1956 Act do not exist in the Companies Act, 2013. Additionally, Schedule III, Table at S. No. 10(c) already provides that the exemption on perquisites is available even if such perquisite is paid, regardless of Section 200 of the Companies Act, 1956, thereby rendering the reference redundant, the Committee thus recommend that the provisions in Schedule III, Table, at S. No. 10(c), as referred to in Clause 35(a)(ii), be omitted.

Further, with respect to situations where tax is deducted in one year but paid after the due date for filing the return in the subsequent year which is not currently addressed in Clause 35(b)(i) and (ii), the Committee recommend that explicit provisions be incorporated in the respective clauses to address such cases.

The Committee further recommend that Clause 35(d) be omitted, as the Government's amendments to the Finance Act, 2025, have removed the Equalization Levy on specified services, rendering this clause redundant.

Regarding Clause 35(e), the Committee recommend that it be redrafted to ensure that the phrase "a State Government undertaking or by the State Government" clearly applies to both sub-clauses of Clause 35(e) of the Bill.

The Committee would also like to recommend redrafting of Clause 35(f)(iv) and (v) for providing better clarity as below:

(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum,

(v) In this clause—

(A)"book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IVD as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(B)"working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(C) where an individual is a partner in a firm, on behalf of or for the benefit of any other person, such partner and any other person shall be referred as a "representative partner" and the "person so represented", respectively, then the provisions of sub-clause (ii) and (iv)—

shall not be applicable in respect of interest paid to such individual not as a representative partner;

shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;

shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

36.Expenses or payments not deductible in certain circumstances.

36.1 Provision proposed in the Income-Tax Bill, 2025:

36. (1) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other provision of this Act relating to computation of income under the head “Profits and gains of business or profession”.

(2) If the assessee incurs any expenditure for which payment has been or is to be made to any “specified person”, which in the opinion of the Assessing Officer is excessive or unreasonable having regard to the—

(a) fair market value of the goods, services or facilities; or

(b) legitimate needs of the business or profession of the assessee; or

(c) benefit derived by or accruing to the assessee therefrom, so much of the expenditure as considered excessive or unreasonable by him shall not be allowed as a deduction

3) For the purposes of sub-section (2),—

(a) “specified person”,—

(i) in relation to an assessee mentioned in column B of the Table below, shall be the person referred to in column C thereof:—

Table

Sl. No.	Assessee	Specified person
A	B	C
1.	Individual.	Any relative of the assessee.
2.	Company.	Any director of the company or his relative.
3.	Firm.	Partner of the firm or its relative.

4.	Association of persons.	Member of the association or its relative.
5.	Hindu undivided family.	Member of the family or his relative.

(ii) shall mean any person being an individual or company or firm or association of persons or Hindu undivided family having substantial interest in the business or profession of the assessee, or any director, partner, member thereof or any relatives of such individual, director, partner, member or any other company in which the first mentioned company has substantial interest;

(iii) shall mean a company, firm, association of persons, or Hindu undivided family whose director, partner or member has substantial interest in the business or profession of the assessee, or any director, partner or member thereof and their relatives, as the case may be;

(iv) shall mean any person carrying on a business or profession, in which assessee, being—

(A) an individual or his relative; or

(B) a company, its directors or their relatives; or

(C) a firm, its partners or their relatives; or

(D) an association of persons, its members or their relatives; or

(E) a Hindu undivided family, its members or their relatives,

has substantial interest in the business or profession of such person;

(b) a person is deemed to have "substantial interest in the business or profession" if, at any time during the tax year, such person is—

(i) the beneficial owner of shares (not being shares entitled to fixed rate of dividend with or without a right to participate in profits) carrying at least 20% of the voting power, in case of assessee being a company;
and

(ii) entitled to at least 20% of the profits of the business or profession in any other case, at any time during the tax year.

(4) Where any expenditure is incurred by the assessee and payment or aggregate of payments made in a day to a person is exceeding ten thousand rupees and is not through specified banking or online mode, then the expenditure by way of such payments shall not be allowed as deduction.

(5) Where any deduction was made in any preceding tax year for a liability incurred for any expenditure and payment in respect of such liability is made during a subsequent tax year and if such payment or aggregate of payments made in a day to a person exceeds ten thousand rupees and is not through specified banking or online mode, such payment shall be deemed to be the income under the head “Profits and gains of business or profession” in such subsequent tax year.

(6) For the purposes of sub-sections (4) and (5), the figure “ten thousand rupees” shall be read as “thirty-five thousand rupees” in case the payment is made for plying, hiring or leasing of goods carriages.

(7) The provisions of sub-sections (4) and (5) shall not be applicable in cases and circumstances, as prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

(8) Nothing (with reference to mode of payment) contained in any other law in force or in any contract, shall apply in respect of any payment which has been made through specified banking or online mode, in compliance of sub-sections (4) to (7), and no plea shall be allowed to be raised, in any suit or other proceeding on the ground that the payment was not made or tendered in cash or in mode other than through specified banking or online mode.

36.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Expenses or payments not deductible in certain circumstances.

40A. (1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession".

(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction :

Provided that for an assessment year commencing on or before the 1st day of April, 2016 no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F.

(b) The persons referred to in clause (a) are the following, namely :—

(i)	where the assessee is an individual	any relative of the assessee;
(ii)	where the assessee is a company, firm, association of persons or Hindu un- divided family	any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member or any other company carrying on business or profession in which the first mentioned company has substantial interest;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—

(A) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or

(B) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if,—

(a) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and

(b) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees, no deduction shall be allowed in respect of such expenditure.

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds ten thousand rupees:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors :

Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words "ten thou sand rupees", the words "thirty-five thousand rupees" had been substituted.

(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed in order that such expenditure may not be disallowed as a deduction under sub-section (3), then the payment may be made by such cheque or draft or electronic clearing system or such other electronic mode as may be prescribed; and where the payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner.

(5) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-section (5) was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.]

(6) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-section (6) was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.]

(7) (a) Subject to the provisions of clause (b), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.

(b) Nothing in clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Explanation.—For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid.

(8) [***]

(9) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860), or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) or clause (iva) or clause (v) of sub-section (1) of section 36, or as required by or under any other law for the time being in force.

(10) Notwithstanding anything contained in sub-section (9), where the Assessing Officer is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has, before the 1st day of March, 1984, bona fide laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (9) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.

(11) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (9), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled—

(i) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount) be repaid to him, and where any claim is so made, the unutilised amount shall be repaid, as soon as may be, to him;

(ii) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him.

(12) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(13) No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as allowable under clause (xviii) of sub-section (1) of section 36.

36.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clauses 36 of the Bill provides for amounts not to be allowed while computing the income under the head “Profit and gains of business or profession” under certain circumstances. The clause corresponds to provisions of section 40A of the Act. Some of the provisions have been removed which have become redundant as they were applicable for very old years and not relevant now (Section 40A(10) and 40A(11) of the Act). The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

36.4 Important Views/Suggestions given by Experts/Stakeholders:

- Correction of spelling at side of the page detailing the matter of the clause ‘Expenses or payments not deductible in certain **circumstances’**

36.5 Examination by the Committee:

The Ministry accepted stating that, ‘It is an inadvertent spelling error’.

36.6 Observations/Recommendations of the Committee:

The Committee recommend that the page margin accompanying Clause 36 be corrected to read *"Expenses or payments not deductible in certain circumstances"* instead of *"Expenses or payments not deductible in certain circmstances"*, in order to ensure grammatical accuracy and correct spelling.

Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to above proposed modification.

Clause No.& Title:

37.Certain deductions allowed on actual payment basis only.

37.1 Provision proposed in the Income-Tax Bill, 2025:

37. (1) The following sums payable, as specified in sub-section (2), shall be allowed as deduction while computing the income chargeable under section 26 only in the tax year in which such sums are actually paid irrespective of—

(a) any provision to the contrary in this Act; or

(b) method of accounting regularly followed; or

(c) the tax year in which the liability was incurred.

(2) The sums payable by an assessee referred to in sub-section (1), shall be—

(a) tax, duty, cess, surcharge or fee, by whatever named called, levied under any law in force;

(b) contribution of the employer to a provident fund or superannuation fund or gratuity fund or any fund for the welfare of employees;

(c) amount payable by employer in lieu of any leave at the credit of the employee;

(d) any sum referred to in section 32(a);

(e) interest on loans or borrowings from specified financial entities as per the terms and conditions of the agreement governing such loans or advances;

(f) amount payable to the Indian Railways for use of railway assets; or

(g) amount payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006.

(3) In case the amounts specified in sub-section (2), except the sum referred to in clause (g) thereof, are paid after the end of the tax year in which the liability was incurred, but on or before the due date of filing of return of income under section 263(1) for such tax year, the deduction towards such sum shall be allowed in such tax year.

(4) If interest on loans or advances specified in sub-section (2)(e) is converted into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, then it shall not be deemed to have been actually paid.

(5) If a deduction in respect of any sum payable under sub-section (2) has already been

allowed in any tax year when such liability was incurred, it shall not be allowed again in any subsequent tax year when paid.

(6) The provisions of this section shall not apply to a sum received by the assessee from any employee as contribution towards any of the funds referred to in section 2(49)(o).

(7) For the purposes of this section, "specified financial entities" means a public financial institution or State Finance Corporation or State Industrial Investment Corporation or notified class of non-banking financial companies or scheduled banks or co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).

37.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Certain deductions to be only on actual payment.

43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, or

(c) any sum referred to in clause (ii) of sub-section (1) of section 36, or

(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or a State financial corporation or a State industrial investment corporation, in accordance with the terms and conditions of the agreement governing such loan or borrowing , or

(da) any sum payable by the assessee as interest on any loan or borrowing from [20][such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf], in accordance with the terms and conditions of the agreement governing such loan or borrowing, or

(e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in accordance with the terms and conditions of the agreement governing such loan or advances, or

(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee, or

(g) any sum payable by the assessee to the Indian Railways for the use of railway assets, [21][or]

[21][(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006),]

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him :

Provided that nothing contained in this section [21][[except the provisions of clause (h)]] shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

Explanation1.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (a) or clause (b) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 2.—For the purposes of clause (a), as in force at all material times, "any sum payable" means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.

Explanation 3.—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (c) or clause (d) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3A.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (e) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3AA.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (da) is allowed in computing the income referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2019, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3B.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (f) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

Explanation 3C.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (d) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing or debenture or any other instrument by which the liability to pay is deferred to a future date shall not be deemed to have been actually paid.

Explanation 3CA.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (da), shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing or debenture or any other instrument by which the liability to pay is deferred to a future date shall not be deemed to have been actually paid.

Explanation 3D.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (e) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance or debenture or any other instrument by

which the liability to pay is deferred to a future date shall not be deemed to have been actually paid.

Explanation 4.—For the purposes of this section,—

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

(aa) "scheduled bank" shall have the meaning assigned to it in the Explanation to clause (iii) of sub-section (5) of section 11;

(b) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(c) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and eligible for deduction under clause (viii) of sub-section (1) of section 36;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

[22][(e) "micro enterprise" shall have the meaning assigned to it in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);]

(f) "non-banking financial company" shall have the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

[22][(g) "small enterprise" shall have the meaning assigned to it in clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).]

Explanation5.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 applies.

37.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 37 of the Bill provides for certain deductions allowed on certain expenditures which is to be made only on actual payment basis. The clause corresponds to section 43B of the Act. Some of the provisions have been removed which have become redundant as they were applicable for very old years and not relevant now (Explanation 1 to Section 43B, Explanation 3 to Section 43B, Explanation 3A to Section 43B and Explanation 3B to Section 43B). The provisions of the existing section have been textually simplified and retained with the same intent in this clause. (The phrase “otherwise allowable” is to be added in the clause and Explanation 2 to section 43B is to be added in the clause)

37.4 Important Views/Suggestions given by Experts/Stakeholders:

- Considering deletion of phrase "otherwise allowable", ambiguity can arise whether those expenses which are specifically disallowed under other provisions of ITB 2025 can be claimed under s.37 of ITB 2025 on actual payment. Further, there could be potential controversy over the applicability of actual payment condition for sums payable beyond the tax year. Thus, it is proposed to insert the phrase "otherwise allowable" in Section 37 and include a provision similar to Explanation 2 in Section 37.

- Sub-section (4A) be inserted after sub-section (4) - (4A) Where any payment is made towards such loan or advance or debenture or other instrument referred to in (4), the amount so paid shall be deemed to have been actually paid towards interest on loans and advances specified in sub-section (2)(e).
  Sub-section (4A) may be inserted to clarify that whenever payment is made toward such loan or advance or debenture or any other instrument referred to in sub-section (4), the same would be deemed as payment towards interest and be allowed as deduction in the year of payment.

- Section 43B covers scope of deductions allowed on payment basis. The term ‘any sum payable’ was defined to provide a sum for which assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law. Clause 37 specifically includes surcharge, whereas the definition of ‘sum payable’ has now been removed. The definition of “any sum payable” seems removed in the new bill which may revive the controversy previously settled in the existing provisions. Hence, it is suggested to add back definition of “any sum payable”.

- Clause 37(2) of the Bill lists the sums specified for deduction in the tax year they are paid. Sub-clause (e) thereof refers to interest on loans or borrowings from specified financial institutions but later in that sub- clause it refers to "advances" instead of "borrowing". The word "advances" occurring at the end of sub-clause (e) may be replaced with "borrowing". This modification is required to bring the new provision in line with the existing provision and to avoid issues in interpretation of the word "advances".

- It is suggested that the clause (g) of clause 37(2) shall be omitted. If at all, the above suggestion is not found acceptable, we suggest the following alternate provisions : (a) The disallowance shall not be made in a case where the payer is also a micro or small enterprise. This is with a view to avoid a situation where one of the micro or small enterprise is protected but the other micro and small enterprise is negatively impacted. (b) It is suggested that the provisions of sub-section (3) of section 37, which is akin to proviso to section 43B of the ITA 1961, may be made applicable to clause (g) of the section on similar lines with the other clauses. As a last alternative, we suggest that the clause (g) may be suitably amended to provide that the disallowance will be made in case of failure to make the payment to micro or small enterprise beyond the time limit as agreed between the supplier and the buyer.
  Though the provisions of clause 37(2)(g) of the Income-tax Bill 2025 is similar to Section 43B(h) of the Income-tax Act, 1961, we respectfully submit that there is a genuine need to amend the situation while enacting the Income-tax Bill 2025 as explained hereunder: The object of section 15 of the MSMED Act is laudable i.e to protect the interests of the Micro, Small and Medium Enterprises. However, insertion of clause (h) in section 43B of ITA 1961 which is intended to be continued in clause 37(2)(b) of the ITB 2025, has resulted in some challenges and is counter-productive to an extent. Due to this clause, many buyers have stopped doing business with the Micro and Small Enterprises due to the fact that the delay in payment is likely to result in disallowance in their case which will ultimately result in higher tax liability. Many of the Micro and Small enterprises are also feeling it worth to cancel their registration under the MSMED Act with the purpose of not losing the business. The Micro and Small Enterprises are happy to get delayed payment as compared to loss of business which might be fatal for their survival. Further in so far as the protection of the interests of Micro and Small Enterprises is concerned, the same is partially taken care of by the fact that in a case where the payment to such enterprises are delayed beyond the time specified, section 16 of the MSMED Act makes it mandatory for the buyer to pay compound interest with monthly rest to the supplier at the rate which is three times the Bank rate as notified by the RBI. The payment of such interest is not an

allowable expense in accordance with the provisions of section 23 of the MSMED Act. These provisions act as sufficient deterrent against the buyer who delays the payment to the Micro and Small Enterprises. Accordingly, it is felt that insertion of section 43B(h) in ITA 1961 and clause 37(2)(g) of the ITB 2025 results in more difficulties rather than solving the difficulties of the Micro and Small Enterprises.'

37.5 Examination by the Committee:

37.5.1. On the issue of defining "any sum payable", the Ministry in their response furnished that, 'The provisions of Explanation 2 to Sec 43B of the Act defining "any sum payable" has been inadvertently not included in clause 37 of the Bill. Therefore, the suggestion to include similar provision is acceptable'.

37.5.2 In addition with regard to the phrase "otherwise allowable", the Ministry has furnished that, 'Sec 43B of the Act provides that expenditure which are "otherwise allowable" as deduction or allowance will be allowed only on actual payment of such expenditure. The phrase "otherwise allowable" was omitted as part of simplification exercise. However, to provide better clarity, suggestions made by the stakeholder is accepted. Further, the provisions of Explanation 2 to Sec 43B have been inadvertently not included in clause 37 of the Bill. Therefore, the suggestion to include similar provision is acceptable.'

37.5.3 With regard to replacing the word "advances" occurring at the end of sub-clause (e) with "borrowing", the Ministry furnished that, 'It is an inadvertent drafting error. The clause 37(2) is to be redrafted so as to remove any ambiguity'.

37.5.4 With respect to the suggestion seeking omission of Clause 37(2)(g), the Ministry stated that 37(2)(g) of the Bill relates to payment to MSMEs. The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Sec 43B(h) of the Act (corresponding to clause 37(2)(g) of the Bill) was introduced to ensure timely payment to MSMEs. The provisions of section are in alignment of MSME Act, 2006.

37.5.5 Further, when the Committee sought a detailed note on the payment to MSMEs and the position prior to Finance Act 2023 and whether it will be feasible to restore back to it, the Ministry in the post evidence replies stated that, 'Clause (h) to Section 43B of the Income-tax Act, 1961 was brought as a benevolent provision for micro or small enterprises in Finance Act 2023 so that those assessees who do not pay them their payment on time shall get penalized as their expenses shall only be allowed on actual payment basis within the time specified in MSMED Act, 2006 The clause has been

introduced after detailed and wide deliberation with all the stakeholders including the Ministry of Micro, Small and Medium Enterprises. The intent behind introducing this provision was to resolve the problem of cash flow to micro and small enterprises so that their problem of working capital is resolved and their additional cost of arranging funds is avoided. Moreover, the provision refers to the time limit as given in the MSMED Act, 2006 which was already there and has penal provision if payment is made beyond the prescribed timeline. The provisions of Income-tax Act, 1961 are in line with the MSMED Act, 2006. Thus, rolling back of clause (h) of Section 43B may be counter productive to the genuine problem of the micro or small enterprises'**.**

37.5.6 On the proposal to insert a sub section (4A) to clarify that whenever payment is made toward such loan or advance or debenture or any other instrument referred to in sub-section (4), the same would be deemed as payment towards interest and be allowed as deduction in the year of payment, the Ministry responded stating that, 'There is no ambiguity on this account. The suggestion stands already addressed'.

37.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 37(1) does not clearly specify whether expenses that are specifically disallowed under other provisions of the Income-tax Bill, 2025, can still be claimed under this clause on the basis of actual payment. The Committee recommend that to provide clarity and ensure that no ambiguity arises regarding whether expenses specifically disallowed under other provisions of the Income-Tax Bill, 2025, can be claimed under Section 37 on the basis of actual payment; the phrase *"otherwise allowable"* be inserted in Clause 37(1).

The Committee also recommend that provisions similar to Explanation 2 to Section 43B of the Income-tax Act, 1961 defining the expression *"any sum payable"* which have presently been omitted, be incorporated into the Bill to enhance clarity and eliminate interpretational uncertainty.

Further, the Committee recommend that the word *"advances"* at the end of Clause 37(2)(e) be replaced with the word *"borrowing"*, in order to align the new provision with the existing one and to avoid potential issues in interpretation.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

38.Certain sums deemed as profits and gains of business or profession.

38.1 Provision proposed in the Income-Tax Bill, 2025:

38. (1) The following sums shall be deemed to be profit and gains of business or profession and shall be chargeable to income-tax, in the manner specified below, subject to the provisions of sub-section (2):—

(a) where an allowance or deduction has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year, then,—

(i) the value of any benefit accruing to the assessee by way of cessation or remission of such trading liability, including a unilateral act of write-off of such liability in his accounts, in the tax year in which such benefit accrues; or

(ii) any amount obtained by the assessee, whether in cash or otherwise, in respect of such loss or expenditure incurred, in the tax year in which the amount is obtained,

whether the business or profession in respect of which the allowance or deduction was made is in existence in that year or not;

(b) in a case where any tangible asset, which is owned by assessee, is sold, discarded, demolished or destroyed, and the money payable for the asset, together with the scrap value [A] exceeds the written down value of the assets [C], the sum as computed below, in the tax year in which the money payable for the tangible asset becomes due—

(i) where the money payable for the asset together with the scrap value [A] is less than the actual cost of the asset [B], then—

[A] –[C]; or

(ii) in any other case,—

[B] – [C];

(c) in a case where an asset representing expenditure of a capital nature on scientific research, referred to in section 45(1)(a) or (c) is sold, without having been used for other purposes, and the sale proceeds together with the total deductions allowed under that section exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, in the tax year in which the asset was sold;

(d) in a case where a deduction has been allowed for a bad debt (or part of it) under the provisions of section 31(2), and any amount subsequently recovered exceeds the difference between such debt and the amount allowed, then the amount in excess, in the tax year in

which recovery is made;

(e) in a case where a deduction has been allowed for any special reserve created and maintained under the provisions of section 32(e), any amount subsequently withdrawn from such reserve, in the tax year in which the amount is withdrawn.

(2) The provisions of sub-section (1) shall apply subject to fulfilment of the following conditions:—

(a) in respect of sub-section (1)(a), only when an allowance or deduction has been made in assessment for any earlier tax year towards the trading liability, loss or expenditure incurred;

(b) in respect of sub-section (1)(b), only when the asset owned by the assessee, has been used for the purpose of business, and depreciation has been claimed and allowed thereon under section 33;

(c) in respect of sub-section(1)(c) of the said sub-section, only when the assets has not been used for other purposes.

(3) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under of sub-section (1)(a), (c), (d) and (e), in respect of that business or profession, any loss, not being a loss sustained in speculation business, which arose in that business or profession during the tax year in which it ceased to exist and which could not be set off against any other income of that tax year shall, so far as may be, be set off against the income chargeable to tax under the said clauses of that sub-section.

(4) In respect of sums referred to in sub-section (1)(a), if the benefit accrues to, or amount is obtained, by the successor in business, the value of benefit or the amount shall be chargeable to income-tax as income in the hands of successor in business.

(5) The provisions of sub-section (1)(b),(c), (d) and (e) shall apply in a tax year even if the business is no longer in existence.

(6) In this section,—

(a) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(b) “successor in business” means and includes—

(i) the amalgamated company, where there has been an amalgamation;

(ii) the resulting company, where there has been a demerger;

(iii) where the assessee is succeeded by any other person in that business or profession, that other person;

(iv) where a firm carrying on a business or profession is succeeded by another firm, that other firm.

38.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Profits chargeable to tax.

41. (1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—

(a) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or

(b) the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (a) by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

Explanation 1.—For the purposes of this sub-section, the expression "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first-mentioned person under clause (a) or the successor in business under clause (b) of that sub-section by way of writing off such liability in his accounts.

Explanation 2.—For the purposes of this sub-section, "successor in business" means,—

(i) where there has been an amalgamation of a company with another company, the amalgamated company;

(ii) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;

(iii) where a firm carrying on a business or profession is succeeded by another firm, the other firm;

(iv) where there has been a demerger, the resulting company.

(2) Where any building, machinery, plant or furniture,—

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and

(c) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.

(2A) [***]

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (iv) of sub-section (1), or clause (c) of sub-section (2B), of section 35, read with clause (4) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (i) or, as the case may be, the amount of the deduction under clause (ia) of sub-section (2), or clause (c) of sub-section (2B), of section 35 exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

Explanation.—Where the moneys payable in respect of any asset referred to in this sub-section become due in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vii) of sub-section (1) of section 36, then, if the amount

subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

Explanation.—For the purposes of sub-section (3),—

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.

(4A) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (viii) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(5) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1), sub-section (3) , sub-section (4) or sub-section (4A) in respect of that business or profession, any loss, not being a loss sustained in speculation business, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid.

(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.

38.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 38 of the Bill provides for certain sums that are liable to be deemed as profit and gains of business or profession where the sums have been earlier allowed as expenditure or deduction for the purpose of computation of income. The clause corresponds to section 41 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

38.4 Important Views/Suggestions given by Experts/Stakeholders:

- Clause 38 of the Bill contains provisions dealt with in section 41 of the Act. Clause 38(1)(a) (i) provides for amount as deemed profits and gains of business if any benefit accruing or amounts obtained by an assessee in respect of any allowance or deduction that has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year. The condition contained in clause 38(2)(a) for clause 38(1) to apply viz. that "only when an allowance or deduction has been made in assessment for any earlier tax year towards the trading liability, loss or expenditure incurred" is repetitive and needs to be omitted. It also has possibility of misinterpretation that if deduction or allowance is allowed in current tax year, then its remission will not be taxable since 38(2)(a) puts condition of allowance in “earlier” tax year only.

- Section 38(2)(b) should refer to section 33(2), being depreciation for power undertaking in line with the provisions in section 41(2) of the IT Act, 1961. These provisions are not applicable for depreciation on WDV basis for block of assets.

Proposed provision: (2) The provisions of sub-section (1) shall apply subject to fulfilment of the following conditions (a) …. (b) in respect of subsection (1)(b), only when the asset owned by the assessee, has been used for the purpose of business, and depreciation has been claimed and allowed thereon under section 33(2).

- Rectification in Clause 38(5) to rule out any possibile misinterpretation as follows: The provisions of sub-section (1) clauses (b), (c), (d) and (e) of sub-section (1) shall apply in a tax year even if the business is no longer in existence.

38.5 Examination by the Committee:

38.5.1 On the issue of omitting the word 'earlier' in Clause 38(2)(a), the Ministry stated that, 'It is an inadvertent drafting error. The word "earlier" in clause 38(2)(a) of the Bill needs to be omitted as the current provisions says "any year" and not "any earlier year".

38.5.2 With regard to reference to section 33(2) instead of 33 in Clause 38(2)(b), the Ministry stated that, 'It is an inadvertent drafting error. The correct reference shall be 33(2) and not (33) in clause 38(2) of the Bill'.

38.5.3 With regard to changing the referencing of clauses in the Bill as it is in the Act, the Ministry furnished that, 'The referencing has been done in consultation with the law ministry for ease of reference. The suggestion is not feasible'.

38.6 Observations/Recommendations of the Committee:

The Committee note the use of the word "earlier" in Clause 38(2)(a) and also observe that the condition in Clause 38(2)(a) is for clause 38(1) to apply viz. that "only when an allowance or deduction has been made in assessment for any earlier tax year towards the trading liability, loss or expenditure incurred". The Committee feel that this wording is repetitive and should be omitted to avoid confusion. Moreover, retaining *"earlier"* could lead to misinterpretation that if the deduction or allowance is granted in the current tax year, its remission would not be taxable, as Clause 38(2)(a) restricts the condition to allowance in an *"earlier"* tax year only. The Committee thus, recommend that in Clause 38(2)(a) the word "earlier" be removed.

The Committee further recommend that Clause 38(2)(b) should refer to section 33(2) and not section 33, being depreciation for power undertaking in line with the provisions in section 41(2) of the IT Act, 1961 and these provisions are not applicable for depreciation on WDV basis for block of assets.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

39.Computation of actual cost.

39.1 Provision proposed in the Income-Tax Bill, 2025:

39. (1) The actual cost of an asset used for the purposes of the business or profession shall be the actual cost to the assessee as, reduced by the following amounts:—

(a) part of cost of asset, if any, met by any other person or authority, directly or indirectly;

(b) goods and services tax paid in respect of which input tax credit has been claimed and allowed under the relevant law;

(c) additional duty leviable under section 3 of the Customs Tariff Act, 1975in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944;

(d) subsidy, grant or reimbursement, by whatevername called, if any, relatable to the acquisition of the asset, received by the assessee from—

(i) the Central Government;

(ii) a State Government;

(iii) any authority established under any law; or

(iv) any other person.

(2) The payment or aggregate of payments exceeding ten thousand rupees in a day for acquisition of an asset, made to a personin a mode otherwise than by specified banking or online mode, shall be excluded from the actual cost of the asset.

(3) In a case where the subsidy, grant or reimbursement referred to in sub-section (1)(d) is not directly relatable to the asset acquired, the amount of reduction under sub-section (1)(d) shall be determined as under:

$$A \times \left(\frac{B}{C}\right)$$

Where,—

A = total amount of subsidy, grant or reimbursement not directly relatable to the asset;

B = cost of the asset acquired for which actual cost is to be determined;

C = cost of all the assets in respect of or in reference to which the subsidy or grant or reimbursement is so received.

(4) In circumstances specified under column B of the Table below, the actual cost of the capital asset shall be as specified in column C thereof.

Table

Sl.No.	Specified circumstances	Determination of actual cost
A	B	C
1.	Where capital asset is transferred by an amalgamating company to an amalgamated company being an Indian company in a scheme of amalgamation.	Actual cost to amalgamated company shall be the same as it would have been if the amalgamating company had continued to hold such capital asset for the purpose of its own business.
2.	Where capital asset is transferred by a demerged company to a resulting company being an Indian company in a demerger.	Actual cost to resulting company shall be the same as it would have been, if the demerged company had continued to hold such asset for the purpose of its own business, which shall not exceed the written down value of such capital asset in the hands of demerged company.
A	B	C
3.	Where inventory is converted into capital asset.	Fair Market Value as on date of conversion, as determined in the manner as prescribed.
4.	Where capital asset is acquired by the assessee by way of gift or inheritance.	Actual cost to previous owner as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset.

5.	Where a building, being the property of the assessee, is put to use for the purpose of business or profession during the tax year.	Actual cost of the building as reduced by the depreciation— (a) that would have been allowable had the building been used for the purpose of business from the date of acquisition; and (b) calculated at the rate in force on the date on which such asset was put to use for business.
6.	Where capital asset is transferred by— (a) a holding company to its subsidiary company; or (b) a subsidiary company to its holding company, and the conditions of section 70(1)(c) and (d) are satisfied.	Actual cost to the transferee-company shall be the same as it would have been, if the transferor company had continued to hold such asset for the purpose of its own business.
7.	Where a capital asset, which previously belonged to the assessee, is reacquired by the assessee.	(a) Actual cost of the asset in the hands of assessee, when it was first acquired, as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset; or (b)actual price for which such asset is reacquired

		by theassesse, whichever is lower.
8.	Where the capital asset is acquired by the assessee from previous owner and subsequently asset is given back to the previous owner by way of lease, hire or otherwise, and— (a) the asset was being used for the purpose of business by the previous owner; and (b) depreciation has been claimed by the previous owner.	Actual cost of asset to the assessee shall be the written down value of the asset in the hands of the previous owner at the time of transfer by the previous owner.

A	B	C
9	Where the capital asset is used in business after it ceases to be used for scientific research related to that business and a deduction is made under section 33(3).	Actual cost of asset as reduced by deduction allowedfor the capital asset under section 45(1)(a) or (c)or under any corresponding provision of the Income-tax Act, 1961(43 of 1961).
10.	Where the assessee had acquired an asset outside India, as a non-resident, and the asset is brought by him to India and put to use in business or profession in India.	Actual cost of the asset as reduced by the depreciation– – (a) that would have been allowable had the asset been used for the purpose of business or profession in India since the date of its acquisition; and (b) calculated at the rate in force.

11.	Where capital asset is acquired under the scheme of corporatisation of a recognised stock exchange approved by the Securities and Exchange Board of India.	Actual cost of the asset, as if there was no corporatisation.
12.	(a) Where deduction under section 46 was allowed or allowable in respect of the capital asset— (i) to the assessee; or (ii) to any person and the assessee acquires or receives such asset through special modes of acquisition from such person.	Actual cost shall be deemed to be nil.
	(b)Where deduction allowed under section 46 in respect of a capital asset becomes deemed income as per section 46(9)(b).	Actual cost of the asset as reduced by the depreciation,— (a) that would have been allowable had the asset been used for the purpose of business since date of acquisition; and (b) calculated at the rate in force.
13.	Where any amount is paidor payable as interest in connection with the acquisition of an asset.	Actual cost shall not include so much of such amount as is relatable to any period after such asset is first put to use.

(5) Irrespective of anything contained in sub-section (4), in a case where the asset is acquired by the assessee, its actual cost shall be determined by the Assessing Officer having regard to all circumstances of the case, subject to the following conditions:—

(a) the asset was used by any other person for the purposes of his business, before such acquisition; and

(b) the Assessing Officer is satisfied that the main purpose of the transfer of the

asset was to reduce tax liability (by claiming depreciation on enhanced actual cost).

(6) The determination of actual cost under sub-section (5) shall be made with the prior approval of the Joint Commissioner.

(7) In this section, “special modes of acquisition” means acquisition—

(a) by way of a gift or will or an irrevocable trust; or

(b) upon distribution on the liquidation of a company; or

(c) by such mode of transfer as is referred to in section 70(1)(a), (c),(d),(e),(j),(zd),(ze) and (zf).

39.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Definitions of certain terms relevant to income from profits and gains of business or profession.

43. In sections 28 to 41 and in this section, unless the context otherwise requires—

(1) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority:

Provided that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967, but before the 1st day of March, 1975, and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees:

Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.

Explanation 1.—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under clause (ii) of sub-section (1) of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the

assessee as reduced by the amount of any deduction allowed under clause (iv) of sub-section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (11 of 1922).

Explanation 1A.—Where a capital asset referred to in clause (via) of section 28 is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the said clause.

Explanation 2.—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

(a) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets.

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the Assessing Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Assessing Officer may, with the previous approval of the Joint Commissioner, determine having regard to all the circumstances of the case.

Explanation 4.—Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

(i) the actual cost to him when he first acquired the asset as reduced by—

(a) the amount of depreciation actually allowed to him under this

Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or

(ii) the actual price for which the asset is re-acquired by him,

whichever is less.

Explanation 4A.—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in Explanation 3, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.

Explanation 5.—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee.

Explanation 6.—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee-company shall be taken to be the same as it would have been if the transferor-company had continued to hold the capital asset for the purposes of

its business.

Explanation 7.—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.

Explanation 7A.—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business :

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.

Explanation 8.—For the removal of doubts, it is hereby declared that where any amount is paid or is payable as interest in connection with the acquisition of an asset, so much of such amount as is relatable to any period after such asset is first put to use shall not be included, and shall be deemed never to have been included, in the actual cost of such asset.

Explanation 9.—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.

Explanation 10.—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee :

Provided that where such subsidy or grant or reimbursement is of such nature

that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.

Explanation 11.—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.

Explanation 12.—Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation.

Explanation 13.—The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—

(a) in the case of such assessee; and

(b) in any other case if the capital asset is acquired or received,—

(i) by way of gift or will or an irrevocable trust;

(ii) on any distribution on liquidation of the company; and

(iii) by such mode of transfer as is referred to in clauses (i), (iv), (v), (vi), (vib), (xiii), (xiiib) and (xiv) of section 47:

Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation

calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition;

39.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 39 provides for the computation of actual cost. The clause corresponds to section 43(1) of the Act. The definition of Actual Cost has been simplified by converting various explanations, provisos, and provisions into a tabular format. The current definitions of 'actual cost' is sought to be kept the same. Only redundant provision has been removed (First proviso to Section 43(1)). The tabular format simplifies the understanding of how Actual Cost is determined in different situations. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

39.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 43 provides definitions of certain terms relevant to income from profits and gains of business or profession. Explanation 3 and 10 use the term 'directly or indirectly'. However, the said term is removed in the new bill. The words "directly and indirectly" covered under Explanation 3 are missing in the new bill and may be added back for better clarity. These words are also retained in the new bill under section 42 which provides for computation for variation in liability due to change in rate of exchange.

39.5 Examination by the Committee:

With regard to the phrase "directly or indirectly" to be added, the Ministry stated that, 'It is an inadvertent drafting error. The phrase "directly or indirectly" is inadvertently missed in clause 39(1)(d) and 39(5)(b) of the Bill'.

39.6 Observations/Recommendations of the Committee:

The Committee note that the phrase "directly or indirectly" has been used in Section 43 of the 1961 Act which provides definitions of certain terms relevant to income from profits and gains of business or profession, but has been omitted in the Bill. The Committee thus recommend that the phrase "directly or indirectly" be added in clause 39(1)(d) and 39(5)(b) of the Bill for better clarity. Including it would help preserve the original intent while simplifying the text.

The Committee also recommend that reference made to Income-Tax Act 1961, made in Column C, Sr No. 9 of the Table in Clause 39 be removed and incorporated in Clause 536 which pertains to Repeals and Savings.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

40.Special provision for computation of cost of acquisition of certain assets.

40.1 Provision proposed in the Income-Tax Bill, 2025:

40. (1) For the purposes of computation of income under the head “Profits and gains of business or profession”, cost of acquisition of an asset acquired by—

(a) an amalgamated company under a scheme of amalgamation; or

(b) an assessee, under a gift, or will, or an irrevocable trust, or on total or partial partition of a Hindu undivided family,

when sold as stock-in-trade shall be the sum of—

(i) cost of acquisition of the said asset in the hands of the amalgamating company in case of clause (a), or the transferor or donor in case of clause (b);

(ii) any cost of improvement made;

(iii) any expenditure incurred by the amalgamating company or transferor or donor wholly and exclusively in connection with such transfer.

(2) This section shall not apply to an asset referred to in section 67(6).

40.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for computation of cost of acquisition of certain assets.

43C. (1) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer by the amalgamating company.

(2) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of

any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be.

40.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 40 of the Bill provides for special provision for computation of cost of acquisition of certain assets. The clause corresponds to section 43C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

40.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.

Clause No.& Title:

41.Written down value of depreciable asset.

41.1 Provision proposed in the Income-Tax Bill, 2025:

41. (1) For the purposes of different provisions for computation of income under the head "Profits and gains of business or profession", written down value for the tax year shall be as mentioned in column C of the Table below:—

Table

Sl. No.	Circumstances	Written down value
A	B	C
1.	In case the asset is acquired in the tax year.	Actual cost to the assessee.
2.	In case the asset is acquired before the tax year.	Actual cost to the assessee less depreciation actually allowed under this Act or the Income-tax Act, 1961.
3.	In case of block of assets.	[(A-D)+ B-C]-E.

Note:—– In column C,—

A = the written down value of the block of assets in the immediately preceding tax year;

B = actual cost of any asset falling within that block, acquired during the tax year;

C = moneys payable together with scrap value, if any, in respect of any asset falling within the block, which is sold, transferred, demolished, destroyed or discarded during the tax year, where "C" shall not exceed (A-D)+B;

D = depreciation actually allowed in respect of block of assets in relation to the said immediately preceding tax year;

E = in the case of a slump sale, the actual cost of the asset falling within that block as reduced by depreciation allowable from the tax year 1988-1989 onwards, as if the asset was the only asset in the relevant block of assets, which shall not exceed [(A-D)+B-C].

A	B	C
4.	Where any block of asset is transferred by— (a)(i) a holding company to its subsidiary company; or (ii) a subsidiary company to its holding company and the conditions of section 70(1)(c) and(d) are satisfied; or (b) amalgamating company to the amalgamated company being an Indian company.	Written down value in the hands of the transferee company or amalgamated company is the same as written down value in the hands of transferor company or amalgamating company, as the case may be, at the beginning of the tax year in which such transfer took place.
5.	Where any asset, forming part of a block of assets is transferred by a demerged company to a resulting company.	Written down value of block of assets— (a) for demerged company (for the immediately preceding tax year), shall be the written down value in the immediately preceding tax year as reduced by the written down value of the assets transferred to the resulting company pursuant to such demerger; (b) for resulting company, shall be the written down value of the

		assets transferred from the demerged company immediately before such demerger.
6.	Where any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions in section 70(1)(ze) are satisfied.	Written down value in the hands of limited liability partnership shall be written down value in the hands of said company as on the date of conversion of the company into limited liability partnership.
7.	Where any asset forming part of the block of assets is transferred to a company under the scheme of corporatisation of a recognised stock exchange in India approved by the Securities and Exchange Board of India.	Written down value of the block of assets in the hands of resulting company, shall be the written down value of the assets transferred immediately before such transfer.

A	B	C
8.	In a case of succession in business or profession under section 313, where an assessment is made in the hands of successor under section 313 (2).	Written down value of any asset or block of assets shall be the amount which would have been taken as its written down value, if the assessment had been made directly on the person succeeded to.

(2) Any allowance in respect of any depreciation carried forward under section33(11) shall be deemed to be the depreciation actually allowed.

(3) Where an assessee was not required to compute his total income for the purposes of this Act for any tax year or tax years preceding the tax year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the

revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset provided in the books of account of the assessee in respect of such tax year or tax years preceding the tax year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

(4) For the purposes of this section, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head “Profits and gains of business or profession”, for computing the written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head “Profits and gains of business or profession” and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act or under the Income-tax Act, 1961.

(5) In this section, “sold” shall have the meaning assigned to it in section 38(6)(a).

41.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

43(6) "written down value" means—

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

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force:

Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (ii) of sub-section (1) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (a), (b) and (c) of clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (vi);

(c) in the case of any block of assets,—

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and

adjusted,—

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets,

so, however, that the amount of such decrease does not exceed the written down value;

(ii) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by,—

(A) the increase or the reduction referred to in item (i), not being increase on account of acquisition of goodwill of a business or profession;

(B) the reduction by an amount which is equal to the actual cost of the goodwill falling within that block as decreased by—

(a) the amount of depreciation actually allowed to

the assessee under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) for such goodwill in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for such goodwill for any assessment year commencing on or after the 1st day of April, 1988 as if the goodwill was the only asset in the relevant block of assets,

in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 2021, in a case where the goodwill of a business or profession was part of the block of assets on which depreciation was obtained by the assessee for the immediate preceding previous year, so, however, that the amount of such reduction does not exceed the written down value.

Explanation 1.—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of any asset or any block of assets shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

Explanation 2.—Where in any previous year, any block of assets is transferred,—

(a) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied; or

(b) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the transferee-company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor-company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.

Explanation 2A.—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the written down value of the assets transferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets in the case of the resulting company shall be the written down value of the transferred assets of the demerged company immediately before the demerger.

Explanation 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.

Explanation 3.—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed".

Explanation 4.—For the purposes of this clause, the expressions "moneys payable" and "sold" shall have the same meanings as in the Explanation below sub-section (4) of section 41.

Explanation 5.—Where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer.

Explanation 6.—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

Explanation 7.—For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.

41.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 41 provides for the computation of written down value. The clause corresponds to section 43(6) of the Act. The definition of Written-Down Value has been simplified by converting various explanations, provisos, and provisions into a tabular format. The definitions of Written-Down Value have been sought to be kept the same. Only redundant provision (First proviso to Section 43(6)) and those that are no longer available (e.g., Goodwill adjustment for determining Written-Down Value) have been removed. The tabular format simplifies the understanding of how Written-Down Value is determined in different situations. Additionally, a formula based determination of Written-Down Value has been added to the table for further clarity. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

41.4 Important Views/Suggestions given by Experts/Stakeholders:

- The content in column C may be worded as given below - Written down value in the hands of the transferee company or amalgamated company is the same as written down value in the hands of transferor company or amalgamating company, as the case may be, ~~at the beginning of the tax year in which such transfer tookplace~~ **in the immediately preceding tax year as reduced by the**

depreciation actually allowed in relation to the said preceding tax year. There is no "WDV at the beginning of the tax year". In order to ensure consistency, "at the beginning of the tax year in which such transfer took place" in column (C) may be worded as follows -"in the immediately preceding tax year as reduced by the depreciation actually allowed in relation to the said preceding tax year"

- With regard to 41(1), Table 4, Column B it is highlighted that when the long clause is broken up into 2 clauses, inadvertently section referring to conditions as got merged with only (ii). Without reference to conditions specified under section 70(1)(c), all transfers from holding to subsidiary company will get covered under this provisions.
  Proposed provision: Where any block of asset is transferred by— (a)(i) a holding company to its subsidiary company and the conditions of section 70(1)(c) are satisfied; or (ii) a subsidiary company to its holding company and the conditions of section 70(1)~~(c) and~~ (d) are satisfied; or (b) amalgamating company to the amalgamated company being an Indian company.

- As per Sl No.5, in the last column, in (a), it is mentioned that the WDV of block of assets for the demerged company shall be the WDV in the immediately preceding tax year as reduced by the WDV of the assets transferred to the resulting company pursuant to such demerger. However, for resulting company, it shall be the written down value of the assets transferred from the demerged company immediately before such demerger.
  This is mentioned in (b). Since the demerger is during the current tax year, the WDV of the immediately preceding tax year has to be reduced by the depreciation for that year. Moreover, for the resulting company WDV immediately before such demerger has to be considered, which implies that depreciation of the previous year has to be reduced from such WDV.
  Thus, it is suggested that the bracketed portion may be removed since we are determining WDV of block of assets for the demerged company for the tax year. Further, for the demerged company, depreciation of the immediately preceding tax year has to be reduced from the written down value in the immediately preceding tax year in (a).

- With regard to 41(1), Table Sl No.6, it is highlighted that the provisions under IT Act, 1961 or under IT Bill, 2025 only cover conversion of company to LLP. Other forms of conversion like firm to company and sole proprietorship concern to a company are not covered. Thus, there is no provision to compute WDV in

such cases and may lead to revenue leakage. Thus, it is proposed to rephrase Sl No. 6, Column B as- Where any block of assets is transferred by a firm or sole proprietorship concern to a company and the conditions of section 70(1)(zd) or section 70(1)(zf) are satisfied, as the case may be. And corresponding Column C as- Written down value in the hands of company shall be written down value in the hands of said firm or sole proprietorship concern, as the case may be, as on the date of conversion into company.

41.5 Examination by the Committee:

41.5.1 With respect to redrafting of 41(1). Table 4, Column B to provide referring to conditions specified under 70(1)(c) to both (i) and (ii), the Ministry stated that, 'It is an inadvertent drafting error. The referencing has been inadvertently wrongly done in col B of sr. no. 4 of table below section 41(1)'.

41.5.2 With respect to redrafting of 41(1). Table 4, Column C, the Ministry stated that, 'It is an inadvertent drafting error. Sec 43(6)(c)(ii) of the Act has used the expression "written down value of block of asset in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of asset in relation to the said previous tax year." The Bill has used the expression written down value as at the beginning of the year in which transfer takes place. [refer cl. 41(1) Table Sl. No. 4]. To remove any ambiguity, the provision shall be aligned with the Act'.

41.5.3 On the issue of providing Written Down Value (WDV) for situations where a firm or a sole proprietorship concern is converted to a company, the Ministry stated, 'There is no change in the provisions of the Bill vis a vis Act. The suggestion of stakeholder is already provided for in the Bill in Table Sl. No. 8 in cl. 41(1)'.

41.5.4 With regard to removal of bracketed portion "(for the immediately preceding tax year)" in col C of sr. no. 5 of table below clause 41(1) while determining WDV of block of assets for the demerged company for the tax year, the Ministry stated that, 'The same shall be examined to remove any ambiguity'.

41.6 Observations/Recommendations of the Committee:

The Committee note that in Sr. No. 4 of Column B of Clause 41(1), the current drafting structure where the provision is split into sub-parts (a)(i) and (ii) results in the conditions specified under section 70(1)(c) appearing to apply only to sub-clause (ii). This creates an unintended implication that all transfers from a holding company to its subsidiary fall within the scope of the provision, even if the specific conditions under section 70(1)(c) are not fulfilled. The Committee thus, recommend that Sr. No. 4 in Column B of clause 41(1) be redrafted to avoid misinterpretation and overextension of the intended relief.

The Committee further recommend that sr. no. 4 in column C of 41(1) also be redrafted to align the Bill with current 1961 Act wherein the expression "written down value of block of asset in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of asset in relation to the said previous tax year" has been used, while the Bill uses the expression “at the beginning of the tax year in which such transfer took place”.

The Committee also recommend the removal of bracketed portion "(for the immediately preceding tax year)" in column C of sr. no. 5 of table below clause 41(1) while determining WDV of block of assets for the demerged company for the tax year to remove any ambiguity.

The Committee also recommend that reference made to Income-Tax Act 1961, made in Column C, Sr No. 2 of the Table in Clause 41 and in 41(4) be removed and incorporated in Clause 536 which pertains to Repeals and Savings.

Apart from the above recommendation(s), the Committee find the clause to be adequate and aligned with the corresponding provisions of the 1961 Act, and therefore accept the clause as it stands, subject to the proposed modifications.

Clause No.& Title:

42.Capitalising the impact of foreign exchange fluctuation.

42.1 Provision proposed in the Income-Tax Bill, 2025:

42. (1) Irrespective of anything contained in any other provision of this Act, where at the time of making payment during the tax year, there is a variation in liability of an assessee as expressed in Indian currency due to change in rate of exchange in relation to an asset acquired for the purpose of business or profession in foreign currency from a country outside India, it shall be dealt with in the manner specified in sub-sections (2) and (3).

(2) For this section, "variation in liability" shall be computed as—

A = B-C

where,—

A = variation in the liability;

B = amount paid in Indian currency(excluding any part met, directly or indirectly, by any other person or authority)during the tax year for acquisition of the asset for—

(a) the whole or part of the cost of asset; or

(b) repayment of money borrowed along with interest in foreign currency, specifically for acquiring such asset;

C = liability, corresponding to the amount referred in B, in Indian currency at the time of acquisition of such asset.

(3) The variation in liability shall be added or reduced from the—

(a) actual cost of the asset as referred in section 39; or

(b) expenditure of capital nature referred to in section 45(1)(a)or (c) or 32(i); or

(c) cost of acquisition of a capital asset (not being capital asset referred to in section 74) for the purpose of section 72,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset.

(4) Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999, for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the said liability, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the said liability, be computed with reference to the rate of exchange specified therein.

42.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provisions consequential to changes in rate of exchange of currency.

43A. Notwithstanding anything contained in any other provision of this Act, where an assessee has acquired any asset in any previous year from a country outside India for the purposes of his business or profession and, in consequence of a change in the rate of exchange during any previous year after the acquisition of such asset, there is an increase or reduction in the liability of the assessee as expressed in Indian currency (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment—

(a) towards the whole or a part of the cost of the asset; or

(b) towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest, if any,

the amount by which the liability as aforesaid is so increased or reduced during such previous year and which is taken into account at the time of making the payment, irrespective of the method of accounting adopted by the assessee, shall be added to, or, as the case may be, deducted from—

(i) the actual cost of the asset as defined in clause (1) of section 43; or

(ii) the amount of expenditure of a capital nature referred to in clause (iv) of sub-section (1) of section 35; or

(iii) the amount of expenditure of a capital nature referred to in section 35A; or

(iv) the amount of expenditure of a capital nature referred to in clause (ix) of sub-section (1) of section 36; or

(v) the cost of acquisition of a capital asset (not being a capital asset referred to in section 50) for the purposes of section 48,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset as aforesaid:

Provided that where an addition to or deduction from the actual cost or expenditure or cost of acquisition has been made under this section, as it stood immediately before its substitution by the Finance Act, 2002, on account of an increase or reduction in the liability as aforesaid, the amount to be added to, or, as the case may be, deducted under this section from, the actual cost or expenditure or cost of acquisition at the time of making the payment shall be so adjusted that the total amount added to, or, as the case may be, deducted from, the actual cost or expenditure or cost of acquisition, is equal to the increase or reduction in the aforesaid liability taken into account at the time of making payment.

Explanation 1.—In this section, unless the context otherwise requires,—

(a) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Explanation 2.—Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

Explanation 3.—Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein.

42.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 42 of the Bill provide for capitalising the impact of foreign exchange fluctuation at the time of payment in foreign currency by appropriately adding or reducing the quantum of variation in such liability. The said clauses further provide for treating profits or loss on account of fluctuation in exchange rate. The clause corresponds to section 43A of the Act. The existing text of the Act is lengthy, complex, and contains repetition and redundancy. In the bill, while preserving the meaning of the section, it has been divided into four subsections, which are drafted in a more coordinated manner. The complexity has been reduced by introducing a formula for "Variation in liability". First Proviso to Section 43A which has become redundant has been removed. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

42.4 Important Views/Suggestions given by Experts/Stakeholders:

- With respect to 42(2), it is highlighted that since the asset is acquired in foreign currency, the payment is also in foreign currency. Thus, the phrase 'amount paid

in Indian currency' is not appropriate. Furthermore, 42(1) of IT Bill, 2025 and 43A of IT Act, 1961 uses the phrase 'as expressed in Indian currency'.

Thus, the Proposed provision: B = amount paid as expressed in Indian currency (excluding any part met, directly or indirectly, by any other person or authority) during the tax year for acquisition of the asset for—

42.5 Examination by the Committee:

On the issue of replacing the phrase 'amount paid in Indian currency' with the better suited 'as expressed in Indian currency', the Ministry stated that, 'It is an inadvertent drafting error. It was suggested to change the drafting of clause 42(2) of the Bill which is related to the capitalising of foreign exchange fluctuation. The drafting of the clause is to be improved'.

42.6 Observations/Recommendations of the Committee:

The Committee note that the phrase 'amount paid in Indian currency' has been used against 'B' and feel that the same is not appropriate and should be replaced with the phrase 'as expressed in Indian currency' since the asset is acquired in foreign currency, the payment is also in foreign currency. The Committee believe that this will ensure that the Bill is in line with the 1961 Act.

Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.

Clause No.& Title:

43.Taxation of foreign exchange fluctuation.

43.1 Provision proposed in the Income-Tax Bill, 2025:

43. (1) Subject to the provisions of section 42 any gain or loss arising on account of change in foreign exchange rates on foreign currency transactions shall be treated as income or loss, and shall be computed as per the income computation and disclosure standards notified under section 276(2).

(2) The provisions of sub-section (1) shall be applicable to all foreign currency transactions including—

(a) monetary items and non-monetary items;

(b) translation of financial statements of foreign operations;

(c) forward exchange contracts; and

(d) foreign currency translation reserves.

43.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Taxation of foreign exchange fluctuation.

43AA. (1) Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) For the purposes of sub-section (1), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to—

(i) monetary items and non-monetary items;

(ii) translation of financial statements of foreign operations;

(iii) forward exchange contracts;

(iv) foreign currency translation reserves.

43.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 43 of the Bill provides for taxation of gain or loss arising on account of change in foreign exchange rates on foreign currency transactions. The clause corresponds to section 43AA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

43.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.

Clause No.& Title:

44.Amortisation of certain preliminary expenses.

44.1 Provision proposed in the Income-Tax Bill, 2025:

44. (1) If an assessee, being an Indian company or a person (other than a company), who is resident in India, incurs any expenditure specified in sub-section (2)—

(a) before the commencement of its business; or

(b) after the commencement of its business, in connection with the extension of its undertaking or in connection with its setting up a new unit,

the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive tax years beginning with—

(i) the tax year in which the business commences, for clause (a); or

(ii) the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, for clause (b).

(2) The expenditure referred to in sub-section (1) shall be—

(a) the expenditure in connection with—

(i) preparation of feasibility report;

(ii) preparation of project report;

(iii) conducting market survey or any other survey necessary for the business;

(iv) engineering services relating to the business;

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business;

(c) if the assessee is a company,—

(i) legal charges for drafting and printing of the Memorandum and Articles of Association of the company;

(ii) fees for registering the company under the provisions of the Companies Act, 2013;

(iii) expenditure in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus; and

(d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act), as prescribed.

(3) In relation to expenditure specified in sub-section (2)(a), the assessee shall furnish a statement containing the particulars of the expenditure in such form and manner, as prescribed.

(4) The total expenditure referred to in sub-section (2) shall be restricted to 5%—

(a) of the cost of the project; or

(b) of the capital employed in the business of the company, where the assessee is an Indian company, at its option.

(5) In this section,—

(a) “cost of the project” means the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings) and—

(i) for cases under sub-section (1)(a), the cost is calculated as of the last day of the tax year when the business commences;

(ii) for cases under sub-section (1)(b), the cost is calculated as of the last day of the tax year when either the extension of the undertaking is completed, or the new unit commences production or operations, which only includes fixed assets acquired or developed in connection with the extension of the undertaking or setting up of new unit;

(b) “capital employed in the business of the company” means—

(i) in cases under sub-section (1)(a), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the business of the company commences;

(ii) in a case under sub-section (1)(b), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new unit of the company;

(c) “long-term borrowings” means—

(i) any moneys borrowed by the company from Government or IFCI Ltd., or ICICI Ltd., or any other financial institution which is eligible for deduction under section 32(e) or any banking institution (not being a financial institution referred to above); or (ii) any loan or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the tenure of loan or debt is not less than seven years.

(6) If the assessee is a person, other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,—

(a) the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant before the specified date referred to in section 63; and

(b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by such accountant and setting forth such particulars, as prescribed.

(7) If an undertaking of Indian company entitled for deduction undersub-section (1) is transferred before expiry of five years specified in the said sub-section, in a scheme of amalgamation, to another Indian company, then—

(a) no deduction under sub-section (1) shall be allowed to the amalgamating company for the tax year in which amalgamation takes place; and

(b) all provisions of this section shall continue to apply to the amalgamated company as they would have applied to the amalgamating company, as if the amalgamation has not taken place.

(8) If an undertaking of Indian company entitled for deduction under sub-section (1) is transferred before five years specified in the said sub-section, in a scheme of demerger to another company, then—

(a) no deduction under sub-section (1) shall be allowed to the demerged company for the tax year in which demerger takes place; and

(b) all provisions of this section shall continue to apply to the resulting company as they would have applied to the demerged company, as if the demerger has not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

44.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Amortisation of certain preliminary expenses.

35D. (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2),—

(i) before the commencement of his business, or

(ii) after the commencement of his business, in connection with the extension of

his undertaking or in connection with his setting up a new unit,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the undertaking is completed or the new unit commences production or operation :

Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one-fifth of such expenditure for each of the five successive previous years" had been substituted.

(2) The expenditure referred to in sub-section (1) shall be the expenditure specified in any one or more of the following clauses, namely :—

(a) expenditure in connection with—

(i) preparation of feasibility report;

(ii) preparation of project report;

(iii) conducting market survey or any other survey necessary for the business of the assessee;

(iv) engineering services relating to the business of the assessee :

[15][**Provided** that the assessee shall furnish a statement containing the particulars of expenditure specified in this clause within such period, to such income-tax authority, in such form and manner, as may be prescribed;]

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;

(c) where the assessee is a company, also expenditure—

(i) by way of legal charges for drafting the Memorandum and Articles of Association of the company;

(ii) on printing of the Memorandum and Articles of Association;

(iii) by way of fees for registering the company under the provisions of the Companies Act, 1956 (1 of 1956);

(iv) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus;

(d) such other items of expenditure (not being expenditure eligible for any

allowance or deduction under any other provision of this Act) as may be prescribed.

(3) Where the aggregate amount of the expenditure referred to in sub-section (2) exceeds an amount calculated at two and one-half per cent—

(a) of the cost of the project, or

(b) where the assessee is an Indian company, at the option of the company, of the capital employed in the business of the company,

the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (1) :

Provided that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words "two and one-half per cent", the words "five per cent" had been substituted.

Explanation.—In this sub-section—

(a) "cost of the project" means—

(i) in a case referred to in clause (i) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the business of the asses see commences;

(ii) in a case referred to in clause (ii) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the undertaking or the setting up of the new unit of the assessee;

(b) "capital employed in the business of the company" means—

(i) in a case referred to in clause (i) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences;

(ii) in a case referred to in clause (ii) of sub-section (1), the aggregate of

the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new unit of the company;

(c) "long-term borrowings" means—

(i) any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution which is eligible for deduction under clause (viii) of sub-section (1) of section 36 or any banking institution (not being a financial institution referred to above), or

(ii) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the terms under which such moneys are borrowed or the debt is incurred provide for the repayment thereof during a period of not less than seven years.

(4) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288, before the specified date referred to in section 44AB and the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by that date in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(5) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation,—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalga-mating company if the amalgamation had not taken place.

(5A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in sub-section (1), to another company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.

(6) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.

44.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 44 of the Bill provides for amortisation of certain preliminary expenses insured by specified businesses before commencement of such businesses. The clause corresponds to section 35D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

44.4 Important Views/Suggestions given by Experts/Stakeholders:

- (a)the accounts of the assessee for the year or years in which the expenditure specified in subsection (2) is incurred have been audited by a chartered accountant in practice or a cost accountant in practice before the specified date referred to in section 63. And
  (b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by a chartered accountant in practice or a cost accountant in practice and setting forth such particulars, as prescribed.
  The preliminary expenses are the expenses or cost incurred after incorporation of the entity or before commencement of business. Hence, preliminary expenses are a consolidated statement of cost. A Cost Accountant may be allowed to certify certain preliminary expenses for amortisation.

- This section may no longer be needed.
  Accounting Standards presently followed by the entities adequately address the accounting aspects for the types of expenses proposed to be addressed under

Clause 44 Preliminary Expenses. E.g. 1) Ind AS 32, Financial Instruments: Presentation, prescribes accounting for costs incurred for issue of shares. These costs are to be deducted from share capital & Reserves Called as 'Equity & Reserves. Similarly Ind AS 109 prescribes accounting transaction cost of issue of Debentures/Bonds, which are required to be deducted from the carrying amount of Debentures/Bonds. 2) Ind AS 16, Property, Plant & Equipment and Ind AS 23, Borrowing Costs prescribe accounting for costs incurred during construction period. Ind AS 16 prescribes criteria for capitalisation of certain costs (e.g., costs of site preparation, installation and assembly costs) as addition to cost of PPE and which will be depreciated over useful life of PPE. Ind AS 16 also prescribes certain costs (e.g., staff training costs, administration and general overhead costs) not eligible for capitalisation but to be expensed out as and when incurred. 3) Ind AS 23, Borrowing Costs prescribes criteria for capitalisation of borrowing costs as part of cost of certain qualifying assets. 4) Ind AS 38, Intangible Assets, prescribes accounting for costs incurred for creation of intangible assets and how to account for costs during different phases of creation of intangible assets such as research, development, etc. This standard prescribes type of costs incurred in these phases and requires costs incurred during research phase to be expensed out and costs incurred during development phase to be capitalised as Intangible Asset and amortised over its useful life. In view of the specific and comprehensive accounting practices prescribed in various Ind ASs, as illustrated above, which are in line with contemporary global best practices, different accounting for tax computation purposes of certain expenses called as Preliminary Expense' may not be required. Provisions of S.35D in the old Act have been incorporated in new Bill as S.44 in relation to Companies and other person. Old bill contained these provisions when the accounting standards such Ind AS 32, Ind AS 38 and Ind AS 16 did not exist and the accounting practices were not uniform. Hence, currently, there is an opportunity to review the need for this clause. Omission of this clause may not have any substantial impact on tax revenue. With robust and comprehensive Ind ASs converged with global standards in place, companies following the Ind ASs may be allowed to recognize expenses as per the applicable accounting standards. This is being proposed as a simplification measure for compliance by companies.

- Clause 44(2)(c) of the New Bill is currently phrased in a manner that might be interpreted as restricting deductions for a company solely to the items specified within sub-clause (c), potentially excluding other expenses previously permitted under the Current Law and listed in the remaining sub-clauses of clause (2).

To avoid ambiguity and ensure clarity, it is recommended to incorporate the word "also" in Clause 44(2)(c) to affirm that deductions include other expenses listed in the remaining sub-clauses, as previously permitted.

- To amend section 35D of the Act to extend the claim of deduction of issue related expenses to BTs. As per the provisions of Section 35D of the Act, an assessee being a resident in India, is eligible to claim pre commencement expenditure or expenditure in relation to extension of undertaking or setting up of a new unit over a period of five years. Clause (2) of Section 35D provides details of the expenditures that can be claimed. Section 35D(2)(c) specifically deals with expenditure that can be claimed only by a Company. These expenses inter-alia include issue related expenses on listing of shares or debentures of the Company such as underwriting, commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus.

  With regard to 44(5)(c)(i) it is highlighted that ICICI Ltd does not exist and is merged with ICICI Bank Ltd in 2002. 2. Even otherwise, the phrase 'other financial institution' covers these entities. 3. Further, abbreviations may be avoided in the IT Act, unless specifically defined.
  Thus, proposed wording: (i) any moneys borrowed by the company from Government or IFCI Ltd., ~~or ICICI Ltd.,~~ or any other financial institution which is eligible for deduction under section 32(e) or any banking institution (not being a financial institution referred to above); or

44.5 Examination by the Committee:

44.5.1 On the issue of 'Cost Accountant' being allowed to certify certain preliminary expenses for amortisation, the Ministry in their response furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

44.5.2 Further, in response to variance between the provisions of the Act and the accounting standards and simplification measure for compliance by companies, the Ministry in their response stated that, 'Where there is any variance between the provisions of the Act and the accounting standards, the provisions of the Act shall take precedence for computation of total income under the Act. Therefore, the clause has significance and has been rightly included in the Bill. The suggestion has no merits.'

44.5.3 With regard to the issue of incorporating the word "also" in Clause 44(2)(c) to affirm that deductions include other expenses listed in the remaining sub-clauses, as

previously permitted, the Ministry responded as, ‘To provide better clarity, suggestion made by the stakeholder is acceptable’.

44.5.4 With regard to omitting the reference to "ICICI Ltd" , the Ministry in their response furnished that, ‘Clause 44(5)(c)(i) has used the phrase "ICICI Ltd" which is not in existence as it was merged with ICICI Bank Ltd. in 2002. Since ICICI Ltd. is not in existence and has been merged with a private entity, reference of ICICI Ltd. is to be omitted from Clause 44(5)(c)(i) of the Bill’. And with respect to the phrase ‘other financial institution’ it was stated that, ‘ it is a qualified phrase. Only such institution which is eligible for deduction under section 32(e) will be covered under cl 44(5)(c)(i)’. Furthermore, with regard to the suggestion regarding avoiding use of abbreviations, the Ministry stated that, ‘the same is noted’.

44.5.5 With regard to amending clause 44 of the Bill to extend the claim of expenses related to listing of debenture or shares of a company to the business trust, the Ministry furnished that, ‘The suggestion is in the nature of policy change and beyond the scope of IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The suggestion has been noted and will be examined further for consideration’.

44.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note the need for the word "also" to be incorporated in Clause 44(2)(c) to affirm that deductions include other expenses listed in the remaining sub-clauses, as previously permitted in the Income-Tax Act, 1961, thereby avoiding any potential misinterpretations and thus recommend that the same be added in Clause 44(2)(c).

The Committee further recommend that the phrase *"or ICICI Ltd."* be omitted from Clause 44(5)(c)(i), as ICICI Ltd no longer exists, having merged with ICICI Bank Ltd in 2002. Furthermore, the Committee also recommend that use of abbreviations should be avoided in the Bill.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

45.Expenditure on scientific research.

45.1 Provision proposed in the Income-Tax Bill, 2025:

45. (1) A deduction shall be allowed for any expenditure, being in the nature of—

(a) capital expenditure, but not on acquisition of land, as such or as part of any property; or

(b) revenue expenditure; or

(c) both,

incurred on scientific research related to the business of the assessee subject to provisions of this section.

(2)(a) A deduction shall be allowed under sub-section (1) in respect of the aggregate of expenditure (not being in the nature of capital expenditure), related to business, incurred on—

(i) salary to an employee engaged in such scientific research; or

(ii) purchase of materials used in such scientific research,

where such expenditure is incurred within three years immediately preceding the commencement of business, to the extent certified by the prescribed authority as incurred on such research, expenditure shall be deemed to have been incurred in the tax year in which the business is commenced.

(b) For the purposes of sub-section (1), the aggregate of capital expenditure incurred within three years immediately preceding the commencement of business shall be deemed to have been incurred in the tax year in which the business is commenced.

(c)(i) A deduction shall be allowed under sub-section (1), in respect of any expenditure incurred (not being expenditure in the nature of cost of any land or building) by a company engaged in the business of—

(A) bio-technology; or

(B) manufacture or production of any article or thing, which is not specified in Schedule XIII,

on in-house research and development facility as approved by the prescribed authority, subject to the conditions and manner, as prescribed;

(ii) No deduction shall be allowed under this clause to a company approved under sub-section (3)(b)(ii);

(iii) No deduction shall be allowed in respect of the expenditure mentioned in sub-clause (i) under any other provision of this Act;

(iv)The expenditure under sub-clause (i) shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed;

(d) For the purposes of clause (c), expenditure on “scientific research”, in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central Act or State Act or Provincial Act and filing an application for a patent under the Patents Act, 1970.

(3) A deduction shall be allowed for any sum, paid to—

(a)(i) a research association having the object of undertaking scientific research or to a University, college or institution to be used for scientific research; or

(ii) a research association having the object of undertaking research in social science or statistical research or to a University, college or institution to be used for research in social science or statistical research;

(b) a company which is—–

(i) registered in India having the main object of scientific research and development; and

(ii) approved by such authority, in such manner and subject to such conditions, as prescribed;

(c)(i) a national laboratory; or

(ii) a University; or

(iii) an Indian Institute of Technology; or

(iv) a specified person,

with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority.

(4) For the purposes of sub-section (3),—

(a) the expenditure shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed; and

(b) in respect of clause (a) of the said sub-section, only such association, University, college or other institution shall be eligible for deduction, which for the time being is approved in the manner and subject to such conditions, as prescribed, and is specifiedby the Central Government, by notification.

(5) The deduction for any sum under sub-section (3) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval

granted to such entities or the programme undertaken by entities as mentioned in sub-section(3)(c), has been withdrawn.

(6) Where a deduction is allowed for any tax year under this section in respect of expenditure, represented wholly or partly by an asset, no deduction shall be allowed under section 33(3) for the same or any other tax year in respect of that asset.

(7) The provisions of section 33(11) in respect of depreciation shall apply in relation to deductions allowable for capital expenditure under sub-section (1).

(8) No deduction in respect of the sum mentioned in sub-section (3)(c) shall be allowed under any other provision of this Act.

(9) If any question arises under this section as to whether, and if so, to what extent any activity constitutes or constituted scientific research, or any asset is or was being used, for scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under sub-section (3)(a), and its decision shall be final;

(b) the prescribed authority, when such question relates to any other activity, whose decision shall be final.

(10) When an amalgamating company, in a scheme of amalgamation, sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing capital expenditure on scientific research, the provisions of this section shall apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.

(11)In this section,—

(a) “National Laboratory” means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by such authority and in such manner, as prescribed;

(b) “specified person” means such person approved by the prescribed authority;

(c) “land” includes any interest in land.

45.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Expenditure on scientific research.

35. (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

(i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business.

Explanation.—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary as defined in Explanation 2 below sub-section (5) of section 40A to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced ;

(ii) an amount equal to one and one half times of any sum paid to a research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research :

Provided that such association, university, college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government :

Provided further that where any sum is paid to such association, university, college or other institution in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the sum so paid;

(iia) any sum paid to a company to be used by it for scientific research:

Provided that such company—

(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed;

(iii) any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university, college or other institution to be used for research in social science or statistical research

:

Provided that such association, university, college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government.

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a research association, university, college or other institution to which clause (ii) or clause (iii) or to a company to which clause (iia) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (ii) or clause (iii) or to a company referred to in clause (iia) has been withdrawn;

(iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2) :

Provided that the research association, university, college or other institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the Central Government for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii) :

Provided further that the Central Government may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the research association, university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the research association, university, college or other institution and that Government may also make such inquiries as it may deem necessary in this behalf :

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

Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under clause (ii) or clause (iii) shall be issued or an order

rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government:

Provided also that every notification under clause (ii) or clause (iii) in respect of the research association, university, college or other institution or under clause (iia) in respect of the company issued on or before the date on which this proviso has come into force, shall be deemed to have been withdrawn unless such research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) makes an intimation in such form and manner, as may be prescribed, to the prescribed income-tax authority within three months from the date on which this proviso has come into force, and subject to such intimation the notification shall be valid for a period of five consecutive assessment years beginning with the assessment year commencing on or after the 1st day of April, 2022:

Provided also that any notification issued by the Central Government under clause (ii) or clause (iia) or clause (iii), after the date on which the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Bill, 2020 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding five assessment years as may be specified in the notification.

(1A) Notwithstanding anything contained in sub-section (1), the deduction in respect of any sum paid to the research association, university, college or other institution referred to in clause (ii) or clause (iii), or the company referred to in clause (iia) of sub-section (1), shall not be allowed, unless such research association, university, college or other institution or company—

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

Provided that such research association, university, college or other institution or the company may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed;

(ii) furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of sum, as may be prescribed.

(2) For the purposes of clause (iv) of sub-section (1),—

(i) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year

shall be deducted for that previous year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years ;

(ia) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year shall be deducted for that previous year :

Provided that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984.

Explanation 1.—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

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

(a) "land" includes any interest in land ; and

(b) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908 (16 of 1908), or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), the date on which he has so taken or retained possession of such land or part ;

(ii) notwithstanding anything contained in clause (i), where an asset representing expenditure of a capital nature incurred before the 1st day of April, 1967, ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year ;

(iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation ; and if the asset is sold, without

having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place ;

(iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under clause (ii) of sub-section (1) of section 32 for the same or any other previous year in respect of that asset ;

(v) where the asset mentioned in clause (ii) is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under clause (ii) of sub-section (1) of section 32.

(2A) Where, before the 1st day of March, 1984, the assessee pays any sum (being any sum paid with a specific direction that the sum shall not be used for the acquisition of any land or building or construction of any building) to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) or to a public sector company to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then,—

(a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year.

Explanation.—For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (b) of the Explanation below sub-section (2B) of section 32A.

(2AA) Where the assessee pays any sum to a National Laboratory or a University or an Indian Institute of Technology or a specified person with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority, then—

(a) there shall be allowed a deduction of a sum equal to one and one-half times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under any other provision of this Act :

Provided that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General in such form as may be prescribed:

Provided further that where any sum is paid to such National Laboratory or university or Indian Institute of Technology or specified person in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this sub-section shall be equal to the sum so paid.

Explanation 1.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(a) such Laboratory, or specified person has been withdrawn; or

(b) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.

Explanation 2.—For the purposes of this section,—

(a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed ;

(b) "University" shall have the same meaning as in Explanation to clause (ix) of section 47 ;

(c) "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961);

(d) "specified person" means such person as is approved by the prescribed authority.

(2AB)(1) Where a company engaged in the business of bio-technology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-half times of the expenditure so incurred:

Provided that where such expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility is incurred in a previous year relevant to the assessment year beginning on or

after the 1st day of April, 2021, the deduction under this clause shall be equal to the expenditure so incurred.

Explanation.—For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General in such form and within such time as may be prescribed.

(5) [***]

(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.

(2B)(a) Where, before the 1st day of March, 1984, an asses see has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the pre scribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(b) Where a deduction has been allowed under clause (a) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (i) of sub-section (1) or clause (ia) of sub-section (2) for the same or any other previous year.

(c) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under clause (ii) of sub-section (1) of section 32 for the same or any subsequent previous year.

(d) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to

have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (5B) of section 155 shall apply accordingly.

(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under clauses (ii) and (iii) of sub-section (1), and its decision shall be final;

(b) the prescribed authority, when such question relates to any activity other than the activity specified in clause (a), whose decision shall be final.

(4) The provisions of sub-section (2) of section 32 shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(i) the amalgamating company shall not be allowed the deduction under clause (ii) or clause (iii) of sub-section (2); and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not sosold or otherwise transferred the asset.

45.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 45 of the Bill provides for deduction of certain capital expenditure (other than cost of land) or revenue expenditure incurred for scientific research. The provisos have been placed in separate subsections, and some have been combined to enhance readability. Redundant provisions have been removed, and common conditions have been consolidated in one place, reducing the text length. Some procedural provisions are proposed to be moved to the rules. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

45.4 Important Views/Suggestions given by Experts/Stakeholders:

- Certification by an accountant including both Chartered Accountant and Cost Accountant as defined under section 2(1) (b) of chartered accountant Act 1949 and under section 2(1)(b) of Cost Accountant Act 1959 respectively".

These types of capital expenditures should require certification from a professional. The Cost Accountants are adequately skilled to give such type of certification. Hence, Cost Accountants may be allowed to issue such certifications.

- Section 45(2)(c) is redundant as no weighted deduction is available, and it may create ambiguity regarding the applicability of Section 45(1). Delete Section 45(2)(c) of ITB 2025 to avoid potential ambiguities and ensure clarity in claiming deductions for R&D expenditure.

- With regard to Clause 45(11), it is proposed that Clause (d) may be inserted after clause (c) since land and building has been used in the same sense in this section, a similar definition may be given in respect of "Building".-
  (d) "building" includes any interest in building.

- Section 35 requires approval of scientific research conducted under a programme for claiming deduction of expenditure paid to National Laboratory, University, Indian Institute of Technology, or specified person with a direction. Clause 45(3) requires approval of scientific research under a programme for claiming deduction of expenditure even if paid to any specified research associations, company with main object of scientific research, and National Laboratory, University, Indian Institute of Technology, or specified person with a direction. Reading of the section 45(3) creates an impression that "Approval of scientific research" is to be obtained from specified authority in case of all scientific research programmes covered under clauses (a), (b) and (c) to be eligible to claim deduction. This may not be the intention and accordingly this condition may be added under 45(3)(c) only.

- Some of the specified deductions under the old Act viz weighted deductions was withdrawn with effect from FY 2020-21 and deductions on scientific research are not allowed for companies opting for lower tax rate under section 115BAA.
  Furthermore, innovation and R&D are key drivers of economy. Hence, deduction on R&D for companies opting for lower tax rate would discourage investing in R&D.

    - Keeping in mind the 'make in India' vision, weighted deduction for scientific research expenditure (such as on in house research) should be restored

- Deduction for expenditure on scientific research should be allowed for Companies opting for lower tax rate under section 115BAA.

45.5 Examination by the Committee:

45.5.1 On the issue of Cost Accountants being allowed to issue certifications, the Ministry responded as follows, 'Section 35 of the Income-Tax Act, 1961 does not provide for any requirement to get the capital expenditure certified from a professional. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

45.5.2 With regard to deletion of Section 45(2)(c) on account of being redundant the Ministry in their initial comment furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

45.5.3 Further, during the sitting of the Committee held on 26.05.2025, Ministry officials stated that consequent upon questionnaire sent in this regard which pointed to the fact that to ensure that the Clause accurately reflects the distinct purposes of Clauses 45(1) and 45(2)(c) as is the intention of the Ministry, is there any merit in reassessing and rephrasing the current wording of the Clause to mitigate the risk of future litigation, stated as follows:

"… went through it. Now, we found that some ambiguity is there."

Consequently, in the written reply, the Ministry has furnished that "Clause 45(2)(c) of the Bill provides for additional deduction for in-house R&D expenditure which is over and above the deduction allowed under cl. 45(1). However, the present wording of the cl. 45(2)(c) may leave some doubt about the aforesaid intention. The suggestion is acceptable. Drafting corrections in cl. 45(2)(c) shall be carried out to remove any ambiguity."

45.5.4 With regard to correction of the impression that "Approval of scientific research" is to be obtained from specified authority in case of all scientific research programmes covered under clauses (a), (b) and (c) to be eligible to claim deduction, the Ministry clarified in their response that, 'It is an inadvertent drafting error. The approval of prescribed authority is required only for clause 45(3)(c) and not for 45(3)(a)/(b)'.

45.5.5 With respect to the suggestion seeking to provide weighted deduction for scientific research expenditure, the Ministry stated, 'The suggestion is in the nature of policy change and beyond the scope of IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. It is the stated policy of the government to phase out

exemption/deduction and provide a simpler tax regime to the taxpayers. Also weighted deductions work in a twisted manner as they decrease the actual amount available for the activity. For example a taxpayer wanting to avail 100 Rs. deduction has to actually spend only Rs. 50 (where weighted deduction is 200%)'.

45.5.6 With regard to the issue of inserting a Clause (d) in 45(11) after clause (c) – (c) "land" includes any interest in land and (d) "building" includes any interest in building to which the Ministry furnished the response that, 'It is an inadvertent drafting error. Appropriate drafting corrections shall be carried out. The term land has wrongly been defined for whole section instead of only for the purpose of clause 45(1). Once this mistake is corrected there will be no need to define "building" separately'.

45.6 Observations/Recommendations of the Committee:

The Committee note that Clause 45(2)(c) of the Bill, which provides for an additional deduction for in-house R&D expenditure over and above the deduction allowed under Clause 45(1), currently creates doubt regarding this specific intention and thus recommend that Clause 45(2)(c) of the Bill, be redrafted to align it with the desired intent.

Further, with respect to Clause 45(3), the Committee recommend that the same be redrafted so as to clearly specify that *"approval of scientific research"* is required from the specified authority only in the case of Clause 45(3)(c), and not for Clauses 45(3)(a) or (b), consistent with the intent of the draft Bill and in line with the Income-Tax Act, 1961.

Regarding Clause 45(11), the Committee recommend that appropriate drafting corrections be made so that the term *"land"* is defined solely for the purpose of Clause 45(1), rather than for the entire section. This will remove the necessity to separately define *"building"*, which is currently required because both *"land"* and *"building"* have been used interchangeably in this section, while the definition of *"building"* has not been provided.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

46.Capital expenditure of specified business.

46.1 Provision proposed in the Income-Tax Bill, 2025:

46. (1) An assessee, at his option, shall be allowed a deduction of the whole of the capital expenditure incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the tax year in which such expenditure is incurred.

(2) Where the expenditure referred to in sub-section (1) is incurred prior to the commencement of its operations and such expenditure is capitalised in the books of account as on the date of commencement of its operations, it shall be allowed during the tax year in which such business is commenced.

(3) This section shall apply to the specified business fulfilling the following conditions:—

(a) it is not set up by splitting up, or the reconstruction, of an already existing business;

(b) it is not set up by the transfer of machinery or plant previously used for any purpose to the specified business;

(c) if the business is of the nature referred to in sub-section (11)(d)(iii) and such business—

(i) is owned by a company formed and registered in India under the Companies Act, 2013 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central Act or State Act;

(ii) has been approved by the Petroleum and Natural Gas Regulatory Board established under section 3(1) of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in this behalf;

(iii) has made not less than such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under section 3(1) of the Petroleum and Natural Gas Regulatory Board Act, 2006 available for use on common carrier basis by any person other than the assessee or an associated person; and

(iv) fulfils any other condition as prescribed;

(d) if the business is of the nature referred to in sub-section (11)(d)(xiv), such business,—

(i) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central Act or State Act;

(ii) entity referred to in sub-clause (i) has entered into an agreement with the Central

Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility.

(4) No deduction shall be allowed under the provisions of section 144 and Chapter VIII-C in relation to such specified business for the same or any other tax year, if a deduction under sub-section (1) is claimed and allowed.

(5) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any tax year or under this section in any other tax year, if the deduction has been claimed and allowed to him under this section.

(6) The provisions of this section shall apply to the specified business referred to in column B of the Table below if it commences its operations as specified in column C thereof.

Table

Sl. No.	Nature of specified business	Date of commencement of operations being on or after
A	B	C
1.	Laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network.	1st April, 2007.
2.	Building and operating a new hotel of two-star or above category as classified by the Central Government.	1st April, 2010.
3.	Building and operating a new hospital with at least 100 beds for patients.	1st April, 2010.
A	B	C
4.	Developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State	1st April, 2010.

	Government, as notified by the Board, as per the guidelines as notified by the Board.	
5.	Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as notified by the Board, as per the guidelines notified by the Board.	1st April, 2011.
6.	A new plant or a newly installed capacity in an existing plant for production of fertilizer.	1st April, 2011.
7.	Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962).	1st April, 2012.
8.	Bee-keeping and production of honey and beeswax.	1st April, 2012.
9.	Setting up and operating a warehousing facility for storage of sugar.	1st April, 2012.
10.	Laying and operating a slurry pipeline for the transportation of iron ore.	1st April, 2014.
11.	Setting up and operating a semi-conductor wafer fabrication manufacturing unit, as notified by the Board, and as per such guidelines as notified by the Board.	1st April, 2014.
12.	Developing, or operating and maintaining, or developing, operating and maintaining, any	1st April, 2017.

infrastructure facility.

13.	In all other cases.	Th 1st April, 2009.	

(7) Where the assessee builds a hotel of two star or above category as classified by the Central Government and subsequently, transfers the hotel operation thereof to another person while retaining its ownership, the assessee shall be deemed to be carrying on the specified business referred to in sub-section (11)(d)(iv).

(8) The provisions contained in sections 122(6) and 138(18) and (23) shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(9) Any asset for which a deduction is claimed and allowed under this section—

(a) shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed;

(b) is used for the purpose and period other than that referred to in clause (a), and is not chargeable to tax under section 26(2)(k), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head “Profits and gains of business or profession” of the tax year in which the asset is so used.

(10) The provisions of sub-section (9)(b) shall not apply to a company which has become a sick industrial company under section 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 during the period specified in sub-section (9)(a).

(11) In this section,—

(a) “associated person”, in relation to the assessee, means a person,—

(i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying at least 26% of the voting power in the capital of the assessee;

(iii) who appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees at least 10% of the total borrowings of the assessee;

(b) “cold chain facility” means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(c) “infrastructure facility” shall have the meaning assigned to it in the Explanation to section 80-IA(4) of the Income-tax Act, 1961;

(d) “specified business” means any one or more of the following businesses:—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;

(iv) building and operating, anywhere in India, a hotel of two star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a hospital with at least 100 beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government as per the guidelines notified by the Board;

(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government as per the guidelines notified by the Board;

(viii) production of fertilizer in India;

(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;

(x) bee-keeping and production of honey and beeswax;

(xi) setting up and operating a warehousing facility for storage of sugar;

(xii) laying and operating a slurry pipeline for the transportation of iron ore;

(xiii) setting up and operating a semiconductor wafer fabrication manufacturing unit as per the guidelines notified by the Board;

(xiv) developing, or maintaining and operating, or developing, maintaining and operating, a new infrastructure facility;

(e) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time before the date of the installation by the assessee, used in India;

(ii) such machinery or plant is imported into India; and

(iii) no deduction of depreciation for such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of the machinery or plant by the assessee;

(f) if any machinery or plant or its part previously used for any purpose is transferred to the specified business and its total value does not exceed 20% of the total value of the machinery or plant used in such business, then the conditions specified in sub-section (3)(b) shall be deemed to be complied with;

(g) any expenditure of capital nature shall not include any expenditure—

(i) for which the payment or aggregate of payments made to a person in a day, is not through specified banking or online mode, exceeds ten thousand rupees; or

(ii) incurred on the acquisition of any land or goodwill or financial instrument.

46.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of expenditure on specified business.

35AD. (1) An assessee shall, if he opts, be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him :

Provided that the expenditure incurred, wholly and exclusively, for the purposes of any specified business, shall be allowed as deduction during the previous year in which he commences operations of his specified business, if—

(a) the expenditure is incurred prior to the commencement of its operations; and

(b) the amount is capitalised in the books of account of the assessee on the date of commencement of its operations.

(1A) [***]

(2) This section applies to the specified business which fulfils all the following conditions, namely :—

(i) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(ii) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(iii) where the business is of the nature referred to in sub-clause (iii) of clause (c) of sub-section (8), such business,—

(a) is owned by a company formed and registered in India under the Companies Act, 1956 (1 of 1956) or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

(b) has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) and notified by the Central Government in the Official Gazette in this behalf;

(c) has made not less than such proportion of its total pipe line capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) available for use on common carrier basis by any person other than the assessee or an associated person; and

(d) fulfils any other condition as may be prescribed;

(iv) where the business is of the nature referred to in sub-clause (xiv) of clause (c) of sub-section (8), such business,—

(A) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central or State Act;

(B) entity referred to in sub-clause (A) has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining, a new infrastructure facility.

(3) Where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of section 10AA and Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" in relation to such specified business for the same or any other assessment year.

(4) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year, if the deduction has been claimed or opted by the assessee and allowed to him under this section.

(5) The provisions of this section shall apply to the specified business referred to in sub-section (2) if it commences its operations,—

(a) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network;

(aa) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government;

(ab) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;

(ac) on or after the 1st day of April, 2010, where the specified business is in the nature of developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(ad) on or after the 1st day of April, 2011, where the specified business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(ae) on or after the 1st day of April, 2011, in a new plant or in a newly installed capacity in an existing plant for production of fertilizer;

(af) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(ag) on or after the 1st day of April, 2012, where the specified business is in the nature of bee-keeping and production of honey and beeswax;

(ah) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating a warehousing facility for storage of sugar;

(ai) on or after the 1st day of April, 2014, where the specified business is in the nature of laying and operating a slurry pipeline for the transportation of iron ore;

(aj) on or after the 1st day of April, 2014, where the specified business is in the

nature of setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed;

(ak) on or after the 1st day of April, 2017, where the specified business is in the nature of developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility; and

(b) on or after the 1st day of April, 2009, in all other cases not falling under any of the above clauses.

(6) The assessee carrying on the business of the nature referred to in clause (a) of sub-section (5) shall be allowed, in addition to deduction under sub-section (1), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

(a) the business referred to in clause (a) of sub-section (5) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(b) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

(6A) Where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business referred to in sub-clause (iv) of clause (c) of sub-section (8).

(7) The provisions contained in sub-section (6) of section 80A and the provisions of sub-sections (7) and (10) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(7A) Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of eight years beginning with the previous year in which such asset is acquired or constructed.

(7B) Where any asset, in respect of which a deduction is claimed and allowed under this section, is used for a purpose other than the specified business during the period specified in sub-section (7A), otherwise than by way of a mode referred to in clause (vii) of section 28, the total amount of deduction so claimed and allowed in one or more previous years, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

(7C) Nothing contained in sub-section (7B) shall apply to a company which has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), during the period specified in sub-section (7A).

(8) For the purposes of this section,—

(a) an "associated person", in relation to the assessee, means a person,—

(i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the capital of the assessee;

(iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent of the total borrowings of the assessee;

(b) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(ba) "infrastructure facility" means—

(i) a road including toll road, a bridge or a rail system;

(ii) a highway project including housing or other activities being an integral part of the highway project;

(iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(iv) a port, airport, inland waterway, inland port or navigational channel in the sea;

(c) "specified business" means any one or more of the following business, namely :—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) laying and operating a cross-country natural gas or crude or petroleum

oil pipeline network for distribution, including storage facilities being an integral part of such network;

(iv) building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a hospital with at least one hundred beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(viii) production of fertilizer in India;

(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(x) bee-keeping and production of honey and beeswax;

(xi) setting up and operating a warehousing facility for storage of sugar;

(xii) laying and operating a slurry pipeline for the transportation of iron ore;

(xiii) setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed;

(xiv) developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility;

(d) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

(ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee;

(e) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in such business, then, for the purposes of clause (ii) of sub-section (2), the condition specified therein shall be deemed to have been complied with;

(f) any expenditure of capital nature shall not include any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees or any expenditure incurred on the acquisition of any land or goodwill or financial instrument.

46.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 46 of the Bill provides for deduction of certain capital expenditure of specified business incurred subject to fulfilment of certain conditions. The clause corresponds to section 35AD of the Act. Section 35AD(6) being a redundant provision has been removed. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

46.4 Important Views/Suggestions given by Experts/Stakeholders:

- Certification by an accountant including both Chartered Accountant and Cost accountant as defined under section 2(1)(b) of chartered accountant Act 1949 and under section2(1)(b) of Cost Accountant Act 1959 respectively".
  These types of capital expenditures should require certification from a professional. The Cost Accountants are adequately skilled to give such type of certification. Hence, Cost Accountants may be allowed to issue such certifications.

- The words "138(18) and (23)" in the clause 46(8) may be replaced by the words "140(8) and (13)". It is a typographical error with respect to cross referencing.

- Section 35AD provides deduction of capital expenditure in case of a new infrastructure facility (which includes development, operation and maintenance of roads). The term 'new infrastructure facility' is not defined.
  CBDT circular (Circular No. 4/2010, F.No.178/14/2010 -ITAI) provides guidance

that widening of an existing road by constructing additional lanes constitutes a 'new infrastructure facility'. This circular was issued with respect to the provisions of section 80-IA (corresponding section 138 of the Bill). To clarify that Circular No. 4 /2010, F.No.178/14/2010-ITAI will also be applicable while interpreting the term 'new infrastructure facility' in and to extend the benefit of section 35AD (corresponding section 46 of the Bill).

- The benefit of section 35AD should specifically be extended to the HAM projects considering substantial amount of expenditure is incurred for constructing the asset which should be eligible for the deduction.
  To extend the benefit of section 35AD to the HAM projects.

- With respect to 46(9)(b), it is submitted that Sub-section (9) may be reworded as given below - (9) Any asset for which a deduction is claimed and allowed under this section— (a) shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed; ~~(b) is used for the purpose and period other than that referred to in clause (a)~~**is used for a purpose other than the specified business during the period specified in clause (a)**, and is not chargeable to tax under section 26(2)(k), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head “Profits and gains of business or profession” of the tax year in which the asset is so used. Sub-section (9) suggests that if the specified asset is used for the period exceeding 8 years then there is a non compliance, which is not the intention. 9(b) should be redrafted as under: “is used for a purpose other than the specified business during the period specified in clause (a)”

- Clause 46(10) may be deleted since SICA was repealed in 2003 and thus, this subsection may have lost its relevance.

- With respect to 46(11)(c) it is suggested that reference to provisions of sections of IT Act, 1961 may be avoided. This does not simplify the IT Act but instead makes it difficult for readers as they will have to refer to 2 IT Acts.
  Proposed provision: (c) “infrastructure facility” shall ~~have the meaning assigned to it in the Explanation to section 80-IA(4) of the Income-tax Act, 1961~~ means— (i) a road including toll road, a bridge or a rail system; (ii) a highway project including housing or other activities being an integral part of the highway project; (iii) a water supply project, water treatment system, irrigation

project, sanitation and sewerage system or solid waste management system; (iv) a port, airport, inland waterway, inland port or navigational channel in the sea;

46.5 Examination by the Committee:

46.5.1 On the issue of Cost Accountants being allowed to issue certifications, the Ministry responded as follows, 'Section 35AD of the Income-Tax Act, 1961 does not provide for any requirement to get the capital expenditure certified from a professional. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

46.5.2 With regard to cross-referencing in Section 46(8) of ITB 2025, the Ministry stated that, 'The suggestion is acceptable. The cross referencing has to be corrected**.'**

46.5.3 With regard to removal of clause 46(10) of the Bill on the ground that Sick Industrial Companies (Special provisions) Act,1985 (SICA) has been repealed in the year 2003, the Ministry stated that, 'There is no change in the provisions of the Bill vis a vis Act. SICA may have been repealed but a company which may have been recognised as sick industrial company under SICA may still be operating'.

46.5.4 Further, during the sitting held on 05.06.2025, the Committee enquired about the rationale for still continuing with an Act repealed long ago, the Secretary, Department of Revenue stated as follows:

> *"…In the eco-system, there may be any company which is still getting the benefit because it was declared as sick company under SICA and this is something we are not sure of for deleting it…*
>
> *…Here, the only issue was that it has been there for such a long time. So, if we delete it without knowing if anybody is getting impacted as was the point, that is not proper…"*

And, in their submission related to post evidence replies, the Ministry furnished that, 'In 2003, Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) was repealed by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003, but the repeal was not immediately enforced. The Repeal Act came into force in 2016 vide notification No. S.O. 3568(E) dated 25th November, 2016. From 2016 onwards, all the remaining cases were transferred to the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy Code (IBC), 2016). Thus, the reference has been retained in the Income-tax Bill as was in the Income-tax Act, 1961 in Section 35AD(7C) of the 1961 Act or clause 46(10) of the 2025 Bill because the said section says that any company getting the benefit of capital expenditure u/s 35AD need to use the said capital asset for

the specified business for eight years. If in case, in any of the eight year post it's acquisition, the said asset is used for a purpose other than the specified business, then the capital expenditure allowed to the company shall be clawed back and treated as it's income. An exception to this claw back provision has been given to the SICA companies. Now as mentioned above that SICA was in force till 2016, therefore there are chances that there may be companies who was a sick industrial company under SICA and it's re-assessment may be ongoing or assessment may get re-opened in time to come. Thus, the reference has been rightly made'.

46.5.5 The Committee during its siting held on 05.06.2025 enquired about the rationale for not giving relief to NCLT companies while doing so for SICA companies as both SICA & NCLT are primarily for revamping and restructuring of companies, to which the Ministry in their post evidence replies furnished that, 'Clause 46 (sec 35AD) of the Bill provides that any company getting the benefit of capital expenditure cl. 46 need to use the said capital asset for the specified business for eight years. If in case, in any of the eight year post it's acquisition, the said asset is used for a purpose other than the specified business, then the capital expenditure allowed to the company shall be clawed back and treated as it's income. An exception to this claw back provision has been given to the SICA companies. This is the only benefit that has been given to SICA companies in the Bill. In respect of a company where resolution plan has been approved under Insolvency and Bankruptcy Code (IBC), 2016, Government has incentivized such company by amending the section 79 of Income-Tax Act' 1961 which now allows to carry forward and set off the accumulated losses, even if there is a change in shareholding. So, wherever required benefit/relief has been given to SICA and NCLT companies'.

46.5.6 With regard to providing definition of 'infrastructure facility' within the Bill, the Ministry stated that the same would be be examined to be included in the Bill. Further, during the sitting held on 05.06.2025, representatives from Ministry of Finance stated that:

> *"…here, the issue is that there were some Sections in the old Act which are now no longer here for any new assessee to get those deductions. Whoever has already got it, he has only been continuing and continuing for next few years. Like, they have mentioned here 80 IBA and 80 IB something like this. So, when we were drafting this Act, the two possible approaches were there. One, to again bring those Sections in the new Act which were applicable only for a few assessees right now and no new assessee is going to get those deductions in future or to provide a small section here so that the taxability and exemptions are provided here and substantial part refer to the old Act. So, here, the demand*

is that those Sections should be brought. For others, they are saying that they should have come to new Act.

46.5.7 And in the post evidence replies, the Ministry on including definition of 'infrastructure facility' stated that, 'The draft shall be incorporated in consultation with the Ministry of Law'.

46.5.8 With regard to rewording of clause 46(9)(b), the Ministry stated that, 'It is an inadvertent drafting error. The clause 46(9)(b) of the Bill is to be aligned with the provisions of the Act'.

46.5.9 With regard to the suggestion seeking clarification that Circular No 4 /2010, F.No.178/14/2010-ITAI will also be applicable while interpreting the term 'new infrastructure facility' in and to extend the benefit of section 35AD, the Ministry in their response furnished that, 'Clause 536(2)(j) of the Bill has already provided that any notification, instruction issued under the repealed Act will continue in force. The suggestion already stands addressed'.

46.5.10 And on the suggestion seeking for extending benefit of 35AD to Hybrid annuity model (HAM) projects, the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The suggestion has serious revenue implications. After reduction of corporate tax rate, there is no justification for any new tax incentives. Inclusion of any new infrastructure project under sec 35AD is to be evaluated after detailed examination and consideration'.

46.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that there is a typographical error in cross-referencing in Clause 46(8) and thus recommend that the same be rectified i.e. "138(18) and (23)" may be replaced with "140(8) and (13)."

Further, with regard to 46(9)(b), the Committee recommend that the Clause be redrafted to align it with the provisions of the 1961 Act as the current wordings in the Bill of Sub-section (9) suggest that if the specified asset is used for the period exceeding 8 years then there is a non compliance, which is not the intention and hence 9(b) should be redrafted as follows: "is used for a purpose other than the specified business during the period specified in clause (a)" and is not chargeable to tax under section 26(2)(k), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.

The Committee would also like to suggest that the word "Th" may be replaced with the word "The" to remove typographical error in Clause 46(6), Column 'C', Sr No. 13.

The Committee also recommend that reference made to Income-Tax Act 1961, made in 46(11)(c) be removed and incorporated in Clause 536 which pertains to Repeals and Savings.

Apart from the above recommendation(s), the Committee find the clause to be adequate and aligned with the corresponding provisions of the 1961 Act, and therefore accept the clause as it stands, subject to the proposed modifications.

Clause No.& Title:
47.Expenditure on agricultural extension project and skill development project

47.1 Provision proposed in the Income-Tax Bill, 2025:

47. (1) Any expenditure (excluding cost of any land or building) incurred, on—

(a) agricultural extension project by any assessee; or

(b) any skill development project by a company,

shall be allowed as a deduction, in the tax year in which such expenditure is incurred provided such project is notified as per the guidelines issued by the Board.

(2) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

47.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Expenditure on agricultural extension project.

35CCC. (1) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure :

Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words "a sum equal to one and one-half times of", the words "a sum equal to" had been substituted.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

Expenditure on skill development project.

35CCD. (1) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure :

Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words "an amount equal to one and one-half times of", the words "a sum equal to" had been substituted.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

47.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 47 of the Bill provides for deduction of expenses incurred for agricultural extension projects and skill development projects. The clause corresponds to section 35CCC and 35CCD of the Act. Provisions of Section 35CCC (Expenditure on agricultural extension project) and 35CCD (Expenditure on skill development project) are combined in the new clause as they are of the same nature. Income-Tax bill, 2025 allows for allowance of any expenditure (excluding cost of any land or building) incurred on agricultural extension project. Income-Tax Act, 1961 did not exclude expenditure incurred as cost of any land or building for agricultural extension project. The same have been excluded in the Bill keeping in view the relevant CBDT circulars/Notifications. Other provisions have been kept intact as was there in the Income-Tax Act, 1961. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

47.4 Important Views/Suggestions given by Experts/Stakeholders:

- Certification by an accountant including both Chartered Accountant and Cost accountant as defined under section 2(1)(b) of chartered accountant Act 1949 and under section2(1)(b) of Cost Accountant Act 1959 respectively”
  These types of claims should require certification from a professional. The Cost Accountants are adequately skilled to give such type of certifications. So, Cost Accountants may be allowed to issue such certifications.

- Previously, Section 35CCD of the Act (Clause 47(1)(b) of Bill) provided a 150% deduction for expenses on notified skill development projects, but this was reduc ed to 100% in recent years. Reinstate 150% weighted deduction u/s 35CCD (cla use 47(1)(b) of the Bill) for corporate-sponsored skill development programs, esp ecially those aligned with NSDC.

- Sub-section (1) may be re-worded as follows - (1) Any expenditure (excluding cost of any land or building) incurred, on- (a) agricultural extension project by any assessee; or (b) any skill development project by a company, shall be allowed as a deduction, in the tax year in which such expenditure is incurred provided such project is notified ~~as per the guidelines issued by the Board~~ **by the Board in this behalf in accordance with the guidelines as may be prescribed".**
  The phrase "notified as per the guidelines issued by the Board" is prone to different interpretations. It may be replaced with "notified by the Board in this behalf in accordance with the guidelines as may be prescribed".

47.5 Examination by the Committee:

47.5.1 The Ministry in their comments on the suggestion with regard to issue of certification by Cost Accountants stated that, 'Section 35CCC and section 35CCD of the Income-Tax Act, 1961 do not provide for any requirement to get the capital expenditure certified from a professional. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

47.5.2 And with regard to reinstating 150% weighted deduction u/s 35CCD (clause 47(1)(b) of the Bill) for corporate-sponsored skill development programs, the Ministry furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

47.5.3 With regard to replacing the phrase "notified as per the guidelines issued by the Board" with "notified by the Board in this behalf in accordance with the guidelines as may be prescribed" in Sub Section (1), the Ministry stated that, 'It is an inadvertent drafting error. Clause 47(1) of the Bill is to be aligned with the existing provisions of the Act'.

47.6 Observations/Recommendations of the Committee:

To align Clause 47(1) of the Bill with the existing provisions of the Act, the Committee recommend that the phrase "notified as per the guidelines issued by the Board" be replaced with the phrase "notified by the Board in this behalf in accordance with the guidelines as may be prescribed" in Clause 47(1)(b) as the former is prone to different interpretations.

Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.

Clause No.& Title:

48.Tea development account, coffee development account and rubber development account.

48.1 Provision proposed in the Income-Tax Bill, 2025:

48. (1) Where an assessee is carrying on business of growing and manufacturing tea or coffee or rubber in India, such assessee shall be allowed a deduction on the basis of deposits into the tea development account, coffee development account or rubber development account or any other designated account and computed as per the provisions of the Schedule IX.

(2) Any amount withdrawn or utilised or released at the time of closure or otherwise shall be charged to tax in the year in which the amount is transferred or withdrawn as per the provisions of the Schedule IX.

(3) Where any asset acquired as per the scheme or the deposit scheme is sold or otherwise transferred in any tax year by the assessee to any person at any time before the expiry of eight years from the end of the tax year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the tax year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that tax year.

48.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Tea development account, coffee development account and rubber development account.

33AB. (1) Where an assessee carrying on business of growing and manufacturing tea or coffee or rubberin India has, before the expiry of six months from the end of the previous year or before the due date of furnishing the return of his income, whichever is earlier,—

(a) deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board; or

(b) deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter in this section referred to

as the deposit scheme), with the previous approval of the Central Government,

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(a) a sum equal to the amount or the aggregate of the amounts so deposited; or

(b) a sum equal to forty per cent of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less :

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or as the case may be, any member of such firm, association of persons or body of individuals :

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Depos it Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as de fined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Deposit Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme or in the circum stances specified below :—

(a) closure of business;

(b) death of an assessee;

(c) partition of a Hindu undivided family;

(d) dissolution of a firm;

(e) liquidation of a company.

(4) Notwithstanding anything contained in sub-section (3), where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of aguest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

The whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

(5) Where any amount, standing to the credit of the assessee in the special account or in the Deposit Account, is with drawn during any previous year by the assessee in the circum stance specified in clause (a) or clause (d) of sub-section (3), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.

(6) Where any amount standing to the credit of the assessee in the special account or in the Deposit Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the depos it scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account or in the Deposit Account, which is released during any previous year by the National Bank or which is withdrawn by the assessee from the Deposit Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year :

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in circumstances specified in clauses (b), (c) and (e) of sub-section (3).

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year :

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ; or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company ;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company ; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—In this section,—

(a) "Coffee Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(aa) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(ab) "Rubber Board" means the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Act, 1947 (24 of 1947);

(b) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).

48.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 48 of the Bill provide for tea development account, coffee development account and rubber development account which, inter alia, seek to deal with deduction of deposits in tea, coffee or rubber development accounts by the assessee. The clause corresponds to section 33AB of the Act. Provisions related to the Tea Development Account, Coffee Development Account, and Rubber Development Account, which apply only to specific trades and a small number of taxpayers, have been moved to the Schedule (Schedule IX) as these provisions are procedural in nature. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

48.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 515(3) (b) “accountant” means a chartered accountant as defined in Section 2(1)(b) of the Chartered Accountants Act, 1949, who holds a valid certificate of practice under section 6(1) of that Act, or a cost accountant as defined in section 2(1)(b) of the Cost Accountants Act, 1959, who holds a valid certificate of practice under section 6(1) of that Act, but does not include [except for representing the assessee under subsection (1)].
  Cost accountants are adequately qualified to do such type of audits. Hence, the cost accountants may be included in the definition of ‘accountant’ to conduct such audits.

- Sub-section (2) be redrafted as under: Taxability of any amount withdrawn or utilised or released at the time of closure or otherwise shall be as per the provisions of the Schedule IX. Sub-section (3) may be reworded as follows - (3) Where any asset acquired as per the scheme or the deposit scheme is sold or otherwise transferred in any tax year by the assessee to any person at any time before the expiry of eight years from the end of the tax year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the tax year in which the asset is sold or otherwise

transferred and shall accordingly be chargeable to income-tax as the income of that tax year, except in cases referred to in para 5(2) of Schedule IX.
Sub-section (2) is not in line with Para 3(2) of Schedule IX, which provides for taxability only in the case of closure of business and dissolution of firm and not in case of amount withdrawn in case of death of an assessee, partition of HUF and liquidation of company. Sub-section (3) is not in line with Para 5(2) of Schedule IX, which provides for certain exemptions from the deeming provisions. Therefore, the phrase "except in cases referred to in para 5(2) of Schedule IX" may be added at the end of this sub-section.

- In Schedule IX para 1 sub para (3) be inserted as under: "(3) any interest credited in the specified account shall be deemed to be a deposit". There is a provision in Schedule X para 1(3) which provides that any interest credited in the specified account shall be deemed to be a deposit. A similar provision may also be incorporated in Schedule IX para 1.

48.5 Examination by the Committee:

48.5.1 In their comments with respect to including cost accountants in the definition of 'accountant' to conduct audits the Ministry has stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

48.5.2 With regard to the suggestion seeking that interest credited in the specified account in case of tea, coffee and rubber development shall be deemed to be a deposit as is provided in case of site restoration fund, the Ministry stated that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. In Schedule IX of the Bill (corresponding to tea, coffee and rubber development), deduction of 40% profit of business is allowed whereas in Schedule X of the Bill (corresponding to site restoration fund) deduction of 20% is profit of business is allowed. Schedule IX of the Bill already provide higher benefit in terms of allowable deduction hence it may not be possible to accept the suggestion'.

48.5.3 With regard to redrafting of Sub-section (2), the Ministry replied that, 'It is an inadvertent drafting error. Clause 48(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period. Rule 5(1) of Schedule IX also provides the same condition as in cl. 48(3). Rule 5(2) provides exception to rule 5(1). The Rule 5(2) of schedule IX is to be moved to clause 48(3) as the Rule 5(2) provides for exception to provisions of clause 48(3).

48.6 Observations/Recommendations of the Committee:

The Committee note that Sub-section (2) is not in line with Para 3(2) of Schedule IX, which provides for taxability only in the case of closure of business and dissolution of firm and not in case of amount withdrawn in case of death of an assessee, partition of HUF and liquidation of company and thus recommend redrafting of the same. The Committee understand that Clause 48(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period and Rule 5(1) of Schedule IX also provides the same condition as in 48(3). Further, Rule 5(2) provides exception to rule 5(1). The Rule 5(2) of Schedule IX is to be moved to clause 48(3) as the Rule 5(2) provides for exception to provisions of clause 48(3) to bring the Bill in line with the provisions of the Income-Tax Act, 1961.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

49.Site Restoration Fund.

49.1 Provision proposed in the Income-Tax Bill, 2025:

49.(1) An assessee carrying on a business of prospecting, extracting, or producing petroleum or natural gas, or both, in India, and who has an agreement with the Central Government for this business, shall be allowed a deduction on the basis of deposit to special account or the site restoration account, computed as per the provisions of the Schedule X.

(2) Any amount withdrawn or transferred at the time of closure or otherwise shall be charged to tax in the year in which the amount is transferred or withdrawn as per the provisions of the Schedule X.

(3) Where any asset acquired as per the scheme or the deposit scheme is sold or otherwise transferred in any tax year by the assessee to any person at any time before the expiry of eight years from the end of the tax year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the tax year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that tax year.

49.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Site Restoration Fund.

33ABA. (1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (a) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(i) a sum equal to the amount or the aggregate of the amounts so deposited; or

(ii) a sum equal to twenty per cent of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less :

Provided that where such assessee is a firm, or any association of persons or anybody of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals :

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year :

Provided also that any amount credited in the special account or the Site Restoration Account by way of interest shall be deemed to be a deposit.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

(4) Notwithstanding anything contained in sub-section (3), no deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(5) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is withdrawn on closure of the account during any previous year by the assessee, the amount so withdrawn from the account, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

Explanation.—Where any amount is withdrawn on closure of the account in a previous year in which the business carried on by the assessee is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year.

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year :

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(a) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(b) the expression "amount standing to the credit of the assessee in the special account or the Site Restoration Account" includes interest accrued to such accounts.]

49.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clauses 49 of the Bill provide for Site Restoration Fund which, inter alia, seek to deal with deduction of deposits in site restoration account engaged in prospecting or extracting or producing petroleum or natural gas or both. The clause corresponds to section 33ABA of the Act. Provisions related to the Site Restoration Account, which apply only to specific trade and a small number of taxpayers, have been moved to the Schedule (Schedule X) as these provisions are procedural in nature. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

49.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 515(3) (b) “accountant” means a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949, who holds a valid certificate of practice under section 6(1) of that Act, or a cost accountant as defined in section 2(1)(b) of the Cost Accountants Act, 1959, who holds a valid certificate of practice under section 6(1) of that Act, but does not include [except for representing the assessee under sub-section(1)].
  Cost accountants are adequately qualified to do such type of audits. Hence, the cost accountants may be included in the definition of ‘accountant’ to conduct such audits.

- Sub-section (2) may be redrafted as under: Taxability of any amount withdrawn or utilised or released at the time of closure or otherwise shall be as per the provisions of the Schedule X. Sub-section (3) may be reworded as follows - (3) Where any asset acquired as per the scheme or the deposit scheme is sold or otherwise transferred in any tax year by the assessee to any person at any time before the expiry of eight years from the end of the tax year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the tax year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that tax year, except in cases referred to in para 5(2) of Schedule X.
  This clause is not in line with Para 3(2) of Schedule X and therefore redrafting has been proposed. Sub-section (3) is not in line with Para 5(2) of Schedule X, which provides for certain exemptions from the deeming provisions. Therefore, the phrase “except in cases referred to in para 5(2) of Schedule X” may be added at the end of this sub-clause.

- Section 33ABA stated that no deduction shall be allowed in respect of any amount utilised for the purchase of any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing. New bill provides no deduction shall be allowed in respect of any amount utilized for the purchase of any new machinery or plant for constructing, manufacturing or producing any items. Words ‘to be installed in an industrial undertaking for the purposes of business’ is missing. However, these words are appearing in similar provisions of tea fund in Schedule IX. Hence, these words may be added back in sec on 49.

49.5 Examination by the Committee:

49.5.1 In their comments with respect to including cost accountants in the definition of 'accountant' to conduct audits the Ministry stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.'

49.5.2 With regard to redrafting of Sub-section (2), the Ministry replied that, 'It is an inadvertent drafting error. Clause 49(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period. Rule 5(1) of Schedule X also provides the same condition as in cl. 49(3). Rule 5(2) provides exception to rule 5(1). The subrule 5(2) of schedule X is to be moved to clause 49(3) as the sub rule 5(2) provides for exception to provisions of clause 49(3)'.

49.5.3 With respect to usage of the words " to be installed in an industrial undertaking for the purpose of business of construction, manufacture or production of any article or thing specified in the list" in Rule 3(2) of Schedule X in place of " for constructing, or manufacturing or producing any items listed ", the Ministry stated that, 'It is an inadvertent drafting error. In Rule 3(2) of Schedule X, the words " to be installed in an industrial undertaking for the purpose of business of construction, manufacture or production of any article or thing specified in the list" is to be used in place of " for constructing, or manufacturing or producing any items listed."

49.6 Observations/Recommendations of the Committee:

Upon examination, the Committee note that there is a need for redrafting of Sub-section (2) as Clause 49(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period and Rule 5(1) of Schedule X also provides the same condition as in cl. 49(3) and Rule 5(2) provides exception to Rule 5(1). The Committee thus recommend that the sub-rule 5(2) of Schedule X is to be moved to clause 49(3) as the sub-rule 5(2) provides for exception to provisions of clause 49(3).

The Committee further recommend that the words "to be installed in an industrial undertaking for the purpose of business of construction, manufacture or production of any article or thing specified in the list" be used in Rule 3(2) of Schedule X in place of " for constructing, or manufacturing or producing any items listed" to bring the Bill in line with the 1961 Act. The Bill provides that no deduction shall be allowed in respect of any amount utilized for the purchase of any new machinery or plant for constructing, manufacturing or producing any items i.e. the words 'to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list' is missing and the same needs to be rectified to align the Bill with the Income-Tax Act, 1961.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

50.Special provision in the case of trade, profession or similar association.

50.1 Provision proposed in the Income-Tax Bill, 2025:

50. (1) Irrespective of anything to the contrary contained in this Act, if, during the tax year, the amount received by a specified association from its members falls short of the expenditure incurred by such association solely for the protection or advancement of common interest of its members, then the amount so falling short shall be allowed as deduction from the income of such association under the head "Profits and gains of business or profession" and the remaining amount, if any, from its income under any other head.

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

(a) "specified association" means any trade, professional or similar association, not covered in Schedule III (Table: Sl. No. 24), whose income or its part is not distributed to its members (other than as grants to any associations or institutions affiliated to it);

(b) the amount received by the specified association from its members shall include amount by way of subscription or otherwise, and shall not include any remuneration received by the association for rendering any specific services to such members;

(c) expenditure incurred by specified association shall not include—

(i) expenditure deductible under any other provision of this Act; and

(ii) any capital expenditure.

(3) The effect of other provisions of this Act relating to carry forward and set off of brought forward losses or allowances shall be given before allowing deduction under sub-section (1).

(4) The maximum allowable deduction under this section shall not exceed 50% of the total income as computed before allowing deduction under this section.

50.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for deduction in the case of trade, professional or similar association.

44A. (1) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or similar association (other than an association or institution referred to in clause (23A) of section 10) from its members, whether by way of subscription or otherwise (not

being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head "Profits and gains of business or profession" and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.

(2) In computing the income of the association for the relevant assessment year under sub-section (1), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year.

(3) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section.

(4) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it.

50.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 50 of the Bill provides for deduction in the case of specified associations for the interest and welfare of members of such association when the amount received from members by the association falls short of the expenditure incurred for the welfare of its members. The clause corresponds to section 44A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

50.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.

Clause No.& Title:

51.Amortisation of expenditure for prospecting certain minerals.

51.1 Provision proposed in the Income-Tax Bill, 2025:

51. (1) An assessee, being an Indian company or a person (other than a company) who is resident in India, who is engaged in any operations relating to prospecting for, or extraction or production of, any mineral, shall be allowed a deduction of an amount equal to one-tenth of the amount of expenditure referred to in sub-section (2), in each of the relevant tax years.

(2) The expenditure referred to in sub-section (1) is the expenditure incurred by the assessee at any time during the year of commercial production and any one or more of the four tax years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Schedule XII or on the development of a mine or other natural deposit of any such mineral or group of associated minerals.

(3) The expenditure under sub-section (2) shall be reduced by such expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(4)For the purposes of sub-sections (2) and (3),the following expenditure shall be excluded:—

(a)any expenditure on the acquisition of the site of the source of any mineral or group of associated minerals referred to in the said sub-sections or of any rights in or over such site; or

(b)any expenditure on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(c)any expenditure of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 33.

(5) The deduction to be allowed under sub-section (1) for any relevant tax year shall be—

(a) an amount equal to one-tenth of the expenditure specified in sub-sections (2) and (3) (such one-tenth being herein referred to as the instalment); or

(b) such amount as is sufficient to reduce to nil the income (as computed before making the deduction under this section) of that tax year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-sections (2) and (3)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals under this section in respect of which the expenditure was incurred,

whichever is less.

(6) If any part of the instalment for a relevant tax year is not fully allowed, it shall be carried forward to the next year, becoming part of the instalment of that tax year and such carrying forward may continue for each following year, but no instalment shall be carried forward beyond the tenth year from the year in which commercial production began.

(7) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,—

(a) the accounts of the assessee for the year or years in which the expenditure specified in sub-sections (2) and (3) are incurred have been audited by an accountant, before the specified date referred to in section 63; and

(b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit, by such date, in such form and duly signed and verified by such accountant, as prescribed.

(8) If an undertaking of an Indian company, entitled for deduction under sub-section (1), is transferred before ten years specified in the said sub-section in a scheme of amalgamation or demerger, to another Indian company, then,—

(a) no deduction shall be allowed to the amalgamating or demerged company for the year in which such amalgamation or demerger takes place; and

(b) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the amalgamation or demerger has not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-sections (2) and (3), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

(10) In this section,—

(a) “operation relating to prospecting” means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral and includes any such operation which proves to be infructuous or abortive;

(b) “year of commercial production” means the tax year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of Schedule XII, commences;

(c) “relevant tax years” means the ten tax years beginning with the year of commercial production.

51.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deduction for expenditure on prospecting, etc., for certain minerals.

35E. (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2), the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each one of the relevant previous years a deduction of an amount equal to one-tenth of the amount of such expenditure.

(2) The expenditure referred to in sub-section (1) is that incurred by the assessee after the date specified in that sub-section at any time during the year of commercial production and any one or more of the four years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals :

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(3) Any expenditure—

(i) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (2) or of any rights in or over such site;

(ii) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(iii) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the assessee for any of the purposes specified in sub-section (2).

(4) The deduction to be allowed under sub-section (1) for any relevant previous year shall be—

(a) an amount equal to one-tenth of the expenditure specified in sub-section (2) (such one-tenth being hereafter in this sub-section referred to as the instalment); or

(b) such amount as is sufficient to reduce to nil the income (as computed before making the deduction under this section) of that previous year arising from the

commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-section (2)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid in respect of which the expenditure was incurred,

whichever amount is less :

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production.

(5) For the purposes of this section,—

(a) "operation relating to prospecting" means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive;

(b) "year of commercial production" means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences;

(c) "relevant previous years" means the ten previous years beginning with the year of commercial production.

(6) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288, before the specified date referred to in section 44AB and the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by that date in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(7) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the

amalgamated company as they would have applied to the amalga-mating company if the amalgamation had not taken place.

(7A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the demerger had not taken place.

(8) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.

51.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 51 of the Bill provides for amortisation of expenditure for prospecting certain minerals. The clause corresponds to section 35E of the Act. Schedule XII may be read along with this Clause as it specifies the minerals and groups of associated minerals on which this clause is applicable. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

51.4 Important Views/Suggestions given by Experts/Stakeholders:

- (7) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,– (a) the accounts of the assessee for the year or years in which the expenditure specified in sub-sections (2) and (3) are incurred have been audited by a chartered accountant in practice or cost accountant in practice, before the specified date referred to in section 63; and (b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit, by such date, in such form and duly signed and verified by chartered accountant in practice or cost accountant in practice, as prescribed.

  Amortisation is directly related to cost statements, hence the cost accountants may be allowed for amortisation of expenditure for prospecting certain minerals. In addition to the above, for determination of the amortisation, it is necessary to

calculate the cost of the project which is an area of cost accountant, so this is another reason to include cost accountants for certification of such expenditures.

51.5 Examination by the Committee:

With respect to the need for getting capital expenditure certified from a professional, the Ministry in their comments furnished, ‘Section 35E of the Income-Tax Act, 1961 do not provide for any requirement to get the capital expenditure certified from a professional. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.’

51.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 51 to be acceptable as it is without any modifications.

Clause No.& Title:

52. Amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme of voluntary retirement, etc.

52.1 Provision proposed in the Income-Tax Bill, 2025:

52. (1) Where an expenditure of the nature specified in column B of the Table given below is incurred during the tax year, a deduction or part thereof shall be allowed in equal instalments in each of the tax years as mentioned in column D of the said Table, beginning from the initial tax year specified in column C thereof.

Table

Sl. No.	Nature of expenditure	Initial tax year	Number of tax years over which deduction of expenditure is allowable in equal instalments
A	B	C	D
1.	Expenditure incurred by an Indian company, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking.	Tax year in which such amalgamation or demerger takes place.	Five tax years.
A	B	C	D
2.	Amount paid to an employee in connection with his voluntary retirement as per any scheme of voluntary retirement.	Tax year in which such payment is made.	Five tax years.
3.	Capital	Tax year in	Number of

	expenditure incurred and actually paid for acquiring any right to use spectrum for telecommunication services (spectrum fee).	which,— (a)the business to operate telecom services is commenced; or (b) spectrum fee is actually paid, whichever is later.	years commencing from the initial tax year and ending in the tax year up to which the spectrum for which the fee is paid remains in force.
4.	Capital expenditure incurred and actually paid for acquiring any right to operate telecommunication services (herein referred to as licence fee).	Tax year in which,— (a) the business to operate telecom services is commenced; or (b) licence fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the licence for which the fee is paid remains in force.

(2) Where the rights referred to in sub-section (1)(Table: Sl. No. 3or 4) are transferred and—

(a) where the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure though incurred, but remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be

allowed in respect of the tax year in which the licence is transferred;

(b) where the whole or part of the right is transferred, the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure though incurred, but remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the tax year in which the licence has been transferred;

(c) where the rights under clause (b) is transferred in a tax year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that tax year;

(d) where the whole or part of the right is transferred, the proceeds of the transfer (so far as they consist of capital sums) are equal or greater than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the tax year in which the licence is transferred or in respect of any subsequent tax year or years;

(e) such transfer is in a scheme of amalgamation or demerger to the amalgamated company or resulting company, being an Indian company,—

(i)the provisions of clauses (a), (b), (c) and (d) shall not apply to the amalgamating or demerged company; and

(ii) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the transfer has not taken place.

(3)Where a part of the rights is transferred in a tax year and sub-section (2)(b) and(c) does not apply, the deduction to be allowed under sub-section (1) for the expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant tax years which have not expired at the beginning of the tax year during which the licence is transferred.

(4)No deduction shall be allowed—

(a) for depreciation under section 33(1) to (10) in respect of expenditure mentioned in sub-section (1)(Table: Sl. No. 3 or 4), where deduction under this section is claimed and allowed for any tax year;

(b) under any other provision of this Act in respect of the expenditure mentioned in sub-section (1)(Table: Sl. No. 1 or 2).

(5)In case any deduction has been claimed and granted in respect of an expenditure referred in sub-section (1) (Table: Sl. No. 3)and there is subsequent failure on part of the assessee to comply with any of the provisions of this section, then,—

(a) the deduction shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of any other provisions of this Act, recompute the total income of the assessee for the said tax year by making necessary rectification;

(c) the provisions of section 287 shall, so far as may be, apply; and

(d) the period of four years specified in section 287(8) shall be counted from the end of the tax year in which such failure takes place.

(6) Where a specified business reorganisation takes place before the expiry of the period specified in sub-section (1)(Table: Sl. No. 2.D), in case of an expenditure referred against serial number 2 thereof, then,—

(a) the provisions of this section shall continue to apply to the successor entity for the tax year in which the business reorganisation took place and subsequent tax years; and

(b) no deduction shall be allowed to the predecessor entity under this section for the tax year in which such reorganisation takes place.

(7) In this section,—

(a) “actually paid” means the actual payment of expenditure irrespective of the tax year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner, as prescribed;

(b) “equal installments” shall be calculated by taking numerator as 1 and denominator as the tax years mentioned in column D of the Table in sub-section (1);

(c) “specified business reorgnisation” means—

(i) amalgamation of an Indian company and its undertaking with another Indian company; or

(ii) demerger of an undertaking of an Indian company to another company; or

(iii) succession of a firm or proprietorship concern to a company fulfilling conditions as laid down in section 70(1)(zd); or

(v) conversion of a private company or unlisted public company to a limited liability partnership fulfilling conditions laid down in section 70(1)(ze).

52.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Expenditure for obtaining right to use spectrum for telecommunication services.

35ABA. (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made to obtain a right to use spectrum, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

(2) The provisions contained in sub-sections (2) to (8) of section 35ABB, shall apply as if for the word "licence", the word "spectrum" had been substituted.

(3) Where, in a previous year, any deduction has been claimed and granted to the assessee under sub-section (1), and, subsequently, there is failure to comply with any of the provisions of this section, then,—

(a) the deduction shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary rectification;

(c) the provisions of section 154 shall, so far as may be, apply and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the provisions of this section takes place.

Explanation.—For the purposes of this section,—

(i) "relevant previous years" means,—

(A) in a case where the spectrum fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(B) in any other case, the previous years beginning with the previous year in which the spectrum fee is actually paid,

and the subsequent previous year or years during which the spectrum, for which the fee is paid, shall be in force;

(ii) "appropriate fraction" means the fraction, the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner as may be prescribed.

Expenditure for obtaining licence to operate telecommunication services.

35ABB. (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to operate telecommunication services either before the commencement of the business to operate telecommunication services or thereafter at any time during any previous year and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

(i) "relevant previous years" means,—

(A) in a case where the licence fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(B) in any other case, the previous years beginning with the previous year in which the licence fee is actually paid,

and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;

(ii) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(3) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation.—Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(5) Where a part of the licence is transferred in a previous year and sub-section (3) does not apply, the deduction to be allowed under sub-section (1) for expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company),—

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the amalgamating company; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalga-mating company if the latter had not transferred the licence.

(7) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the licence to the resulting company (being an Indian company),—

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the demerged company; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company if the latter had not transferred the licence.

(8) Where a deduction for any previous year under sub-section (1) is claimed and allowed in respect of any expenditure referred to in that sub-section, no deduction shall be allowed under sub-section (1) of section 32 for the same previous year or any subsequent previous year.

Amortisation of expenditure in case of amalgamation or demerger.

35DD. (1) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.

Amortisation of expenditure incurred under voluntary retirement scheme.

35DDA. (1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee in connection with his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.

(2) Where the assessee, being an Indian company, is entitled to the deduction under sub-section (1) and the undertaking of such Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another Indian company in a scheme of amalgamation, the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(3) Where the undertaking of an Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another company in a scheme of demerger, the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.

(4) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, the provisions of this section shall, as far as may be, apply to the successor company, as they would have applied to the firm or the proprietary concern, if reorganisation of business had not taken place.

(4A) Where there has been reorganisation of business, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as

they would have applied to the said company, if reorganisation of business had not taken place.

(5) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) in the case of the amalgamating company referred to in sub-section (2), in the case of demerged company referred to in sub-section (3), in the case of a firm or proprietary concern referred to in sub-section (4) and in the case of a company referred to in sub-section (4A) of this section, for the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

(6) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.

52.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 52 of the Bill provides for amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme of voluntary retirement, etc., and deductions for spectrum or license fee paid in the telecommunication business. The clause corresponds to section 35ABA, 35ABB, 35DD and 35DDA of the Act. Provisions have been presented in a tabular form which enhances readability and reduces ambiguity. Common provisions and exceptions are listed as sub-sections below the table, providing a clearer understanding of the deferred expenditure allowance. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

52.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 515(3) (b) “accountant” means a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949, who holds a valid certificate of practice under section 6(1) of that Act, or a cost accountant as defined in section 2(1)(b) of the Cost Accountants Act, 1959, who holds a valid certificate of practice under section 6(1) of that Act, but does not include [except for representing the assessee under sub-section(1)].
  These types of claims should require certification from a professional. The Cost Accountants are adequately skilled to issue such type of certifications. So, Cost Accountants may be allowed to issue such certifications.

- Section 52 of the New Income-Tax Bill 2025 contains provisions relating to deduction of capital expenditure being right to operate telecommunication services (license fee) and right to use spectrum for telecommunication services.

Section 52(2) covers provisions when both these rights are transferred. However, in clause (b) therein while word 'license' is appearing but word spectrum' is not appearing. Similarly, in repeal and savings clause under Section 536 (2)(s) of the New Income-Tax Bill there is no reference of following A. Section 35ABA of the Income-Tax act 1961 (right to use spectrum) B. Pre construction interest u/s 24(b) of ITA 2025 C. Unutilised interest deduction carried forward – S. 94B(4).
The government should correct these omissions by making suitable insertions in sections 52(2) and 536(2)(s) of New Income-Tax Bill 2025.

- Proposed addition in the end: And the balance excess which exceeds the expenditure incurred to obtain the license shall be taxed as capital gains in accordance with the provisions of the Act.
  The taxability of proceeds of transfer in excess of the original expenditure has not been considered, which has been suggested here.

- Section 35ABA provides deduction for each of the relevant previous years equal to the appropriate fraction of the amount of expenditure incurred for obtaining right to use spectrum for telecommunication services. Clause 52 provides deduction in the initial tax year and for the number of tax years over which deduction of amount of expenditure incurred for obtaining right to use spectrum for telecommunication services in equal instalments as per Column C and D of the indicated table. Section 35ABA appears to be inadvertently missed under "Repeals and Saving" section which may be added suitably.

- Unrelated sections have been merged. Only section 35ABA and 35ABB have similar conditions and applicable to telecommunication services. Section 35DD deals with Amortisation of expenditure in relation to amalgamation & demerger. Similarly, section 35DDA relates to Amortisation of expenditure incurred under VRS. Merging unrelated sections is leading to cumbersome reading and it is difficult to tag the conditions to relevant deduction. Only section 35ABA and 35ABB should be merged and sections 35DD and 35DDA should be retained as independent sections.

- With regard to 52(6) it is stated that -Where a specified business reorganisation takes place before the expiry of the period specified in sub-section (1) (Table: Sl. No. 2 Column D), in case of an expenditure referred against serial number 2 thereof, then,—
  Table: Sl. No. 2.D is being used to refer to Sl. No 2 and Column D of the Table. Using Column will avoid confusion in the minds of readers.

52.5 Examination by the Committee:

52.5.1 The Ministry in their response to requirement to get the capital expenditure certified from a professional stated that, ‘Section 35ABA, 35ABB, 35DD, 35DDA of the Income-Tax Act, 1961 do not provide for any requirement to get the capital expenditure certified from a professional. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.’

52.5.2 With respect to the word ‘license’ appearing but word spectrum’ missing in clause (b) the Ministry commented that, ‘The suggestion made by the stakeholder is acceptable on account of no reference of Section 35 ABA of the Income-Tax Act, 1961 in repeal and savings clause under Section 536(2)(s) of the new Income-Tax Bill, 2025.’

52.5.3 With regard to using the prefix ‘Column” in providing referencing to the table, the Ministry in their reply accepted that, ‘The word "col" is to be provided in the references of the table wherever required’.

52.5.4 With respect to the suggestion seeking for taxability of proceeds when license (for which expenditure has been claimed under clause 52 of the Bill) is transferred under the head capital gains rather than under business head, the Ministry in their reply furnished, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The assessee is allowed deduction under clause 52(1) of the Bill for expenditure incurred to obtain license. The asset on which deduction has been claimed under the head of business and profession is to be taxed under the same head on its transfer to maintain equity in taxation’.

52.5.5 On the issue of separation of certain sections which have been clubbed the Ministry stated that, ‘There is no change in the provisions of the Bill vis a vis Act. Provisions of sec 35ABA, 35ABB, 35DD and 35DDA are related to amortisation of expenditure. Hence these are clubbed together. No ambiguity arising as a result of clubbing has been pointed out. The suggestion is not feasible’.

52.6 Observations/Recommendations of the Committee:

The Committee note that in Clause 52(b) containing provisions relating to deduction of capital expenditure being right to operate telecommunication services (license fee) and right to use spectrum for telecommunication services, the word 'license' is appearing but word 'spectrum' is not appearing and thus recommend that the same be added at the appropriate place.

The Committee further recommend that the word "col" is to be provided in the references of the table wherever required to provide clarity to readers as to which Column is being referred to in the table.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

53. Full value of consideration for transfer of assets other than capital assets in certain cases.

53.1 Provision proposed in the Income-Tax Bill, 2025:

53. (1) In case of transfer of an asset (other than a capital asset), being land or building or both, if the consideration received or accrued from such transfer is less than the stamp duty, then such stamp duty value for computing profits and gains from transfer of such asset shall be deemed to be the full value of consideration.

(2) The provisions of sub-section (1) shall not apply if the stamp duty value does not exceed 110% of the consideration received or accrued and in such a case, the consideration received or accrued shall be deemed to be the full value of consideration.

(3) If the date of agreement fixing the value of consideration for transfer of asset and date of registration for transfer of such asset are different, then the stamp duty value as on date of agreement may be taken to be the full value of consideration under sub-section (1).

(4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.

(5) For the determination of the value adopted or assessed or assessable under sub-section (1), the provisions of section 78(2) and (4) shall apply.

53.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for full value of consideration for transfer of assets other than capital assets in certain cases.

43CA. (1) Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer:

Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing

profits and gains from transfer of such asset, be deemed to be the full value of the consideration:

Provided further that in case of transfer of an asset, being a residential unit, the provisions of this proviso shall have the effect as if for the words "one hundred and ten per cent", the words "one hundred and twenty per cent" had been substituted, if the following conditions are satisfied, namely:—

(i) the transfer of such residential unit takes place during the period beginning from the 12th day of November, 2020 and ending on the 30th day of June, 2021;

(ii) such transfer is by way of first time allotment of the residential unit to any person; and

(iii) the consideration received or accruing as a result of such transfer does not exceed two crore rupees.

(2) The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (1).

(3) Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (1) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.

(4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed on or before the date of agreement for transfer of the asset.

Explanation.—For the purposes of this section, "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

53.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 53 of the Bill provides for full value of consideration for transfer of assets other than capital assets in certain cases and for adoption of stamp duty value as full value of consideration at the time of transfer of assets (other than capital assets) in

specific cases. The clause corresponds to section 43CA of the Act. The provisions mentioned in second proviso to Section 43CA(1) of the Act have been removed as it was applicable only for the transactions took place between 12.11.2020 and 30.6.2021. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

53.4 Important Views/Suggestions given by Experts/Stakeholders:

- Unlike S. 43CA of ITA 1961 which required the received consideration for transfer to be less than the value adopted for stamp duty purposes, S. 53 of ITB requires the received consideration for transfer to be less than the stamp duty itself which is a small fraction of the stamp duty value adopted. This might defeat the very purpose with which the anti-abuse provisions were inserted.
  Include the word “value” after the phrase “is less than the stamp duty” to ensure that the anti-abuse purpose of S. 53 of ITB 2025 is not diluted.

53.5 Examination by the Committee:

On the issue of omission of the word “value”, the Ministry in their response furnished that, ‘Due to inadvertent error, in the above sub-section "value" is missing along with stamp duty. The correct phrase shall be stamp duty value. The suggestion is acceptable’.

53.6 Observations/Recommendations of the Committee:

Upon examination, the Committee note that after the phrase "stamp duty" the word "value" is missing and feel that the same is required to be added to ensure that the Bill is in alignment with the Income-Tax Act, 1961 whose objective was consideration for transfer to be less than the value adopted for stamp duty purposes, while the current wording of the Bill points towards the received consideration for transfer to be less than the stamp duty itself which is a small fraction of the stamp duty value adopted. Hence, the Committee recommend that the word "value" be added after the phrase "stamp duty" to rectify the same.

Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to the corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.

Clause No.& Title:

54. Business of prospecting for mineral oils.

54.1 Provision proposed in the Income-Tax Bill, 2025:

54. (1) Where the assessee undertakes specified oil exploration business, then deduction specified in sub-sections (3) and (4) shall be allowed while computing the income under the head "Profits and gains of business or profession".

(2) In this section, "specified oil exploration business" means business consisting of prospecting for or extraction or production of mineral oils where the following conditions are fulfilled:—

(a) the assessee has entered into an agreement with the Central Government;

(b) such agreement is entered for association or participation of the Central Government or any person authorised by it; and

(c) such agreement is laid before each House of Parliament.

(3) The deduction referred to in sub-section (1) shall be—

(a) for the period before the beginning of commercial production, expenditure towards infructuous or abortive exploration incurred in respect of any surrendered area;

(b) for the period after the commencement of commercial production, expenditure (whether before or after such production) in respect of drilling or exploration activities or services or in respect of physical assets used in that connection;

(c) for the tax year of commencement of commercial production and such succeeding tax years as specified in the agreement, towards depletion of mineral oil in the mining area.

(4) The deductions referred to in sub-section (1) shall be—

(a) either in lieu of, or in addition to, any allowance admissible under this Act as specified in the agreement; and

(b) computed and made in the manner specified in the agreement and the other provisions of this Act shall be deemed to have been modified to such extent.

(5) Where the business or any interest therein as referred to in sub-section (1) is wholly or partly transferred as per the provisions of the agreement, the profit shall be charged to tax or deduction shall be allowed in the following manner:—

(a) where A is less than C, then (C-A) shall be allowed as deduction in the tax year in which such business or interest is transferred;

(b) where A is greater than C,—

(i) but less than B, then (A-C) shall be the profit chargeable under the head "Profits and gains of business or profession" for the tax year in which such transfer takes place;

(ii) in any other case, only (B-C) shall be the profit chargeable under the said head for the tax year in which such transfer takes place; and

(iii) no deduction shall be allowed for the expenditure incurred remaining unallowed in the tax year in which such transfer takes place or any subsequent tax year,

where,—

A = proceeds of the transfer (so far as they consist of capital sums);

B = total amount of expenditure incurred in connection with the business or to obtain interest therein;

C = amount of expenditure incurred remaining unallowed.

(6) If the business or interest therein is no longer in existence in the year of transfer, the provisions of sub-section (5) shall apply as if such business is in existence during the said year.

(7) Where the business or interest therein is transferred in a scheme of amalgamation or demerger and the resulting entity is an Indian company, then the provisions of sub-section (5) shall—

(a) not apply to the amalgamating or demerged company; and

(b) continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company as if the transfer has not taken place.

(8) In this section, "mineral oil" includes petroleum and natural gas.

54.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for deductions in the case of business for prospecting, etc., for mineral oil.

42. (1) For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the

Central Government has entered into an agreement with any person for the association or participation of the Central Government or any person authorised by it in such business (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

(a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee ;

(b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32 :

Provided that in relation to any agreement entered into after the 31st day of March, 1981, this clause shall have effect subject to the modification that the words and figures "except assets on which allowance for depreciation is admissible under section 32" had been omitted; and

(c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement;

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement.

(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;

(b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

Provided that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section—

(i) shall not apply in the case of the amalgamating or the demerged company; and

(ii) shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the latter had not transferred the business or interest in the business.

Explanation.—For the purposes of this section, "mineral oil" includes petroleum and natural gas.

54.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 54 of the Bill provides for deduction of certain capital expenditure expenses incurred in business of prospecting for mineral oils. The clause corresponds to section 42 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

54.4 Important Views/Suggestions given by Experts/Stakeholders:

- Clause 54(8) may be deleted as the term ‘mineral oil’ is already defined in section 66(13). The definition in section 66(13) is same.

54.5 Examination by the Committee:

On the issue of deletion of Clause 54(8), the Ministry in their reply has stated that, ‘It is an inadvertent drafting error. The term "mineral oil" has been defined in clause 54(8) as well as in clause 66(13). It may be deleted from one of the clauses’.

54.6 Observations/Recommendations of the Committee:

Upon examination, the Committee note that the term 'mineral oil' is already defined in section 66(13) and is an unnecessary repetition in Clause 54 and hence recommend that Clause 54(8) may be deleted.

Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.

Clause No.& Title:

55. Insurance business.

55.1 Provision proposed in the Income-Tax Bill, 2025:

55. Irrespective of anything to the contrary contained in the provisions of this Act for computing income under the head “Income from house property”, “Capital gains” or “Income from other sources”, or in section 390(5) and (6), or in sections 26 to 54, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed as per the provisions of Schedule XIV.

55.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Insurance business.

44. Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in sections 28 to 43B, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.

55.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 55 of the Bill provides for the manner of computation of profits or gains in cases of insurance business. The clause corresponds to section 44 of the Act. The provisions related to the computation of profits or gains in insurance business are mentioned in Schedule XIV of the Bill which is a corresponding schedule for Schedule XIV of the Act. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

55.4 Important Views/Suggestions given by Experts/Stakeholders:

- We would suggest amendments under the provisions of New Tax Bill, for claiming deduction of IBNR (incurred but not reported (IBNR) claims Reserve) which are certified by Appointed Actuary by introducing separate adjustment under schedule XIV. It is suggested to include Provision for claims incurred but not reported (IBNR) in clause (d) of Part B of Schedule XIV of New Income-Tax Bill, 2025 as under:

"such amount carried over to reserve for unexpired risk and Provision for claims IBNR shall be allowed as deduction."

The incurred but not reported (IBNR) claims reserve shall be determined using appropriate actuarial principles and methods and shall be certified by the Appointed Actuary. The Appointed Actuary shall estimate IBNR on both net of reinsurance and gross of reinsurance basis. The Appointed Actuary shall estimate the provision for IBNR for each year of occurrence and the figures shall be aggregated to arrive at the total amount to be provided The methodology to determine the liability is also certified by the Actuary in accordance with guidelines and norms issued by the Institute of Actuaries of India and Insurance Regulatory And Development Authority of India.

- Necessary modification to the Bill may be considered towards either dropping of the said provision or make only Section 34 (2) (a) of Income-Tax Bill 2025 (which reads as below), applicable to life insurance industry: "an expenditure incurred for any purpose which is an offence or which is prohibited by law."

  Making the section effective on life insurance industry, may create confusion and avoidable interpretations with scope for discretionary interpretations by the Assessing Officer to question different items of expenditure and the presumptive rate of tax for life insurance business may dilute its relevance. This may also give rise to unnecessary & avoidable litigations. Further, Expenses of Management of life insurance companies are governed by the IRDAI Regulations, issued from time to time, which is considered for calculation of actuarial surplus. In view of this, any adjustment in actuarial surplus, during assessment, will impact bonus already paid to the policyholders. In view of the detailed provisions of IRDAI dealing with expense of management the scope of this provision is requested to be limited to as suggested.

55.5 Examination by the Committee:

55.5.1 With regard to the suggestion seeking to modify the Rule 2(2) of schedule XIV whereby certain disallowed expenses were regarded as income of insurance companies, the Ministry in their response furnished, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Life insurance companies were debiting huge amount of bogus expenses under the garb of advertising/Marketing/Brand Promotion expenses etc. to entitites being Middle Layer Business Entities (MLBEs) which were searched by the Income-tax Directorate of Investigation. Despite this, the life insurance companies have escaped Income-Tax scrutiny of its income by taking shelter of the provisions of the Section 44 of the Act, which prohibits disallowances

under section 28 to 43B of the Act. The juidicial pronouncements are mostly in favor of life insurance companies due to restriction imposed by the provisions of Section 44 of the Act. Accordingly, Rule 2 of the first schedule of the Act (corresponding to Rule 2(2) of Schedule XIV of the Bill) was amended vide Finance Act 2024 to provide that any expenditure not admissible under the provisions of section 37 for computing the profits and gains of a business shall be added back to the profits and gains of life insurance business'.

55.5.2 And on the issue pertaining to IBNR, the Ministry furnished that, 'The suggestion seeks deduction for Provision for claims incurred but not reported (IBNR) for insurance business. The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. IBNR claims is the amount owed by an insurer to all valid claimants who have had a covered loss but have not yet reported it. Since the insurer knows neither how many of these losses have occurred, nor the severity of each loss, IBNR is necessarily an estimate. Since the IBNR is not an ascertained liability, its deduction would result in undue deferment of taxes'.

55.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 55 to be acceptable as it is without any modifications.

Clause No.& Title:

56. Special provision in case of interest income of specified financial institutions.

56.1 Provision proposed in the Income-Tax Bill, 2025:

56. (1) Irrespective of anything to the contrary contained in this Act, the interest income in relation to bad or doubtful debts of a specified financial institution shall be chargeable to tax under the head "Profits and gains of business or profession" in the tax year in which such interest is—

(a) credited to the profit and loss account; or

(b) actually received,

whichever is earlier.

(2) In this section,—

(a) "specified financial institution" means—

(i) a public financial institution; or

(ii) a scheduled bank; or

(iii) a co-operative bank, other than—

(A) a primary agricultural credit society; or

(B) a primary co-operative agricultural and rural development bank; or

(iv) a State Financial Corporation; or

(v) a State Industrial Investment Corporation; or

(vi) any such class of non-banking financial companies, as notified by the Central Government;

(b) "bad or doubtful debts" shall be such categories of debts, as prescribed, having regard to the guidelines issued in relation to such debts by the Reserve Bank of India.

56.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision in case of income of public financial institutions, [23][***] etc.

43D. Notwithstanding anything to the contrary contained in any other provision of this Act,—

(a) in the case of a public financial institution or a scheduled bank or a co-

operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or a State financial corporation or a State industrial investment corporation or [24][such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf], the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(b) [25][***]

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or the State financial corporation or the State industrial investment corporation or [24][such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf,] [26][***] to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Explanation.—For the purposes of this section,—

(a) [25][***]

(b) [25][***]

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

(d) "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36;

(e) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(f) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects;

(g) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

[27][(h) the expression "non-banking financial company" shall have the meaning assigned to it in clause (vii) of the Explanation to clause (viia) of sub-section (1) of section 36.]

56.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 56 of the Bill provides for computation of interest income of specified financial institutions. The clause corresponds to section 43D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

56.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 56 is the new section in the ITB, 2025 corresponding to the provisions of section 43D in the existing Act. It is recommended that the term 'bad and doubtful debts' in section 56(2)(b) should be reworded as under: Existing definition in section 56(2)(b) of ITB, 2025(b) "bad or doubtful debts" shall be such categories of debts, as prescribed, having regard to the guidelines issued in relation to such debts by the Reserve Bank of India. Proposed definition in section 56(2)(b) of ITB, 2025(b) "bad or doubtful debts" shall be such categories of debts, as prescribed, by the Reserve Bank of India, from time to time. Alternatively, in the new Income-tax Rules to be prescribed, suitable amendment should be made to provide that the category for deciding NPA should be aligned with that of RBI regulations/guidelines so that interest on NPA beyond 90 days is taxed only on receipt basis as per RBI guidelines. Thus, income recognition norm on NPA in the new Income-tax Rules should be aligned with the guidelines of the RBI.

56.5 Examination by the Committee:

56.5.1 With regard to the suggestion seeking to provide that the category of bad and doubtful debts under clause 56 [s.43D of Act] of the Bill may be redefined as "such categories of debts, as prescribed by the Reserve Bank of India from time to time" instead of "such categories of debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation of such debts", the Ministry in their response furnished that,

'The suggestion is in the nature of policy. Clause 56 of the Bill provides that the Revenue can prescribe the categories of debts for income recognition on NPA having regard to the guidelines issued by the RBI. Rule 6EA of Income-Tax Rules has prescribed such categories of debts after considering the guidelines issued by the RBI in this regard. The items having significant impact on income recognition and taxes have to be provided in the Income-Tax law. The IT law cannot make a direct reference to RBI guidelines. The suggestion is not feasible. Regarding aligning with the requirement of 90 days in RBI guidelines for NPA (i.e. if interest is not received for 90 days, the debt becomes NPA; Under IT law - it becomes bad & doubtful in 180 days),

90 days is too short a time to recognise a debt as bad and doubtful. The suggestion is not feasible'.

56.5.2 The Committee during its sitting held on 16.06.2025 enquired about the practical benefit of maintaining a different duration i.e. 180 days for Income-Tax in place of the 90 days with respect to NPAs as prescribed by RBI i.e. the rationale for not aligning the Acts was sought to which the Secretary, Department of Revenue stated:

> *"Sir, I can understand what the Committee is saying. The difference is that this is RBI's guideline, which may also undergo a change. So, RBI has categories of loans which are going bad, that is, Special Mention Accounts - 1, 2, 3, and then finally, above 90 days, they call it as a non performing asset. The Special Mention Accounts start from 30 days. SMA-1 is 30 days, SMA-2 is 60 days, SMA-3 is 90 days, and above 90, it becomes NPA. This is the guideline of RBI. Our Act does not say that we necessarily will differ. All that it is keeping is a freedom. For us, we say: 'Bad or doubtful debts shall be such categories of debt as prescribed, having regard to guidelines issued in this regard by Reserve Bank of India.' What they are saying is, bad and doubtful debts will be whatever RBI decides".*

56.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 56 to be acceptable as it is without any modifications.

Clause No.& Title:

57. Revenue recognition for construction and service contracts

57.1 Provision proposed in the Income-Tax Bill, 2025:

57. (1) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method, as per the income computation and disclosure standards notified under section 276(2).

(2) The profits and gains arising from a contract for providing services under sub-section (1) shall be determined—

(a) on the basis of project completion method, if the duration of such contract is not more than ninety days;

(b) on the basis ofstraight line method, if the contract involves indeterminate number of acts over a specified period of time.

(3) For the purposes of percentage of completion method, project completion method or straight line method under this section,—

(a) the contract revenue shall include retention money;

(b) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

57.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Computation of income from construction and service contracts.

43CB. (1) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:

Provided that profits and gains arising from a contract for providing services,—

(i) with duration of not more than ninety days shall be determined on the basis of project completion method;

(ii) involving indeterminate number of acts over a specific period of time shall be determined on the basis ofstraight line method.

(2) For the purposes of percentage of completion method, project completion method or straight line method referred to in sub-section (1)—

(i) the contract revenue shall include retention money;

(ii) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

57.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 57 of the Bill provides for revenue recognition for construction and service contracts. The clause corresponds to section 43CB of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

57.4 Important Views/Suggestions given by Experts/Stakeholders:

- Sub-clause 2 of clause 57, is providing for certain exceptions with respect to Sub-clause 1 of clause 57. However, both clauses are appearing as independent clauses. Language can be suitably modified to avoid any potential ambiguity.

57.5 Examination by the Committee:

Consequent to suggestion received to modify language of Clause 57 to avoid any potential ambiguity, the Ministry stated that, 'For better clarity and to avoid possible litigation, the suggestion is acceptable. The wordings of clause 57 is required to be modified.'

Chairperson, National Financial Reporting Authority (NFRA) during the sitting held on 17.04.2025 deposed the following with regard to the revenue recognition for construction contracts which is proposed in Clause 57 (1) to (4) of the Income-Tax Bill, 2025 stated : "The second one is with regard to the revenue recognition for construction contracts which is proposed in Clause 57 (1) to (4) of the Income-Tax Bill, 2025. Again, in this, sub-clause (1) is providing for the construction contracts, how the income is to be recognised. However, Clause 57 (2) is providing for some exemptions. So, in case both of them can be put together, then it will do away with any ambiguity or any problems in terms of interpretation."

57.6 Observations/Recommendations of the Committee:

With the objective of enhancing clarity and avoiding potential litigation, the Committee recommend that the language of the Clause be suitably modified. Sub-clause (2) of Clause 57 provides certain exceptions to Sub-clause (1) of the same Clause; however, both sub-clauses currently appear as independent provisions, which may give rise to ambiguity.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

58. Special provision for computing profits and gains of business or profession on presumptive basis in case of certain residents.

58.1 Provision proposed in the Income-Tax Bill, 2025:

58. (1) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the specified business or profession mentioned in column B of the Table in sub-section (2).

(2) The profits and gains of any specified business or profession as mentioned in column B of the Table below, carried on by an assessee specified in column C of the said Table, having total turnover or gross receipts of business or profession during the tax year specified in column D and computed in the manner specified in column E thereof, shall be deemed to be the profits and gains of such business or profession chargeable to tax under the head "Profits and gains of business or profession".

Table

Sl.No.	Specified business or profession	Assessee	Total turnover or gross receipts of business or profession during tax year	Manner of computation
A	B	C	D	E
1.	Any business other than the business specified against serial number 2.	Eligible assessee.	(a) Does not exceed ₹2,00,00,000; or (b) does not exceed ₹3,00,00,000, where the amount or aggregate of amounts	(A) (i) 6% of total turnover or gross receipts realised in specified banking or online mode; and (ii) 8% of total turnover or gross receipts

			received, in cash, does not exceed 5% of the total turnover or gross receipts.	realised in any mode other than specified banking or online mode; or (B) profit claimed to have been actually earned, whichever is higher.
2.	Business of plying, hiring or leasing goods carriage.	An assessee, who owns not more than ten goods carriages at any time during the tax year.		(a)The aggregate of income from goods carriage:— (i) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight for each vehicle; or (ii) being a vehicle other than heavy goods vehicle, calculated at the

(1)	(2)	(3)	(4)	(5)
				rate of ₹ 7,500 for each goods carriage for every month or part of a month during which the vehicle is owned by the assessee in the tax year; or (b) income claimed to have been actually earned, whichever is higher.
3.	Any profession as referred to in section 62(1)(a).	Specified assessee.	(a) Does not exceed ₹50,00,000; or (b) does not exceed ₹75,00,000, where the amount or aggregate of amounts received in cash does not exceed 5% of the	50% of the gross receipts or profit claimed to have been actually earned, whichever is higher.

	total turnover or gross receipts.	

(3) Any assessee mentioned in column C of the Table in sub-section (2), who claims that—

(a) the profits or gains actually earned from the specified business or profession are lower than the profits or gains computed in the manner mentioned in column E of the said Table; and

(b) whose total income exceeds the maximum amount which is not chargeable to tax,

shall be required to—

(i) keep and maintain such books of account and other documents as required under section 62; and

(ii) get the accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against the income computed in the manner specified in sub-section (1).

(5) For the purposes of sub-section (2)(Table: Sl. No. 2),where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in section 35(f).

(6) The written down value of any asset used for the purposes of specified business or profession shall be computed as if the assessee mentioned in column C of the Table in sub-section (2) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(7) Where an eligible assessee declares profit for any tax year as per the provisions of sub-section (2)(Table: Sl. No. 1) and he declares profit for any of the five tax years succeeding such tax year in contravention of the provisions of sub-section (1), then he shall not be eligible to claim the benefit of the provisions of this section for five tax years subsequent to the tax year in which the profit has not been declared as per the provisions of the said sub-section.

(8) Irrespective of anything contained in foregoing provision of this section, where provisions of sub-section (7) are applicable to an eligible assessee and his total income exceeds the maximum amount which is not chargeable to income-tax, he shall be required

to keep and maintain such books of account and other documents as required under section 62(2) and get them audited and furnish a report of such audit as required under section 63.

(9) For the purposes of sub-section (2)(Table: Sl. Nos. 1and 3), the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

(10) In this section,—

(a) "eligible assessee" means an individual, a Hindu undivided family, or a firm other than a limited liability partnership, who is resident in India, who—

(i) has not claimed any deduction under section 141; or

(ii) has not claimed any deduction under Chapter VIII-C for the relevant tax year; or

(iii) does not carryon specified profession as defined in section 62(1)(a), and (c); or

(iv) does not earn any income in the nature of commission or brokerage; or

(v) does not carry on any agency business;

(b) "specified assessee" means an individual or a firm, other than a limited liability partnership, who is a resident in India;

(c) "limited liability partnership" shall have the same meaning as assigned to it in section 2(n) of the Limited Liability Partnership Act, 2008;

(d) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the same meaning as respectively assigned to them in section 2 of the Motor Vehicles Act, 1988;

(e) "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms; and

(f) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

58.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provision for computing profits and gains of business on presumptive basis.

44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that this sub-section shall have effect as if for the words "eight per cent", the words "six per cent" had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;

(ii) a person earning income in the nature of commission or brokerage; or

(iii) a person carrying on any agency business.

Explanation.—For the purposes of this section,—

(a) "eligible assessee" means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and

(ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" in the relevant assessment year;

(b) "eligible business" means,—

(i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(ii) whose total turnover or gross receipts in the previous year does not exceed an amount of two crore rupees:

[33][**Provided** that where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts of such previous year, this sub-clause shall have effect as if for the words "two crore rupees", the words "three crore rupees" had been substituted:

Provided further that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.]

Special provision for computing profits and gains of profession on presumptive basis.

44ADA. (1) Notwithstanding anything contained in sections 28 to 43C, in case of an assessee, being an individual or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), who is a resident in India, and is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty per cent of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of

such profession chargeable to tax under the head "Profits and gains of business or profession":

[34][**Provided** that in case of an assessee where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts of such previous year, this sub-section shall have effect as if for the words "fifty lakh rupees", the words "seventy-five lakh rupees" had been substituted:

Provided further that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.]

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(3) The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (1) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

44AE. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than ten goods carriages at any time during the previous year and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

(i) being a heavy goods vehicle, shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be,

for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

(ii) other than heavy goods vehicle, shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.

(3) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(5) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

(7) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-sections (1) and (2), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.

Explanation.—For the purposes of this section,—

(a) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;

(b) anassessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

58.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 58 of the Bill provides for special provision for computing profits and gains of business of profession on presumptive basis in case of certain residents. The clause corresponds to section 44AD, 44ADA and 44AE of the Act. Under the current provisions of the Act, residents earning income from business (Section 44AD), profession (Section 44ADA), and the business of plying, hiring, or leasing goods carriages (Section 44AE) are allowed a simplified taxation regime. In the proposed Income-Tax Bill 2025, an effort has been made to consolidate all these identical presumptive taxation schemes into one section (Section 58), while adopting simplified language without suggesting any policy changes. The provisions are presented in a tabular format to improve readability and reduce ambiguity. Common eligibility conditions are listed as sub-sections below the table. Further, the redundant provision of Section 44AE(6) of the Act have been removed. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

58.4 Important Views/Suggestions given by Experts/Stakeholders:

- If the turnover of an Assessee does not exceed an amount of Rs. 5 crores (Rs. 10 crores in special cases) then the assessee can opt for this section showing the profit as certain percentage of turnover without maintaining books of accounts. As per the revised definition of Micro enterprises, the turnover is enhanced up to Rs.10 crore. Hence, enhancing limit of turnover under this clause will help a large segment of Micro Enterprises. This will ensure ease of doing business for this segment which grapples with financial challenges and manages with a very thin margin. This will encourage Digital Transactions in the long run.

- With respect to 58(2)(1)-Total turnover or gross receipts of business or profession during tax year
  (a) increase it to 4 Crores
  (b) increase it to 5 Crores
  Considering the Factor of Escalation, it may kindly be enhanced.

- With respect to 58(2)
  Mentioning of Turnover (for Business, Profession, Commission Agent) be clearly defined. Currently it lacks clarity to determine the turnover. More clarity and precision in these definitions is requested.

- With respect to 58(2), Table Sl No. 1 Column E- 'Realised' is not used in the IT Act, 1961. Further, using 'Realised' would give the impression that percentage should be computed only on amount realised and outstanding amount should not be considered.
  Hence, Proposed wording: (A) (i) 6% of total turnover or gross receipts realised in specified banking or online mode; and (ii) 8% of total turnover or gross receipts realised in any mode other than specified banking or online mode; or (B) profit claimed to have been actually earned, whichever is higher.

- With respect to 58(2), Table Sl No. 2 Column E-The current provision in IT Bill, 2025 does not specify Rs. 1,000 is for what period. Hence, Proposed wording to convey the correct meaning:
  (a) The aggregate of income from goods carriage:— (i) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight for each vehicle, for every month or part of a month during which the heavy goods vehicle is owned by the assessee; or

- Proposed wording with respect to 58(4): (4) Any loss, allowance or deduction allowable under ~~the~~ provisions of sections 28 to 52 of this Act, shall not be allowed against the income computed in the manner specified in sub-section (1).
  The proposed changes brings the provisions in line with the provisions of IT Act, 1961. Since 8%/6% were deemed as profits, the objective of this provision was to ensure that double deduction is not granted for expenses covered under section 30 to 38 of the IT Act, 1961. However, proposed provision in the IT Bill, 2025 goes beyond that and restricts allowability of all loss, allowance or deduction. Thereby, even set-off of brought forward loss or current year loss would get restricted.

- First Proviso to section 44AD provides for concessional rate of 6% of total turnover or gross receipts received by account payee cheques or demand drafts, etc during the previous year or before the due date for filing of the return under section 139(1) in respect of that year. Similar extension for payments in specified modes after the tax year but before the due date for filing of return requires to be

introduced in Clause 58 of the IT Bill. This modification is required to bring the new provision in line with the existing provisions.

- With respect to 58(7), it is suggested to reduce restriction period to 2 years. This allows businesses to switch back based on economic conditions, making taxation more flexible.

- Total turnover of Gross receipts in PY does not exceed ₹50.00 lakhs. Where the amount or aggregate amounts received during the PY in cash does not exceed 5% of the total turnover or gross receipt limit shall be ₹1.00 Crore. Service-oriented businesses are growing, and many professionals exceed the ₹50.00 lakh limit. This change will encourage tax compliance.

- Introduce new sub-clause if entire (100%) of the receipts are digital transactions then presumptive income at 5% This will further promote digital payments and reduce tax burdens for compliant businesses.

- Allow presumptive taxation for each qualifying business separately. This ensures fair treatment and prevents unnecessary disputes with tax authorities.

- The phrase 'during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year' is missing. Hence it is suggested that the taxpayer should receive the consideration on or before 31 March which may not be possible. The provisions of new Bill may be modified accordingly to align it with the provisions of old Act to avoid any litigation.

- Section 44DA of the Act provides that income by way of royalty or fees for technical services received by a non-resident carrying on business in India through a permanent establishment or performing services from a fixed place of profession situated therein shall be "computed" under the head "Profits and gains of business or profession" in accordance with the provisions of this Act. Clause 59(1) of the Bill which contains similar provisions states that the income in the nature of royalty or fees for technical services received by a non-resident during a tax year, shall be "charged" to income-tax under the head "Profits and gains of business or profession". The wordings of Clause 58(1) needs to be changed to reflect the said clause provides for computing profits and is not a charging provision.

58.5 Examination by the Committee:

58.5.1 Officials of M/o MSME during the sitting held on 25.04.2025 stated the following with regard to Section 58-

“Section 58 is about the presumptive taxation scheme and here, again, the amount that has been mentioned is not exceeding Rs. 2 crore. Our request is this. If we mention Rs. 5 crore, and in special cases where the turnover is mentioned as Rs. 3 crore in the Income-Tax Bill, and if that can be enhanced to Rs. 10 crore, then, we will be aligning both the Act and the Bill. The Income-Tax Bill can be aligned completely with the MSMED Act, and in that way, we will be completely covering all the micro enterprises because their turnover is up to Rs. 10 crore”.

58.5.2 On the above issue, the Ministry in their replies furnished that , ‘The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025’.

58.5.3 On the issue with respect to 58(2) mentioning of Turnover (for Business, Profession, Commission Agent) be clearly defined, the Ministry in their reply has stated, ‘It is an inadvertent drafting error. The clauses 58(2) and 62(2) are to be aligned with existing provisions of the Act to remove any ambiguity’.

58.5.4 With respect to rewording of 58(2) Table Sl No 1 Column E, the Ministry stated that, ‘It is an inadvertent drafting error. To avoid any misinterpretation the word "realised" is to be replaced in Col E of Sr. No. 1 of table below clause 58(2) of the Bill’.

58.5.5 With respect to rewording of 58(2) Table Sl No 2 Column E, the Ministry furnished that, ‘It is an inadvertent error. The period "for every month or part of a month during which the vehicle is owned by the assessee during the tax year" is to be added in Col E of Sr. No. 2 of table below clause 58(2) of the Bill’.

58.5.6 With regard to introduction of extension for payments in specified modes after the tax year but before the due date for filing of return, the Ministry furnished that, ‘It is an inadvertent drafting error. The phrase " during the tax year or before the due date specified in sub-section (1) of section 263 in respect of that tax year" is to be added in column E of sr. no. 1 of table below clause 58’.

58.5.7 With regard to the suggestion seeking allowance of losses and deductions against presumptive income, the Ministry stated that, ‘The presumptive income is only a small fraction of the total receipts. For retail business, it is only 8% or 6% of the receipts. There are certain presumptive sections where losses are not allowed. With presumptive, there is no requirement of maintaining books of accounts. Therefore, claiming losses which can only be derived from books is an anamoly. Also, for

consolidation and rationalisation, the losses and deductions are not allowed in the Bill. The amendments have been rightly made. Therefore, the suggestion is not feasible'.
Further, the Committee deliberated on the issue of presumptive tax having a disruptive effect on the businesses during the siting held on 05.06.2025, to which Secretary, Department of Revenue stated that:

> *"…we will do one thing, because there might be a tax implication, because we have taken a stand that policy changes we are not proposing here, so, we will just review this formulation that while doing simplification have we ended up creating a situation where tax policy itself is getting revisited. We will examine and when I said we will send revised comments…"*

58.5.8 And in the post evidence replies, the Ministry furnished that, 'The provisions related to the Presumptive taxation scheme for both residents and non-residents have been rationalized from the Act to the Bill. The tax rates and threshold levels have been kept the same in the Bill as was in the Act. The provisions related to set off and deductions allowed to such eligible businesses in the Bill and the in the Act have been compared as below:

Existing provisions of the Act (for residents)

Section	**Deduction on Depreciation**	**Other deductions**	**Carry forward and set off of losses**	**Claim of Profit lower than the presumptive rate**	**Applicability of provisions of sec 44AB**	**Applicability of provisions of sec 44AA**
44AD	Deemed to have been actually allowed	Deductions u/s 30 to 38 is deemed to have been allowed	No such provision	Allowed on maintenance and audit of books	Do not apply where profit declared is as per presumptive scheme	Apply where provisions of 44AD(4) are applicable
44ADA	Deemed to have been actually allowed	Deductions u/s 30 to 38 is deemed to have been allowed	No such provision	Allowed on maintenance and audit of books	Do not apply where profit declared is as per presumptive scheme	No such provision

44AE	Deemed to have been actually allowed	Deductions u/s 30 to 38 is deemed to have been allowed	No such provision	Allowed on maintenance and audit of books	No such provision	Apply where income is lower than presumptive scheme

Proposed provision in the Bill

- Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against income computed in the manner specified in sub-section (2).
- The provisions of the Bill, do not allow any deduction or losses to the assessee for the income computed as per presumptive scheme. As per the provisions of the Bill, assessee can not claim deduction under Chapter-VIA of the Act, as no deduction is allowed against the income computed under presumptive scheme.
- The new provisions do not allow set off of losses from any other head of income or from any other business with its presumptive income.

Rationale:

For non-allowance of deduction: The presumptive income is only a small fraction of the total receipts. For retail business, it is only 8% or 6% of the receipts. Income of 8%/6% will translate into effective tax rate of 2.4%/1.8% (when taxed at maximum rate of 30%). So, a person having turnover of say Rs. 10 lakhs, will only pay taxes of Rs. 24,000/18,000. Thus, a substantial relief has already been provided to the assessee by way of presumptive scheme wherein a small proportion of total turnover is deemed as income. In the new tax regime there will be no tax on the income upto Rs. 12 lakhs on account of rebate. So, the assessee may not even avail any deduction under Chapter VI-A. Also, it has been found that many times the assessee are claiming deductions wrongly without making actual investment/expenditure. Removal of deductions is also in line with the intent of the Government to provide a simple tax regime without any specific deductions/exemptions.

For non-allowance of set off of losses: If assessee is claiming that it has loss from any other business, then computation of such loss will only be possible if assessee is maintaining books of accounts and getting these audited. If assessee is maintaining books of accounts for one of the business carried on by it, it can also maintain books of accounts for the business for which income is offered under the presumptive scheme.

Existing provisions of the Act (for non-residents)

Existing provisions of the Act	**Deduction on Depreciati**	**Other deductions**	**set off of and carry forward of**	**Claim of Profit lower than**	**Applicability of provisions**	**Applicability of provisions**

(for non-residents) Section	on		unabsorbed depreciation and brought forward losses	the presumptive rate	of sec 44AB	of sec 44AA
44B	No such provision	No such provision	No such provision	No such provision	Do not apply where profit declared is as per presumptive scheme	No such provision
44BB	No such provision	No such provision	Not allowed	Allowed on maintenance and audit of books	No such provision	Apply where income is lower than presumptive scheme
44BBA	No such provision	No such provision	No such provision	No such provision	Do not apply where profit declared is as per presumptive scheme	No such provision
44BBB	No such provision	No such provision	Not allowed	Allowed on maintenance and audit of books	No such provision	Apply where income is lower than presumptive scheme
44BBC	No such provision	No such provision	No such provision	No such provision	No such provision	No such provision
44BBD	No such provision	No such provision	No such provision	No such provision	No such provision	No such provision

Proposed provision in the Bill

- Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against income computed in the manner specified in sub-section (2).

- All the assessee, except for 44BBD, can claim lower profit on maintenance and audit of books of accounts.
- Except for 44BBD, where profit declared is as per presumptive scheme, the requirement of audit will not be there for such companies.
- Except for 44BBD, maintenance of books of accounts is applicable where income is lower than deemed profit under presumptive scheme.

The provisions related to set off and deductions have been made uniform throughout the presumptive taxation scheme so as to rationalise and uniformise them'.

58.5.9 On the suggestion seeking for reduction in the years (from 5 years to 2 years) for which assessee can't take benefit of presumptive scheme under certain conditions, the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The period of five years was introduced as anti abuse measure to discourage the taxpayers to switch between presumptive scheme and regular scheme in order to reduce its tax liability'. The Committee during the sitting deliberated upon its disruptive effect on account of a volatile economy to which the Ministry agreed to send a note which further states that, 'The fundamental premise behind keeping a lock-in period of 5 years for presumptive taxation scheme is that it is a special scheme for small traders/businessman so as to reduce their compliance burden. The lock-in period of 5 years has been kept to encourage participation in this scheme for a reasonable period of time and not to misuse it. This provision has been kept to prevent the misuse of presumptive scheme and to reduce the revenue leakage which is possible if taxpayers could flip between presumptive and regular schemes strategically to reduce tax liability (e.g., going out of presumptive scheme when there is loss and availing presumptive scheme when there is income as per books much beyond the presumptive rate)'.

58.5.10 On the suggestion seeking for increase in turnover limit for eligibility of presumptive taxation scheme for business (presently 2Cr./ 3 Cr) the Ministry furnished that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. The turnover limit has already been increased from two crore rupees to three crore rupees where cash receipts are less than 5%. The provision is meant for small taxpayers so that they do not have to go through the rigors of maintaining books of accounts. As the volume of business increases, the taxpayer should maintain books of accounts and show real profits'.

58.5.11 On the suggestion seeking for increase in turnover limit for eligibility of presumptive taxation scheme for profession (presently 50 lakh/ 75 lakh), the Ministry

stated that, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The limit of gross receipts has been increased to Rs. 75 lakhs where the amount received during the year in cash is not more than five percent of gross receipts. The provision is meant for small taxpayers so that they do not have to go through the rigors of maintaining books of accounts. As the volume of business increases, the taxpayer should maintain books of accounts and show real profits’.

58.5.12 Subsequent to the suggestion seeking for decrease in the taxation rate under presumptive taxation scheme, the Ministry furnished, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. The rate of 8% is already low. Further to promote digital transactions, the presumptive rate of 6% has already been provided where the amount received during the year in cash is not more than five percent of total turnover or gross receipts. Further tax rates and slabs have also been considerably liberalised by the Finance Act 2025. The suggestion is not feasible’.

58.5.13 On the subject to allow presumptive taxation for each qualifying business separately, the Ministry furnished, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. Allowing presumptive taxation for each business separately will create further problems in terms of classification of business, rate of profit which will also make administration complex. The present provision allows a single scheme for all the business (except commission income etc.) which is easier in terms of compliance for taxpayers.

58.5.14 On the issue of the phrase ‘during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year’ being missing, the Ministry stated that, ‘It is an inadvertent drafting error. The phrase " during the tax year or before the due date specified in sub-section (1) of section 263 in respect of that tax year" is to be added in column E of sr. no. 1 of table below clause 58’.

58.5.15 With regard to changing wordings of Clause 58(1) to reflect that the clause provides for computing profits and is not a charging provision, the Ministry stated the following in their response, ‘It is an inadvertent drafting error. Suggestion is accepted as the current provision of the Clause has become a charging section due to use of the word "charged" which shall be "computed" as the current section determines the computation of the income’.

58.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that there is a need for Clause 58(2) to be aligned with existing provisions of the Act to remove any ambiguity with respect to clearly defining the turnover (for Business, Profession, Commission Agent) in the Clause and hence, recommend the same. Subsequently, a similar alignment needs to be accordingly done in Clause 62(2) as well.

The Committee further recommend that to avoid any misinterpretation the word "realised" should not be used in column E of Sr. No. 1 of table below clause 58(2) of the Bill as the word 'realised' has not been used in the IT Act, 1961. Further, the Committee believe that using the word 'realised' would give the impression that percentage should be computed only on amount realised and outstanding amount should not be considered.

The Committee also recommend that the phrase "for every month or part of a month during which the vehicle is owned by the assessee during the tax year" be added in column E of Sr. No. 2 of table below clause 58(2) of the Bill as the current provision in IT Bill, 2025 does not specify Rs. 1,000 is for what period. Hence, the Committee recommend the below wording to convey the correct meaning:

(a) The aggregate of income from goods carriage: — (i) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight for each vehicle, for every month or part of a month during which the heavy goods vehicle is owned by the assessee; or

And with regard to introduction of extension for payments in specified modes after the tax year but before the due date for filing of return, the Committee recommend that the phrase "during the tax year or before the due date specified in sub-section (1) of section 263 in respect of that tax year" be added in column E of sr. no. 1 of table below clause 58 to align the Bill with the provisions of 1961 Act to avoid any litigation.

The Committee also recommend changing wordings of Clause 58(1) to reflect that the clause provides for computing profits and is not a charging provision as the

Committee feel that current provision of the Clause has become a charging section due to use of the word 'charged' and not 'computed' as the current section determines the computation of the income.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:
59. Chargeability of royalty and fee for technical services in hands of non-residents.

59.1 Provision proposed in the Income-Tax Bill, 2025:

59. (1) Income in the nature of royalty or fees for technical services received by a specified assessee during a tax year, shall be charged to income-tax under the head "Profits and gains of business or profession" under this Act, if the following conditions are satisfied:—

(a) income is received from the Government or an Indian concern;

(b) income is in pursuance to an agreement made by the specified assessee with the Government or the Indian concern;

(c)the specified assessee carries on business in India through a permanent establishment, or performs professional services from a fixed place of profession, situated in India; and

(d) the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession.

(2) No deduction shall be allowed against the income chargeable under sub-section (1) in respect of the following amounts:—

(a) any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(b) amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(3) The provisions of section 61 in so far as it relates to business referred to in section 61(2)(Table: Sl. No. 5), shall not apply in respect of the income referred to in this section.

(4) The specified assessee shall keep and maintain books of account and other documents as per the provisions of section 62, get his accounts audited on or before the specified date referred to in section 63 by an accountant, and furnish report of audit in the prescribed form, duly signed and verified by the accountant.

(5) In this section, "specified assessee" means a non-resident (not being a company) or a foreign company.

59.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Special provisions for computing income by way of royalties, etc., in the case of foreign companies.

44D. Notwithstanding anything to the contrary contained in sections 28 to 44C, in the case of an assessee, being a foreign company,—

(a) the deductions admissible under the said sections in computing the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern before the 1st day of April, 1976, shall not exceed in the aggregate twenty per cent of the gross amount of such royalty or fees as reduced by so much of the gross amount of such royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property;

(b) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern after the 31st day of March, 1976 but before the 1st day of April, 2003;

(c) [***]

(d) [***]

Explanation.—For the purposes of this section,—

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

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

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

(d) royalty received from Government or an Indian concern in pursuance of an agreement made by a foreign company with Government or with the Indian concern after the 31st day of March, 1976, shall be deemed to have been received in pursuance of an agreement made before the 1st day of April, 1976, if such agreement is deemed, for the purposes of the proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976.

Special provision for computing income by way of royalties, etc., in case of non-residents.

44DA. (1) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act :

Provided that no deduction shall be allowed,—

(i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices :

Provided further that the provisions of section 44BB shall not apply in respect of the income referred to in this section.

(2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section,—

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

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

(c) "permanent establishment" shall have the same meaning as in clause (iiia) of section 92F.

59.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 59 of the Bill provides for chargeability of royalty and fee for technical services in hands of non-residents. The clause corresponds to section 44D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause

59.4 Important Views/Suggestions given by Experts/Stakeholders:

- (4) The specified assessee shall keep and maintain books of account and other documents as per the provisions of section 62, get his accounts audited on or before the specified date referred to in section 63 by a chartered accountant in practice or a cost accountant in practice, and furnish report of audit in the prescribed form, duly signed and verified by the chartered accountant in practice or cost accountant in practice. The Cost Accountants are adequately skilled to certify these types of statements. Royalty and technical know-how fee is a part of cost statements. Hence the Cost Accountant may be allowed to conduct such audits.

59.5 Examination by the Committee:

On the issue of Cost Accountant being allowed to conduct audits, the Ministry in their response furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

59.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposals and the justification given by the Ministry of Finance find the provisions of the proposed Clause 59 to be acceptable as it is without any modifications.

Clause No.& Title:

60. Deduction of head office expenditure in case of non-residents.

60.1 Provision proposed in the Income-Tax Bill, 2025:

60. (1) Irrespective of anything to the contrary contained in sections 26 to 54, in the case of a non-resident assessee, deduction of head office expenditure incurred by such assessee as is attributable to his business or profession in India, shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" subject to provisions of sub-section (2).

(2) The deduction allowable under sub-section (1) shall be restricted to—

(a) if the adjusted total income of the assessee is a loss, to an upper monetary limit of 5% of the average adjusted total income of the assessee; or

(b) in any other case, to an upper monetary limit of 5% of the adjusted total income of the assessee.

(3) In this section,—

(a)"adjusted total income" means the total income computed under this Act, without giving effect to the allowance referred to in this section or in section 33(11) or the deduction referred to in section 32(i)(i) or any loss carried forward under section 112(1) or 113(2) or 115(1) or the deductions under Chapter VIII;

(b) "average adjusted total income" means,—

(i) if the assessee is assessable for each of the three tax years immediately preceding the relevant tax year, the arithmetic mean of his adjusted total income over those three taxyears;

(ii) if the assessee is assessable only for two of the said three tax years, the arithmetic mean of his adjusted total income over those two taxyears;

(iii) if the assessee is assessable only for one of the said three tax years, his adjusted total income for that tax year;

(c) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(i) rent, rates, taxes, repairs or insurance of any premises outside India used for the business or profession;

(ii) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of, or in addition to, salary, whether paid or allowed

to any employee or other person employed in, or managing the affairs of, any office outside India;

(iii) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(iv) such other matters connected with executive and general administration, as prescribed.

60.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deduction of head office expenditure in the case of non-residents.

44C. Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, no allowance shall be made, in computing the income chargeable under the head "Profits and gains of business or profession", in respect of so much of the expenditure in the nature of head office expenditure as is in excess of the amount computed as hereunder, namely:—

(a) an amount equal to five per cent of the adjusted total income; or

(b) [***]

(c) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

whichever is the least :

Provided that in a case where the adjusted total income of the assessee is a loss, the amount under clause (a) shall be computed at the rate of five per cent of the average adjusted total income of the assessee.

Explanation.—For the purposes of this section,—

(i) "adjusted total income" means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (2) of section 32 or the deduction referred to in section 32A or section 33 or section 33A or the first proviso to clause (ix) of sub-section (1) of section 36 or any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A or the deductions under Chapter VI-A;

(ii) "average adjusted total income" means,—

(a) in a case where the total income of the assessee is assessable for each of the three assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the

aforesaid three assessment years;

(b) in a case where the total income of the assessee is assessable only for two of the aforesaid three assessment years, one-half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;

(c) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;

(iii) [***]

(iv) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;

(b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(d) such other matters connected with executive and general administration as may be prescribed.

60.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 60 of the Bill seeks to provide the manner for computation for allowing the deduction of head office expenditure in case of non-residents. The clause corresponds to section 44C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

60.4 Examination by the Committee:

The Committee enquired from the Ministry whether reference to 32(i)(i) in Clause 60(3)(a) is correct, to which the Ministry responded that, 'It is inadvertent drafting error. The provision shall be suitably redrafted'.

60.5 Observations/Recommendations of the Committee:

The Committee note that in Clause 60(3)(a), the reference to 32(i)(i) is erroneous and hence, recommend that the reference to 32(i)(i) be replaced with the appropriate reference and the Clause be accordingly redrafted. Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.

Clause No.& Title:

61. Special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents.

61.1 Provision proposed in the Income-Tax Bill, 2025:

61. (1) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the specified business mentioned in column B of the Table in sub-section (2).

(2) The profits and gains of any specified business as mentioned in column B of the Table below, carried on by a specified assessee as mentioned in column C of the said Table during a tax year, shall be computed in the manner specified in column D thereof, and charged to income-tax for the said tax year under the head "Profits and gains of business or profession".

Table

Sl No.	Specified business	Specified assessee	Profits and gains of business or profession
A	B	C	D
1.	Business of operation of ships, other than cruise ships referred to in Serial number 2.	Non-resident.	7.5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods shipped at any port in India, whether paid or payable, in or outside India, to the assessee or any other person on his behalf (including demurrage, handling or other similar charges); B = sum on account

			of carriage of passenger, livestock, mail or goods shipped at any port outside India, whether received or deemed to be received in India, by the assessee or any other person on his behalf(including demurrage, handling or other similar charges).
2.	Business of operation of cruise ships (subject to the conditions as prescribed).	Non-resident.	20% of (A+B), where,— A = sum on account of carriage of passenger, paid or payable to the assessee or any other person on his behalf; B = sum on account of carriage of passenger received or deemed to be received by the assessee or any other person on his behalf.
3.	Business of operation of aircraft.	Non-resident.	5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods from any place in India, paid or payable (in or outside India) to the assessee or any other

			person on his behalf; B = sum on account of carriage of passenger, livestock, mail or goods from any place outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
4.	Business of civil construction or erection or testing or commissioning, of plant or machinery, in connection with a turnkey power project, approved by the Central Government.	Foreign company.	10% of the amount towards such civil construction, erection, testing, or commissioning, paid or payable, to the assessee or to any other person on his behalf, whether in or outside India.
5.	Business of providing services or facilities (including supply of plant and machinery on hire) for prospecting, extraction or production of mineral oils.	Non-resident person.	10% of (A+B), where,— A = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils in India, paid or payable (in or outside

			India), to the assessee or any other person on his behalf; B = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
6.	Business of providing services or technology in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India to a resident company.	Non-resident.	25% of (A+B), where,— A = the amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; B = the amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing

	services or technology.	

(3) For the purposes of (Table: Sl. Nos. 1to 5) of sub-section (2), the specified assessee may claim that the profits actually earned from the specified business are lower than the business profits computed under sub-section (2), if,––

(a) he keeps and maintains such books of account and other documents as required under section 62; and

(b) gets his accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act shall not be allowed against the income computed in the manner specified in sub-section (2).

(5) The written down value of any asset used for the purposes of specified business or profession shall be computed, as if the assessee mentioned in column C of the Table in sub-section (2) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(6) For the purposes of sub-section (2)(Table: Sl. No. 5) the provisions of this section shall not apply where the provisions of section 54 or 59 or 207 or 527 apply for the purposes of computing profits and gains or any other income referred to in the said sections.

(7) In this section, “plant” includes ships, aircrafts, vehicles, drilling units, scientific apparatuses and equipments, used for the purposes of the specified business as mentioned in sub-section (2)(Table: Sl. No. 5).

(8) For the purposes of sub-section (2)(Table: Sl. No. 6), resident company shall satisfy the following:—

(a) it is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and

(b) it satisfies the conditions prescribed in this behalf.

61.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

[**Special provision for computing profits and gains of shipping business other than cruise shipping in case of non-residents.**]

44B. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of ships, [36][other than cruise ships referred to in section 44BBC,] a sum equal to seven and a half per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(i) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and

(ii) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.

Explanation.—For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature.

Special provision for computing profits and gains of the business of operation of aircraft in the case of non-residents.

44BBA. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to five per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.

Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils.

44BB. (1) Notwithstanding anything to the contrary contained in sections 28 to 41 and sections 43 and 43A, in the case of an assessee, being a non-resident, engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be

used, in the prospecting for, or extraction or production of, mineral oils, a sum equal to ten per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that this sub-section shall not apply in a case where the provisions of section 42 or section 44D or section 44DA or section 115A or section 293A apply for the purposes of computing profits or gains or any other income referred to in those sections.

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.

(3) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

[37][(4) Notwithstanding anything contained in sub-section (2) of section 32 and sub-section (1) of section 72, where an assessee declares profits and gains of business for any previous year in accordance with the provisions of sub-section (1), no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.]

Explanation.—For the purposes of this section,—

(i) "plant" includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purposes of the said business;

(ii) "mineral oil" includes petroleum and natural gas.

Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects.

44BBB. (1) Notwithstanding anything to the contrary contained in sections 28 to 44AA, in the case of an assessee, being a foreign company, engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf, a sum equal to ten per cent of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of such civil construction, erection, testing or commissioning shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

[38][(3) Notwithstanding anything contained in sub-section (2) of section 32 and sub-section (1) of section 72, where an assessee declares profits and gains of business for any previous year in accordance with the provisions of sub-section (1), no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.]

[**Special provision for computing profits and gains of business of operation of cruise ships in case of non-residents.**

44BBC. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of cruise ships subject to such conditions as may be prescribed, a sum equal to twenty per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) The amounts referred to in sub-section (1) shall be the following, namely:—

(a) the amount paid or payable to the assessee or to any person on his behalf on account of the carriage of passengers; and

(b) the amount received or deemed to be received by or on behalf of the assessee on account of the carriage of passengers.]

61.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 61 of the Bill provides for special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents. The clause corresponds to section 44B, 44BBA, 44BB, 44BBB, 44BBC and 44BBD of the Act. Under the current provisions of the Act, non-residents earning income from certain business activities, such as operating ships or aircraft, exploring mineral oil, civil construction or power projects on a turnkey basis, and providing services related to the manufacturing of electronic goods, are allowed a simplified taxation regime. In the proposed Income-Tax Bill 2025, an effort has been made to consolidate these identical presumptive taxation schemes into one section (Section 61) in tabular format. The common eligibility conditions are listed as sub-sections below the table. Earlier the specified assessee u/s 44BB and u/s 44BBB had the option to declare profits and gains lower than the presumptive rates if they keep and maintain books of account and also get them audited. In order to rationalize and consolidate similar provisions, now it has been made applicable for all the specified assessees as was covered in Section 44B, 44BBA, and 44BBC as well. Earlier, no set off of brought forward unabsorbed depreciation and brought forward losses was allowed for specified assessee u/s 44BB and u/s 44BBB. However, there are controversies regarding set off of brought forward unabsorbed depreciation and brought forward losses for assessee covered in Section 44B, 44BBA, and 44BBC. In order to rationalize the existing provisions and to reduce litigation, the Bill has provided in clause 61(4) that any loss, allowance or deduction allowable under this Act shall not be allowed against the income computed in the manner specified in sec 61(2). The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

61.4 Important Views/Suggestions given by Experts/Stakeholders:

- To ensure effective implementation of provision on presumptive taxation and alignment with India’s electronics manufacturing policy framework, MeitY proposes that eligibility for benefits under this provision be provided to non-resident assesses providing services or technology or both in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India. In essence,

the aforesaid provision is a strategic enabler that complements MeitY's industrial policy by removing friction for global expertise to support domestic electronics manufacturing.

- Under the Bill, clause 61 deals with non-resident related presumptive provisions. It contains a similar set of provisions as compared to Section 44BBD proposed in the Bill. Clause 61 of the Bill does not provide an option to claim lower profit or gains to nonresidents providing services or technology in India, for the purpose of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India. Option to claim lower profits to non-residents falling under other similar presumptive provisions such as providing service for prospecting, extraction, or production of mineral oils (earlier 44BB) and engaged in the business of civil construction or erection or testing or commissioning, of plant or machinery in connection with a turnkey power project (earlier 44BBB) is available.
  It is recommended to allow the non-residents providing services or technology in India, for the purpose of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India, to claim lower profit or gains in order to align with the other presumptive provisions applicable to nonresidents. The PGBP computation currently includes both the amount paid or payable to the NR taxpayer and the amount received or receivable by the NR taxpayer, leading to double counting of income. To address this issue, it is recommended that the provision be amended to ensure that the amount is included only once, thereby preventing duplication.

- Sections 44B and 44BBA of the Act do not prohibit set off of any loss, allowance or deduction allowable under the provisions of the Act against the profits and gains from the concerned business computed on presumptive basis in the manner specified in those sections. However, section 61(4) of the Bill provides for disallowing such loss, allowance or deduction from the presumptive income under section 61(2). The restriction requires to be removed. It may be misinterpreted to deny setoff of loss from another business or income assessable under other heads of income. This modification is required to bring the new provision in line with the existing provisions. Clause 58 of the Bill deems profits and gains of eligible business on a presumptive basis and there is no justification for denying a set off of loss, allowance or deduction otherwise available under other provisions.
- -44BBD(1) requires non-resident taxpayers to provide services or technology "in India" for electronics manufacturing, raising questions about the inclusion of

offshore services. Section 44BBD(1) and (2)(a) and (b) refer to provision of 'services or technology' by the non-resident to claim benefit. The absence of 'or both' may lead to an interpretation that S 44BBD excludes scenarios where composite services and technology are provided.
-Unlike various other presumptive tax provisions applicable to an NR (such as S 44B, 44BB, etc.), a taxpayer earning only income covered under S 44BBD is not excluded from applicability of minimum alternate tax (MAT) provisions u/s 115JB. To align with S 44BBD's objective of effective tax rate < 10% , it is recommended to amend S 115JB to exclude NRs covered by S 44BBD from MAT provisions.
- 44BBB of ITA 1961 (Sl No 4 of table in S 61 of ITB 2025) provide for presumptive taxation regime for NR taxpayers who are engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government. • The presumptive taxation regimes to NR taxpayers are introduced for the purpose of providing tax certainty, reducing litigation, enhancing ease of doing business and thereby to attract new investments in India. • Restricting the presumptive taxation to only EPC contracts in relation to power sector restricts the advantages associated with such regime to single sector : It is recommended to introduce presumptive taxation provisions to the NRs executing EPC contracts in all sectors, to provide tax certainty, reduce litigation and attract investments in India.

- A separate provision in clause or sub clause for Brokerage, commission, and E-commerce operator business may be added in this Bill / Act.

61.5 Examination by the Committee:

61.5.1 With respect to the issue to allow the non-residents providing services or technology in India, for the purpose of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India, to claim lower profit or gains in order to align with the other presumptive provisions applicable to nonresidents the Ministry in their response furnished that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

61.5.2 On the proposal of MeITY that eligibility for benefits under this provision be provided to non resident assesses providing services or technology or both in India i.e. with respect to the addition of the words 'or both', the Committee sought clarification on the implication of addition of the words 'or both' to which it was replied by the representatives of Ministry of Law and Justice that 'there is no conflict'.

61.5.3 Furthermore, the Ministry in their submissions related to oral deposition held on 26.05.2025 on the issue of 'Presumptive taxation for Non-Residents' furnished that, 'The presumptive scheme allowed to non-residents in s. 44BBD is available on services and technology provided by the non-residents. In absence of the presumptive scheme, the receipts would have become taxable as royalty/FTS u/s 44DA or 115A. The rate of taxation for royalty & FTS u/s 115A would be 20%. In comparison, the rate of taxation u/s 44BBD comes to little less than 10% (25% of receipts are taken as profits and taxed @35%) Therefore, significant benefit has been allowed to non-residents by way of certainty and ease of compliance with a very reasonable rate of taxation. The provision has been inserted after detailed discussion with stakeholders including MeitY, the concerned Ministry. Therefore, there is no justification for allowing non-residents to make a claim for profits less than presumptive amount. Allowing to claim lower profit by keeping books of account may lead to abuse of the provision and defeat the very purpose of providing tax certainty, litigation minimisation and less compliance burden.

61.5.4 With regard to the suggestion for removal of restriction in section 61(4) of the Bill which provides for disallowing loss, allowance or deduction from the presumptive income under section 61(2), the Ministry in their reply furnished that, 'The suggestion seeks allowance of losses and deductions against presumptive income. The presumptive income is only a small fraction of the total receipts. For retail business, it is only 8% or 6% of the receipts. There are certain presumptive sections where losses are not allowed. With presumptive, there is no requirement of maintaining books of accounts. Therefore, claiming losses which can only be derived from books is an anomaly. Also, for consolidation and rationalisation, the losses and deductions are not allowed in the Bill. The amendments have been rightly made. Therefore, the suggestion is not feasible'.

61.5.5 With regard to the suggestion seeking inclusion of both services and technology in the provision of clause 61(2) [Table Si.No.6], the Ministry stated that, 'Generally 'or' is used so that both limbs shall qualify. On the contrary if 'and' is used provisions of either services or technology may be treated as disqualification for presumptive taxation. Therefore, there is no ambiguity'. Further on the suggestion seeking exclusion from MAT for presumptive incomes on ground that certain other presumptive incomes have been so excluded, the Ministry stated that, 'The suggestion is noted for examination'. And with regard to the suggestion seeking expansion of presumptive tax provisions for contracts other than turnkey power project, the Ministry stated that, 'These suggestions are examined in detail at the time of budget exercise after detailed discussions with stakeholders. The suggestion is noted'.

61.5.6 Further, with regard to a separate provision for Brokerage, commission, and E-commerce operator business, the Ministry stated that, 'The suggestion calls for presumptive taxation to be provided for brokerage and commission agents. This

suggestion is in the nature of policy. Provisions of presumptive scheme under cl 58 (sec 44AD /44ADA/44AE of the Act) cannot be extended to commission or brokerage income as no substantial expenses are incurred by assessee in earning such income. If presumptive scheme is extended to brokerage income, it will lead to a situation where tax of Rs. 2.4 is paid on brokerage income of Rs. 100 (30% of (8% of 100)). In reality brokerage income should be fully subjected to tax as there is hardly any expenditure in relation thereof. This will be an abuse of the provisions of presumptive taxation'.

61.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposals and the justification given by the Ministry of Finance find the provisions of the proposed Clause 61 to be acceptable as it is without any modifications.

Clause No.& Title:

62. Maintenance of books of account

62.1 Provision proposed in the Income-Tax Bill, 2025:

62. (1) (a) Any person carrying on specified profession; or

(b) any person carrying on, business; or any profession [not being a profession referred to in clause (a)] and satisfying the conditions referred to in sub-section (2); or

(c) any other person carrying on profession notified by the Board in this behalf,

shall keep and maintain such books of account and other documents to enable the Assessing Officer to compute his total income under this Act.

(2) The conditions in respect of persons referred to in sub-section (1)(b) shall be the following:—

(a) where the income from business or profession exceeds one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession exceeds ten lakh rupees in any one of the three years immediately preceding the tax year; or

(b) where business or profession is newly set up in the tax year, the income from business or profession is likely to exceed one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession is likely to exceed ten lakh rupees during such tax year; or

(c) where during the tax year, the assessee, other than the assessee referred to in section 61(2)(Table: Sl. No. 6), has claimed income from business or profession to be lower than the deemed profits as referred to in section 58(2) or section 61(2); or

(d) in case of an individual or Hindu undivided family, clauses (a) and (b) shall be modified to the extent of income from such business or profession exceeding two lakh and fifty thousand rupees and its total sales, turnover or gross receipts from such business or profession exceeding two lakh and fifty thousand rupees.

(3) For the purposes of this section, the Board may prescribe—

(a) the books of account and other documents (including inventories, wherever necessary) to be kept and maintained;

(b) particulars to be contained therein;

(c) the form, manner and place at which they shall be kept and maintained; and

(d) the period for which such books of account and other documents are to be retained.

(4) In this section, “specified profession” means—

(a) legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary; or

(b) any other profession, as notified by the Board.

62.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

44AA. (1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of this Act.

(2) Every person carrying on business or profession [not being a profession referred to in sub-section (1)] shall,—

(i) if his income from business or profession exceeds one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ten lakh rupees in any one of the three years immediately preceding the previous year; or

(ii) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ten lakh rupees, during such previous year; or

(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AE or section 44BB or section 44BBB, as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year; or

(iv) where the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,

keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of this Act:

Provided that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (i) and clause (ii) shall have effect, as if for the words "one lakh

twenty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted :

Provided further that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (i) and clause (ii) shall have effect, as if for the words "ten lakh rupees", the words "twenty-five lakh rupees" had been substituted.

(3) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1) or sub-section (2), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.

(4) Without prejudice to the provisions of sub-section (3), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (1) or sub-section (2) shall be retained.

62.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 62 of the Bill provides for maintenance of books of accounts. The clause corresponds to section 44AA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. (It is proposed to substitute two lakh and fifty thousand rupees (appearing second time in clause 62(2)(d))with twenty five lakh rupees in the clause)

62.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 44AA set a threshold of 'twenty-five lakh rupees' for the total sales, turnover, or gross receipts in the business or profession of individuals and Hindu Undivided Families (HUFs). However, clause 62(2)(d) lists the threshold as 'two lakh and fifty thousand rupees'. This seems to be an inadvertent error and should be corrected to align with the original threshold.

- Maintenance of accounts should be the basis of turnover irrespective of profits or gains. It will help during the assessment and easy of understanding the mandatory of maintenance of books of account.

- The word “One lakh and twenty thousand rupees” should be increase by “Two lakh and fifty thousand rupees” as well as the word “in any of the three years immediately preceding the tax year” should be deleted.

- Proposed sub-section 62(1)(c) provides ‘any other person carrying on profession notified by the Board in this section’. In sub-section (4), definition of ‘specified profession’ also it is stated “any other person, as notified by the Board”. Hence, section 62(1)(a) viz. “Any person carrying on specified profession” will include notified professions. Hence, it is suggested that 62(1)(c) be omitted. Alternatively, from subsection (4), clause (b) may be omitted.

62.5 Examination by the Committee:

62.5.1 With respect to listing the threshold as 'two lakh and fifty thousand rupees in clause 62(2)(d), the Ministry has accepted that, ‘The threshold limit for total sales, turnover or gross receipts u/s 44AA(2) is twenty five lakh rupees. However, inadvertently, the same has been changed to two lakh fifty thousand rupees. It is an inadvertent error. The suggestion made by the stakeholder is acceptable’.

62.5.2 With regard the suggestion to make the turnover as the criteria for maintenance of books of account, the Ministry has furnished that, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The suggestion given is already taken care of in the present provision as it allows the assessees to determine it's eligibility for maintenance of books of account either based on turnover or on the profits or gains’.

62.5.3 With regard to the suggestion for omitting 62(1)(c), the Ministry has stated that, ‘It is an inadvertent drafting error. Suggestion given is acceptable as clause 62(1)(c) repeats the provision already mentioned in 62(4)(b)’.

62.5.4 On the suggestion seeking to increase limit of profit and decrease the applicable time for eligibility for maintenance of books of account, the Ministry stated that, ‘The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The threshold limit of Rs. 1.25 lakhs in general and Rs. 2.5 lakhs for individuals and HUF to reduce compliance for such small taxpayers. It cannot be extended all category of taxpayers. The word "in any of the three years immediately preceding the previous year" cannot be deleted as it provides sufficient time period to evaluate actual business condition’.

62.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that Clause 62(1)(c) just repeats the provision already mentioned in 62(4)(b) and thus, recommend that Clause 62(1)(c) be omitted.

The Committee further recommend that in Clause 62(2)(d), the threshold stated as "two lakh and fifty thousand rupees" be replaced with "twenty-five lakh rupees", since the threshold limit for total sales, turnover, or gross receipts under Section 44AA(2) of the Income-Tax Act, 1961, is twenty-five lakh rupees. Making this correction will align the Bill with the 1961 Act.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:
63. Tax audit

63.1 Provision proposed in the Income-Tax Bill, 2025:

63. (1) Every person, carrying on the business or profession fulfilling the conditions specified in column B of the Table below, shall get his accounts of the tax year audited by an accountant, before the specified date.

Table

Sl. No.	Conditions for getting books of account audited
A	B
1.	Where the total sales, turnover or gross receipts from business or profession during the tax year of any person who— (a) is carrying on business and at least 95% of aggregate of all the receipts and payments from the business during the tax year are through specified banking or online mode, is more than ₹10,00,00,000; (b) is carrying on business and not covered under serial number 1, is more than ₹1,00,00,000; (c) is carrying on profession, is more than ₹50,00,000.
2.	If the person is carrying on business or profession, referred to in section 58(2) or 61(2) (other than that referred to in section 61(2)[Table: Sl. No. 6]) and the profits and gains from such business or profession are claimed to be lower than the deemed profits as referred to in these sections.

(2) The provisions of this section shall not apply,—

(a) where profits and gains of business or profession, declared by the assessee are as per section 58(2);

(b) where the person, other than that referred in section 61(2)(Table: Sl. No. 6),is deriving income of the nature referred to in section 61(2).

(3) The assessee shall furnish by the specified date, the report of such audit in such form, duly signed and verified by the accountant and setting forth such particulars, as prescribed.

(4) Where a person is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of this section, if such person—

(a) gets the accounts of such business or profession audited under such law before the specified date; and

(b) furnishes by that specified date the report of such audit along with the report of the accountant in the form as prescribed.

(5) In this section, “specified date” in relation to the accounts of the assessee of the tax year, means the date one month prior to the due date for furnishing the return of income under section 263(1).

63.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

44AB. Every person,—

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year :

Provided that in the case of a person whose—

(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment,

this clause shall have effect as if for the words "one crore rupees", the words "ten crore rupees" had been substituted:

Provided further that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash; or

(b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year; or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has

claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or

(d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or

(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,

get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed :

[28-32][**Provided** that this section shall not apply to a person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA:]

Provided further that this section shall not apply to the person, who derives income of the nature referred to in section 44B or section 44BBA, on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later :

Provided also that in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.

Explanation.—For the purposes of this section,—

(i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;

(ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139.

63.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 63 of the Bill provides for tax audit and also provides for auditing of books account by specified accountant under certain conditions. The clause corresponds to section 44AB of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Earlier the specified assessee u/s 44BB and u/s 44BBB had the option to declare profits and gains lower than the presumptive rates if they keep and maintain books of account and also get them audited. In order to rationalize and consolidate similar provisions, now it has been made applicable for all the specified assessees as was covered in Section 44B, 44BBA, and 44BBC as well. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. (Provisions of clause 63 are inadvertently made applicable to existing section 44BBD of the Act and the same needs to be corrected)

63.4 Important Views/Suggestions given by Experts/Stakeholders:

- Every person, carrying on the business or profession fulfilling the conditions specified in column B of the Table below, shall get his accounts of the tax year audited by a chartered accountant in practice or a cost accountant in practice, before the specified date. Cost accountants are adequately qualified to conduct the tax audit hence the cost accountants may be allowed for the same.

- 1)The term ‘Accounts’ can be replaced with the commonly used term ‘Financial Statements’. 2)Financial Statements can be defined as follows. a) Balance Sheet b) Statement of Profit and Loss c) Statement of Changes in equity (where required by the applicable Ind ASs or Accounting Standards) d) Statement of Cash Flows e) Notes comprising material accounting policy information or significant accounting policies and other explanatory information. 3) It may be considered to explicitly include mandatory provision for the Accountant performing the function of Auditor to comply with Standards on Auditing, Quality Control/Management, Ethical Standards including Independence Standards. 4) Prescriptions in Clause 515(3)(b) relates to eligibility and restrictions for an Accountant to be appointed as Auditor. Therefore, this part of the section can be considered to be relocated to clause 63 of the IT Bill 2025 which relates to the Audit of accounts of an Assessee.

1) The word ‘Accounts’ has not been defined in old Act and new bill. Hence, there is a possibility of it being subject to different interpretation. Some professionals may interpret it as audit of information furnished in the Form 3CD only.

2) There appears to be a need to explicitly clarify what are the statements and reports to be audited.
3) Audit of Financial Statements of the Assessee is a critical part of the Tax Audit under IT Bill 2025 and there are comprehensive set of Audit, Quality Management, Ethical and Independence Standards to be followed by the Auditors for audit of financial statements, in general.

- As per the revised definition of MSMEs, the turnover of Micro Enterprises increased to Rs.10 crore. In view of this, threshold limit of turnover under this provision of Rs. 1 crore may be revised to Rs. 5 crore. The change under Income-Tax bill will help a large segment of Micro Enterprises. This will ensure ease of doing business for this segment which grapples with financial challenges and manages with a very thin margin.

- With respect to 63(2)(b) following suggestions are proposed:

  (i) Exclude non-residents under presumptive scheme from maintaining books and tax audit compliance.
  (ii) Provide an option for nonresidents to declare lower income than presumptive amount, subject to maintenance of books and tax audit.
  (iii) The double counting error in ITB 2025 may be rectified by changing the formula to “25% of A or B, whichever is higher”.

- With respect to 63(1)-
  1. Either it should be applicable for the turnover above Rs. 10 crore or should be abolished.
  2. There should be single tax audit report and form should be designed in such a way that data and other information are useful in the assessment of Income-Tax return and GST return.
  3. Under the definition of Accountant, Cost Accountant should be included.
- Most clauses of Form 3CD are not applicable to life insurance companies due to overriding effect of Section 55 of Income-Tax Bill 2025, which governs how profits & gains of life insurance business is computed. Further, taxation aspect is already covered under the statutory audit of the life insurance companies. Hence, Life Insurance Companies may be exempted from Tax Audit.

- With respect to 63(1)(a) and considering the Factor of Escalation, it may kindly be increased to 15 Crores.

- With respect to 63(1)(b) and considering the Factor of Escalation, it may kindly be increased to 3 Crores.

- With regard to 63(1) Table Sl No 1:
  As per section 44AB of the IT Act, 1961, person whose turnover is less than 10 crores and cash receipts are less than 5%, are not liable to audit. The provisions as proposed do not exclude such persons from tax audit ambit. For example, person having turnover of Rs. 7.5 crores and 100% online is not covered by 1(a). Since turnover is more than Rs. 1 crores, such person will be liable to get the audit done as per provisions of (b). Words sales, turnover and gross receipts added to maintain consistency with IT Act, 1961 with the proposed provision as follows:
  1.Where the total sales, turnover or gross receipts from business or profession during the tax year of any person who– – (a) is carrying on business and at least 95% of aggregate of sales, turnover, gross all the receipts and payments from the business during the tax year are through specified banking or online mode, is more than ₹10,00,00,000; (b) is carrying on business and not covered under serial number 1, amount received for aggregate of sales, turnover, gross receipts or payments during the previous year, in cash, exceeds five per cent of the said amount, is more than ₹1,00,00,000; (c) is carrying on profession, is more than ₹50,00,000.

63.5 Examination by the Committee:

63.5.1 With regard to Cost accountants being adequately qualified to conduct the tax audit, the Ministry commented that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

63.5.2 With respect to suggestions which have been given relating to definition of accounts and accountant regulations, the Ministry in their reply stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

63.5.3 In their comments with respect to threshold limit of turnover under this provision of Rs. 1 crore being revised to Rs. 5 crore, the Ministry stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'**.**
Officials of M/o MSME during the sitting held on 25.04.2025 deposed the following with regard to Section 63-
"Section 63 is actually talking about audit ceiling. Our request is that instead of Rs. 1 crore, which is mentioned in the Income-Tax Bill, it can be enhanced to Rs. 5 crore.

There are a couple of reasons for that. If we enhance it to Rs. 5 crore, then, most of the micro enterprises get covered. They will actually be covering 95 per cent of the micro enterprises. They have a very low turnover. This will also help in boosting the ease of doing business. So, this is one request from the Ministry of MSME".

63.5.4 With regard to excluding non-residents under presumptive scheme from maintaining books and tax audit compliance, the Ministry furnished that, 'Such non-residents are not allowed to claim lower profits than provided in Cl. 61(2) (Table:Sl. No. 6) corresponding to s. 44BBD in IT Act. Consequently, there is no requirement of maintaining books of account or getting them audited. Thus, the provision in Cl. 63(2)(b) which mandates audit for such non-residents is an inadvertent error which is to be corrected. The suggestion made by the stakeholder is acceptable on this account'.

63.5.5 On the issue of providing an option for non-residents to declare lower income than presumptive amount, subject to maintenance of books and tax audit, the Ministry stated that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

63.5.6 With respect to the double counting error in ITB 2025 may be rectified by changing the formula to "25% of A or B, whichever is higher, the Ministry clarified in their comments that, 'The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025'.

63.5.7 On the suggestion seeking to increase or abolish audit limit of books of account, the Ministry stated that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The limit of turnover for tax audit has already been increased from one crore rupees to ten crore rupees where the amount received in cash or paid in cash does not exceed five percent of total turnover or total expenses respectively'.

63.5.8 With respect to suggestion seeking a single tax audit report, the Ministry stated that, 'There is already a single tax audit report.'

63.5.9 With regard to redrafting of 63(1) Table Sl No 1, the Ministry stated that, 'It is an inadvertent drafting error. Clause 63 of the Bill is to be redrafted to align it with the provisions of the Act and to remove any ambiguity'.

63.5.10 On the suggestion seeking to increase audit limit of books of account, the Ministry furnished that, 'The suggestion is in the nature of policy change which is

beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The limit of turnover for tax audit has already been increased from one crore rupees to ten crore rupees where the aggregate of amounts received in cash or paid in cash does not exceed five percent of total turnover or total expenses respectively'.

63.5.11 With respect to suggestion seeking to exempt life insurance companies from requirement of tax audit on the ground that statutory audit is already done and form 3CD is not largely relevant for such companies, the Ministry stated that, 'The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The tax audit is required to ensure that provisions of Income-Tax Act, 1961 have been followed by the taxpayers while computing its income. Statutory audit cannot be compared with tax audit as tax audit has its own specific requirements as against statutory audit which has more to do with the compliances with regard to Companies Act 2013'.

63.6 Observations/Recommendations of the Committee:

The Committee, upon examination, note that there is a need for redrafting of Clause 63(1) Table Sl. No. 1 as Section 44AB of the Income-Tax Act, 1961, exempts a person whose turnover is less than Rs. 10 crores and whose cash receipts are less than 5% from the requirement of tax audit. However, the provisions proposed in the Bill do not exclude such persons from the ambit of tax audit. Therefore, the Committee feel that redrafting is necessary to align the Bill with the 1961 Act and to remove any ambiguity.

The Committee further recommend modification in Clause 63(2)(b) as non-residents under presumptive scheme are excluded from maintaining books and tax audit compliance as such non-residents are not allowed to claim lower profits than provided in Cl. 61(2) (Table:Sl. No. 6) corresponding to s. 44BBD in IT Act, 1961 and thus there is no requirement of maintaining books of account or getting them audited. The Committee thus recommend that the provision in Cl. 63(2)(b) which mandates audit for such non-residents be accordingly corrected and modified.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

Clause No.& Title:

64. Facilitating payments in electronic modes.

64.1 Provision proposed in the Income-Tax Bill, 2025:

64. Any person carrying on business with total sales, turnover, or gross receipts exceeding fifty crore rupees in the preceding tax year shall provide facility for accepting payments through prescribed electronic methods, in addition to any other electronic payment methods, already offered.

64.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

269SU. Every person, carrying on business, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes, of payment, if any, being provided by such person, if his total sales, turnover or gross receipts, as the case may be, in business exceeds fifty crore rupees during the immediately preceding previous year.

64.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 64 of the Bill provides for facilitating payments in electronic modes. The clause corresponds to section 269SU of the Act under Chapter XX-B (Requirement as to mode of acceptance, payment or repayment in certain cases to counteract evasion of tax). The same has been included under the Sub-Chapter of Profits and gains of business or profession as the provision creates an obligation on the person carrying on business. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

64.4 Important Views/Suggestions given by Experts/Stakeholders:

- Section 64 may be removed. Section 187 of the Income-tax Bill, 2025 is on similar lines of section 269SU of the Income-tax Act, 1961. Since the requirement and condition of both the sections of the Income-tax Bill, 2025 i.e., sections 187 and 64 are the same, section 64 may be removed.

64.5 Examination by the Committee:

With regard to the suggestion which seeks to remove clause 64 as it is duplicate of clause 187 (providing for acceptance of payment through prescribed electronic modes) of the Bill, the Ministry agreed to the duplication and stated, ‘In order to avoid repetition of the same provision at two different places, section 64 will be omitted’.

64.6 Observations/Recommendations of the Committee:

The Committee, upon examination, recommend that Clause 64 be omitted, as it duplicates the provisions of Clause 187, which provides for acceptance of payment through prescribed electronic modes. The Committee believe that omitting Clause 64 and retaining Clause 187 will ensure a more appropriate and coherent flow of content in the Bill.

Clause No.& Title:

65. Special provision for computing deductions in case of business reorganisation of co-operative banks

65.1 Provision proposed in the Income-Tax Bill, 2025:

65.(1) The deduction under section 33 or 44 or 52(1)(Table: Sl. No. 1 or 2) shall, in a case where business reorganisation of a co-operative bank has taken place during the tax year, be allowed as per provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank or to the successor co-operative bank or to the converted banking company under section 33 or 44 or 52(1)(Table: Sl. No. 1 or 2) shall be determined as per the formula—

(i)for predecessor co-operative bank:—

$$\frac{A \times B}{C}$$

(ii)for successor co-operative bank or converted banking company:—

$$\frac{A \times D}{C}$$

where,—

A = the amount of deduction allowable to the predecessor co-operative bank, if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the tax year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the tax year in which the business reorganisation has taken place.

D = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the tax year.

(3) The provisions of section 44 or 52(1)(Table: Sl. No. 1 or 2)shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank or to a converted banking company on account of business reorganisation, apply to the successor co-operative bank or to the converted

banking company in the tax years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(4) In this section,—

(a) "amalgamation" means the merger of an amalgamating co-operative bank with an amalgamated co-operative bank, if—

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding 75% or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding 75% or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(b) "amalgamating co-operative bank" means—

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

(c) "amalgamated co-operative bank" means—

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(d) "business reorganisation" means reorganisation of business involving the amalgamation or demerger of a co-operative bank or conversion of a primary co-operative bank;

(e) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated 27th September, 2018;

(f) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank;

(g) “demerger” means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(iv) the shareholders holding 75% or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting cooperative bank, otherwise than as a result of the acquisition of the assets of the demerged cooperative bank or any undertaking thereof by the resulting co-operative bank;

(v) the transfer of the undertaking is on a going concern basis; and

(vi) the transfer is as per the conditions specified by the Central Government, by notification, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(h) “demerged co-operative bank” means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(i) “predecessor co-operative bank” means the amalgamating co-operative bank or the demerged co-operative bank, or the primary co-operative bank, which has been succeeded as a result of conversion;

(j) “resulting co-operative bank” means—

(i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(ii) any co-operative bank formed as a result of demerger;

(k) “successor co-operative bank” means the amalgamated co-operative bank or the resulting bank.

65.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

44DB. (1) The deduction under section 32, section 35D, section 35DD or section 35DDA shall, in a case where business reorganisation of a co-operative bank has taken place during the financial year, be allowed in accordance with the provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

$$\frac{A \times B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(3) The amount of deduction allowable to the successor co-operative bank or to the converted banking company under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

$$\frac{A \times B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank or to a converted banking company on account of business reorganisation, apply to the successor co-operative bank or to the converted banking company in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(5) For the purposes of this section,—

(a) "amalgamated co-operative bank" means—

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result ofmerger of two or more amalgamating co-operative banks;

(b) "amalgamating co-operative bank" means—

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

`(c) "amalgamation" means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that—

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding seventy-five per cent or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding seventy-five per cent or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the

amalgamated co-operative bank;

(ca) "banking company" shall have the meaning assigned to it in clause (c) of section 5 of Banking Regulation Act, 1949 (10 of 1949);

(d) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank or conversion of a primary co-operative bank;

(da) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated the 27thSeptember, 2018;

(db) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank;

(e) "co-operative bank" shall have the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(f) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(iv) the shareholders holding seventy-five per cent or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the

demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;

(v) the transfer of the undertaking is on a going concern basis; and

(vi) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(g) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(h) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank or the primary co-operative bank which has been succeeded as a result of conversion, as the case may be;

(ha) "primary co-operative bank" shall have the meaning assigned to it in clause (ccv) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(i) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;

(j) "resulting co-operative bank" means—

(i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(ii) any co-operative bank formed as a result of demerger.

65.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 65 of the Bill provides for special provision for computing deductions in case of business reorganisation of co-operative banks. The clause corresponds to section 44DB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

65.4 Observations/Recommendations of the Committee:

The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.

Clause No.& Title:

66. Interpretation

66.1 Provision proposed in the Income-Tax Bill, 2025:

66. In sections 26 to 66,—

(1) “agreement”, for the purposes of section 26(2)(h), includes any arrangement or understanding or action in concert,—

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(2) “banking company” means a company to which the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;

(3) “commission or brokerage” shall have the meaning assigned to it in section 402(7);

(4) “commodity derivative” shall have the same meaning as assigned to it in Chapter VII of the Finance Act, 2013;

(5) “commodities transaction tax” shall have the same meaning as assigned to it under Chapter VII of the Finance Act, 2013;

(6) “fees for technical services” shall have the meaning assigned to it in section 9(7)(b);

(7) “housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(8) “Indian Institute of Technology” shall have the same meaning as that of “Institute” defined in section 3(g) of the Institutes of Technology Act, 1961;

(9) “Keyman insurance policy” shall have the meaning assigned to it in Schedule II (Note 1);

(10) “limited liability partnership” shall have the same meaning as assigned to it in section 2(1)(n) of the Limited Liability Partnership Act, 2008;

(11) “long-term finance”, for the purposes of section 32(e), means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(12) “micro enterprise” shall have the same meaning as assigned to it in section 2(h) of the Micro, Small and Medium Enterprises Development Act, 2006;

(13) “mineral oil” includes petroleum and natural gas;

(14) “moneys payable” in respect of any tangible asset includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the asset is sold, the price for which it is sold;

(15) “National Housing Bank” means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;

(16) “non-scheduled bank” means a banking company as defined in section 5(c) of the Banking Regulation Act, 1949, which is not a scheduled bank;

(17) “paid” means, except for section 37, actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head “Profits and gains of business or profession”;

(18) “permanent establishment” shall have the meaning assigned to it in section 173(c);

(19) “plant” includes ships, vehicles, books, scientific apparatus and surgical equipment used for the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings;

(20) “predecessor entity” means—

(a) the amalgamating Indian company in the case of amalgamation;

(b) the demerged Indian company, in the case of demerger;

(c) a firm, in the case of a succession of a firm by a company as referred to in section 70(1)(zd);

(d) a private company or unlisted public company, in case of conversion as referred to in section 70(1)(ze);

(e) a sole proprietary concern, in the case of succession of sole proprietorship concern by a company, as referred to in section 70(1)(zf);

(21) “primary agricultural credit society” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;

(22) “primary co-operative agricultural and rural development bank” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities;

(23) “professional services” shall have the meaning assigned to it in section 402(28);

(24)“public company” shall have the same meaning as assigned to it in section 2(71) of the Companies Act, 2013;

(25) “public financial institution” shall have the same meaning as assigned to it in section 2(72) of the Companies Act, 2013;

(26) “rate of exchange” means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(27) “recognised commodity exchange" means a recognised association as defined in section 2(j) of the Forward Contracts (Regulation) Act, 1952 and which fulfils such conditions, as prescribed, and is notified by the Central Government for this purpose;

(28) “rent”, for the purposes of section 35(b)(i), shall have the meaning assigned to it in section 402(29);

(29) “royalty” shall have the same meaning as assigned to it in section 9(6)(b);

(30) “rural branch” means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census, of which the relevant figures have been published before the first day of the tax year;

(31) “scientific research” means—

(a) any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries; and

(b) the references to expenditure incurred on scientific research shall include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

and the references to scientific research related to a business or class of business shall include any scientific research—

(i) which may lead to or facilitate an extension of that business or, all businesses of that class;

(ii) of a medical nature which has a special relation to the welfare of workers employed in that business or, all businesses of that class;

(32) “securities transaction tax” shall have the meaning assigned to it under Chapter VII of the Finance (No. 2) Act, 2004;

(33) “service”, for the purposes of section 26(2)(h), means a service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as—

(a)accounting;

(b)banking;

(c)communication;

(d)conveying of news or information;

(e)advertising;

(f)entertainment;

(g)amusement;

(h)education;

(i)financing;

(j)insurance;

(k)chit funds;

(l)real estate;

(m)construction;

(n)transport;

(o)storage;

(p)processing;

(q)supply of electrical or other energy; and

(r)boarding and lodging;

(34) “small enterprise” shall have the same meaning as assigned to it in section 2(m) of the Micro, Small and Medium Enterprises Development Act, 2006;

(35) “speculative transaction” means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips, other than the following transactions:—

(a) a specified derivative transaction as defined in clause (37);

(b) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;

(c) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;

(d) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member;

(36) "Specified Banking or Online Mode" shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed;

(37) "specified derivative transaction" means any transaction in derivatives, if—

(a) it is carried out electronically on screen-based systems of a recognised stock exchange or a recognised commodity exchange;

(b) it is carried out by a bank or mutual fund or any other person, through a broker, member or such other intermediary; and

(c) it is supported by a time stamped contract note issued by the intermediary to every client indicating in the contract note—

(i) the unique client identity number allotted under any law in force; and

(ii) the Permanent Account Number allotted under this Act;

(38) "State Government undertaking" includes—

(a) a corporation established by or under any State Act;

(b) a company in which more than 50% of the paid-up equity share capital is held by the State Government;

(c) a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in clause (a) or (b) (whether singly or taken together);

(d) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(e) an authority, a board or an institution or a body established or constituted by or under any State Act, or owned or controlled by the State Government;

(39) "State Industrial Investment Corporation" means a Government company within the meaning of section 2(45) of the Companies Act, 2013, engaged in the business of providing long-term finance for industrial projects;

(40) "State Financial Corporation" means a Financial Corporation established under section 3 or 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951;

(41) "successor entity" means—

(a) the amalgamated Indian company, in the case of amalgamation;

(b) the resulting Indian company, in the case of demerger;

(c) a company, in case of a succession of a firm by a company as referred to in section 70(1)(zd);

(d) a limited liability partnership, in case of conversion of private company or unlisted public company to a limited liability partnership, as referred to in section 70(1)(ze);

(e) company, in case of succession of sole proprietorship concern by a company, as referred to in section 70(1)(zf);

(42) "taxable commodities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2013;

(43) "taxable securities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2004;

(44) "University" shall have the meaning assigned to it in section 70(2)(Table: Sl. No. 7); and

(45) "work", for the purposes of section 35(b)(i), shall have the meaning assigned to it in section 402(47).

66.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

43. In sections 28 to 41 and in this section, unless the context otherwise requires—

(1) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by

any other person or authority:

Provided that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967, but before the 1st day of March, 1975, and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees:

Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.

Explanation 1.—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under clause (ii) of sub-section (1) of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (iv) of sub-section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (11 of 1922).

Explanation 1A.—Where a capital asset referred to in clause (via) of section 28 is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the said clause.

Explanation 2.—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

(a) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day

of April, 1988, as if the asset was the only asset in the relevant block of assets.

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the Assessing Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Assessing Officer may, with the previous approval of the Joint Commissioner, determine having regard to all the circumstances of the case.

Explanation 4.—Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

(i) the actual cost to him when he first acquired the asset as reduced by—

(a) the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or

(ii) the actual price for which the asset is re-acquired by him,

whichever is less.

Explanation 4A.—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or

otherwise assets from the first mentioned person, then, notwithstanding anything contained in Explanation 3, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.

Explanation 5.—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee.

Explanation 6.—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee-company shall be taken to be the same as it would have been if the transferor-company had continued to hold the capital asset for the purposes of its business.

Explanation 7.—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.

Explanation 7A.—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business :

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.

Explanation 8.—For the removal of doubts, it is hereby declared that where any amount is paid or is payable as interest in connection with the acquisition of an

asset, so much of such amount as is relatable to any period after such asset is first put to use shall not be included, and shall be deemed never to have been included, in the actual cost of such asset.

Explanation 9.—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.

Explanation 10.—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee :

Provided that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.

Explanation 11.—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.

Explanation 12.—Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation.

Explanation 13.—The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—

(a) in the case of such assessee; and

(b) in any other case if the capital asset is acquired or received,—

(i) by way of gift or will or an irrevocable trust;

(ii) on any distribution on liquidation of the company; and

(iii) by such mode of transfer as is referred to in clauses (i), (iv), (v), (vi), (vib), (xiii), (xiiib) and (xiv) of section 47:

Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition;

(2) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";

(3) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings;

(4) (i) "scientific research" means any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries;

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

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

include—

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

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

(5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; or

(d) an eligible transaction in respect of trading in derivatives referred to in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; or

(e) an eligible transaction in respect of trading in commodity derivatives carried out in a recognised stock exchange, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),

shall not be deemed to be a speculative transaction:

Provided further that for the purposes of clause (e) of the first proviso, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013) shall not apply.

Explanation 1.—For the purposes of clause (d), the expressions—

(i) "eligible transaction" means any transaction,—

(A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (A) and permanent account number allotted under this Act;

(ii) "recognised stock exchange" means a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.

Explanation 2.—For the purposes of clause (e), the expressions—

(i) "commodity derivative" shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

(ii) "eligible transaction" means any transaction,—

(A) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws,

rules and regulations of the recognised stock exchange for trading in commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and the rules, regulations or bye-laws made or directions issued under that Act on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (A), unique trade number and permanent account number allotted under this Act;

(iii) "recognised stock exchange" means a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose;

(6) "written down value" means—

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

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force:

Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (ii) of sub-section (1) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (a), (b) and (c) of clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (vi);

(c) in the case of any block of assets, —

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,—

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets,

so, however, that the amount of such decrease does not exceed the written down value;

(ii) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding

previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by, —

(A) the increase or the reduction referred to in item (i), not being increase on account of acquisition of goodwill of a business or profession;

(B) the reduction by an amount which is equal to the actual cost of the goodwill falling within that block as decreased by—

(a) the amount of depreciation actually allowed to the assessee under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) for such goodwill in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for such goodwill for any assessment year commencing on or after the 1st day of April, 1988 as if the goodwill was the only asset in the relevant block of assets,

in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 2021, in a case where the goodwill of a business or profession was part of the block of assets on which depreciation was obtained by the assessee for the immediate preceding previous year, so, however, that the amount of such reduction does not exceed the written down value.

Explanation 1.—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of any asset or any block of assets shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

Explanation 2.—Where in any previous year, any block of assets is transferred,—

(a) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied; or

(b) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the transferee-company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor-company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.

Explanation 2A.—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the written down value of the assets transferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets in the case of the resulting company shall be the written down value of the transferred assets of the demerged company immediately before the demerger.

Explanation 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited

liability partnership.

Explanation 3.—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed".

Explanation 4.—For the purposes of this clause, the expressions "moneys payable" and "sold" shall have the same meanings as in the Explanation below sub-section (4) of section 41.

Explanation 5.—Where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer.

Explanation 6.—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

Explanation 7.—For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed

shall be deemed to be the depreciation actually allowed under this Act.

66.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 66 of the Bill provides for interpretation of Chapter IV-D which deals with various definitions related to income under the head “Profit and gains of business or profession”. This clause includes some of the definitions of the Section 43 of the Act and the remaining definitions of the terms which are been used in more than one section in the chapter of Profits and Gains of business or profession. There are many provisions in the act to incentivise payment through an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed, e.g. in sections 44AD,44ADA. Similarly, there are provisions to disincentivise payment in violation of the above mode. To facilitate easier understanding, a new term is being coined to define such payments. Term “Specified Banking or Online Mode” has been defined in Section 66(36) to mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

66.4 Important Views/Suggestions given by Experts/Stakeholders:

- Ministry of MSME supports the inclusion of definition of Micro and Small Enterprises with a request to rephrase:
  (12) “micro enterprise” shall have the same meaning as notified under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006.
  (34) “small enterprise” shall have the same meaning as notified under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006.
  This will bring uniformity in defining “Micro” and “Small” Enterprises and help them, especially w.r.t. matters related to delayed payments.

- The definition of “commodity derivative” in Chapter VII of the Finance Act, 2013 may be reproduced here. "commodity derivative" means— (i) a contract for delivery of goods which is not a ready delivery contract; or (ii) a contract for differences which derives its value from prices or indices of prices— (A) of such underlying goods; or (B) of related services and rights, such as warehousing and freight; or (C) with reference to weather and similar events and activities, having a bearing on the commodity sector;
  The definition of “Commodity derivative” in Chapter VII of the Finance Act, 2013 may be reproduced here. The same should not be linked with Finance Act, 2013.

- The definition of “National Housing Bank” may be removed from section 66. The reference of National Housing Bank was in existing section 43D clause (b) which was omitted by the Finance (No. 2), Act, 2024. Hence, this definition can be removed from section 66.

- The definition of “rent” may be removed from section 66. The term “rent” is not used in section 35(b)(i) of Income-tax Bill, 2025 as it is not relevant since the term “any sum payable” is used in this section. Hence, this definition can be removed from section 66.

- 43(5) of the Income-tax Act, 1961 provides that an eligible transaction in respect of trading in derivatives and commodity derivatives carried out in a recognized stock exchange are not speculative transactions, if STT and CTT have been paid. These exclusions may also be incorporated in the definition of speculative transaction in section 66(35) of the Income-tax Bill, 2025.

- The terminology “Specified Banking or Online Mode” has been referred to in 11 places in the Bill and is applicable for sections from 26 to 66 of the Income-tax Bill, 2025. Since the modes specified therein, namely, account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed are referred to in other provisions of the Bill as well, this terminology must be used in those provisions also. The usage and applicability of this phrase to be extended to other relevant provisions of the Bill.

- The definition of work may be removed from section 66. The term “work” is not used in section 35(b)(i) of Income-tax Bill, 2025 as it is not relevant since the term “any sum payable” is used in the section. Hence, this definition can be removed from section 66.

- Proviso to section 44AD mentions that 6% shall be applicable for amounts received in electronic mode (8% for other than electronic mode) during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. 6% of total turnover or gross receipts realised in specified banking or online mode. Specified banking or online mode defined under section 66(36) of new bill. Amount realised in online mode before due date of filing return of income is missing and may be mentioned accordingly.

- Changes proposed for better reading and in line with section 2 of IT Bill, 2025.
  Proposed wording: In this Chapter, unless the context otherwise requires,-

66.5 Examination by the Committee:

66.5.1 With respect to rephrasing of (12) and (34) dealing with respect to micro and small enterprises, the Ministry in their comments stated that, 'The reference has been correctly provided in the Bill as is the case in the IT Act, 1961. The suggestion has no merits'. But, upon seeking further clarification by the Committee that will it not be better to adopt the phrasing "as notified under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006" to better aid MSMEs, the Ministry in their reply furnished that,

"

(i) Presently the provision has a clear reference to the definition of micro and small enterprises in the MSME Act.

(ii) This is unambiguous and definitive as on date.

(iii) However, the suggestion for dynamically linking it to a notification under the MSME Act can also be considered."

And during the sitting held on 17.06.2025, the Ministry representatives stated that:

"…the issue was to make the definition of micro and small enterprises as per the definition given in the MSME Act. So, we accepted it."

66.5.2 With regard to the suggestion seeking to reproduce the definition of "commodity derivative" as provided in the Finance Act, 2013 in the Clause, the Ministry in their reply furnished that, 'The suggestion is accepted. There is no mention of word "commodity derivative" in the Bill except for in the clause 66 which is related to interpretation. The definition as provided in clause 66 is to be omitted'.

66.5.3 With regard to removal of definition of "National Housing Bank", the Ministry furnished that, 'It is an inadvertent drafting error. Suggestion is acceptable as provision related to National Housing Bank is not applicable and thus the same is redundant'.

66.5.4 With respect to removal of definition of "rent", the Ministry furnished that, 'It is an inadvertent drafting error. Suggestion is acceptable as provision related to "rent" is not applicable and thus the same is redundant'.

66.5.5 On the issue of speculative transaction wherein eligible transaction is not a speculative transaction where STT and CTT is paid, the Ministry in their response furnished that, 'It is an inadvertent drafting error. Suggestion is acceptable as the definition of speculative transaction in the Bill misses the condition wherein eligible transaction is not a speculative transaction where STT and CTT is paid'.

66.5.6 With regard to the suggestion seeking to define "Specified Banking or Online Mode" in the definition section as it is used multiple times in the Bill, the Ministry in their response furnished that, ‘The suggestion will be considered’.

66.5.7 With respect to removal of definition of "work", the Ministry furnished that, ‘It is an inadvertent drafting error. Suggestion is acceptable as provision related to "work" is not applicable and thus the same is redundant’.

66.5.8 With regard to changes proposed for better reading, the Ministry stated that, ‘The suggestion seeks to change the drafting of clause 66 of the Bill. The current phrasing of the section is apt and conveying clear meaning’.

66.6 Observations/Recommendations of the Committee:

The Committee upon examination recommend the following with regard to various sub-clauses of Clause 66:

i) **66(4): may be omitted as there is no mention of word "commodity derivative" in the Bill except for in the clause 66 which is related to interpretation, thus making the term redundant. Hence, the definition as provided in clause 66 be omitted.**

ii) **66(15): may be omitted as the reference of National Housing Bank which was in existing section 43D clause (b) of 1961 Act was omitted by the Finance (No. 2), Act, 2024.**

iii) **66(28): may be omitted as the term "rent" is not relevant since now the term "any sum payable" is used in section 35(b)(i) of Income-tax Bill, 2025.**

iv) **66(35): may be modified to incorporate for the fact that the definition of speculative transaction in the Bill misses the condition wherein eligible transaction is not a speculative transaction where STT and CTT is paid i.e. Section 43(5) of the Income-tax Act, 1961 provided that an eligible transaction in respect of trading in derivatives and commodity derivatives carried out in a recognized stock exchange are not speculative transactions, if STT and CTT have been paid and these exclusions have to be incorporated in the definition of speculative transaction in section 66(35) of the Income-Tax Bill, 2025 to align it with the 1961 Act and retain the intent of the same.**

v) **66(45): may be omitted as the term "work" is no longer relevant, with the phrase "any sum payable" used in Section 35(b)(i) of the Income-Tax Bill, 2025, rendering this definition redundant.**

vi) **66(12) and 66(34): may be redrafted to align the definitions of *"micro"* and *"small"* enterprises respectively with the definitions notified in the**

Micro, Small and Medium Enterprises Development Act, 2006, rather than referring to *"as assigned to it in section 2(m)"* of that Act. This will bring uniformity in defining "Micro" and "Small" enterprises across both the MSMED Act and the Income-Tax Act, aiding MSMEs in matters related to delayed payments.

Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.

CHAPTER IV : COMPUTATION OF TOTAL INCOME

E – CAPITAL GAINS

Clause 67 – Capital gains

67.1 Provision proposed in the Income-Tax Bill, 2025 :

67. (1) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place.

(2) Irrespective of anything contained in sub-section (1), if a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of circumstances mentioned in sub-section (3), then,—

(a) any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the tax year in which such money or other asset was received; and

(b) for the purposes of section 72, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(3) The following shall be the circumstances referred to in sub-section (*2*):—

(a) flood, typhoon, hurricane, cyclone, earthquake or any other convulsion of nature; or

(b) riot or civil disturbance; or

(c) accidental fire or explosion; or

(d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war).

(4) In sub-section (2), "insurer" shall have the same meaning as assigned to it in section 2(9) of the Insurance Act, 1938.

(5) Irrespective of anything contained in sub-section (1), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II(Table: Sl. No. 2) does not apply, then,—

(a) such profits and gains shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(b) the income taxable shall be calculated in such manner, as prescribed.

(6) Irrespective of anything contained in sub-section (1), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,—

(a) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold (or otherwise transferred by any other means); and

(b) for the purposes of section 72,the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(7) If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,—

(a) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;

(b) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(1) of the Depositories Act, 1996; and

(c) for the purposes of section 72 and section 2(100)(b), the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

(8) In sub-section (7), "beneficial owner", "depository" and "security" shall have the same meanings as respectively assigned to them in section 2(1)(a), (e) and (l) of the Depositories Act, 1996.

(9) If any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,—

(a) such profits and gains shall be chargeable to tax as his income in the tax year of such transfer; and

(b) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(10) Irrespective of anything contained in sub-section (1), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,—

(a) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head “Capital gains”; and

(b) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—

A = B + C – D,

where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head “Capital gains”;

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;

(c) for the purposes of the formula in clause (b),—

(i) if the value of “A” in the said formula is negative, its value shall be deemed to be zero;

(ii) the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and

(d) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity.

(11) In sub-section (10),—

(a) "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 8;

(b) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

(12) Irrespective of anything contained in sub-section (1), if the capital gain arises from the transfer of a capital asset by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the capital gain shall be dealt with in the following manner:—

(a) the capital gains computed with reference to the compensation awarded in the first instance or as the case may be, consideration determined or approved by the Central Government or the Reserve Bank of India in the first instance, shall be chargeable as income under the head "Capital gains" of the tax year in which such compensation or part thereof, or such consideration or part thereof, was first received;

(b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the tax year in which such amount is received;

(c) any compensation as referred to in clause (b)received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head “Capital gains” of the tax year in which the final order of such court, tribunal or other authority is made; and

(d) the capital gain assessed for any tax year under clause (a) or (b) shall be recomputed where the compensation or consideration referred to in clauses (a) to (c) is reduced by any court, tribunal or other authority and such reduced value shall be taken to be the full value of the consideration.

(13) In relation to the amount referred to in sub-section (12)(b) and (c),—

(a) the cost of acquisition and the cost of improvement shall be taken as nil; and

(b) in a case, where the enhanced compensation or consideration is received by any other person due to the death of the person who made the transfer, or for any other reason, such amount shall be deemed as the income chargeable to tax under the head “Capital gains” in the hands of such other person.

(14) Irrespective of anything contained in sub-section (1), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,—

(a) such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(b) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building, or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(15) In sub-section (14),—

(a) “competent authority” means the authority empowered to approve the building plan under any law;

(b) “specified agreement” means a registered agreement in which a person owning land or building, or both, agrees to allow another person to develop a real estate project on such land or building, or both, in consideration of a share, being land or building, or both, in such project, whether with or without payment of part of the consideration in cash.

(16) The provisions of sub-section (14) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,—

(a) the capital gains shall be deemed to be the income of the tax year of such transfer; and

(b) the provisions of this Act, other than sub-section (14), shall apply for the purpose of determination of full value of consideration.

(17) Irrespective of anything contained in sub-section (1), the difference between the repurchase price of the units referred to in section 80CCB(2)of the Income-tax Act, 1961 and the capital value of such units shall be taxed considering it to be the capital gains arising to the assessee in the tax year in which––

(a) such repurchase takes place; or

(b) the plan referred to in that section is terminated.

(18) For the purposes of sub-section (17), “capital value of such units” means any amount invested by the assessee in the units referred to in section 80CCB(2) of the Income-tax Act, 1961.

67.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

45. (1) Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections 54, 54B, 54D, 54E, 54EA, 54EB, 54F , 54G and 54H, be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

(1A) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—

(*i*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(*ii*) riot or civil disturbance; or

(*iii*) accidental fire or explosion; or

(*iv*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.—For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (*9*) of section 2 of the Insurance Act, 1938 (4 of 1938).

(1B) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any amount under a unit linked insurance policy, to which exemption under clause (*10D*) of section 10 does not apply [40]**[***on account of the applicability of the fourth and fifth provisos thereof***]**, including the amount allocated by way of bonus on such policy, then, any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

(2A) Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (1) of section 10 of the Depositories Act, 1996 (22 of 1996), and for the purposes of—

(i) section 48; and

(ii) proviso to clause (42A) of section 2,

the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

Explanation.—For the purposes of this sub-section, the expressions "beneficial owner", "depository" and "security" shall have the meanings respectively assigned to them in clauses (*a*), (*e*) and (*l*) of sub-section (1) of section 2 of the Depositories Act, 1996.

(3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

(4) Notwithstanding anything contained in sub-section (1), where a specified person receives during the previous year any money or capital asset or both from a specified entity in connection with the reconstitution of such specified entity, then any profits or gains arising from such receipt by the specified person shall be chargeable to income-tax as income of such specified entity under the head "Capital gains" and shall be deemed to be the income of such specified entity of the previous year in which such money or capital asset or both were received by the specified person, and notwithstanding anything to the contrary contained in this Act, such profits or gains shall be determined in accordance with the following formula, namely:—

A = B + C - D

Where,

A = income chargeable to income-tax under this subsection as income of the specified entity under the head "Capital gains";

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = the amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = the amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution:

Provided that if the value of "A" in the above formula is negative, its value shall be deemed to be zero :

Provided further that the balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

Explanation 1.—For the purposes of this sub-section,—

(*i*) the expressions "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 9B;

(*ii*) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Explanation 2.—For the removal of doubts, it is clarified that when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of this sub-section shall operate in addition to the provisions of section 9B and the taxation under the said provisions thereof shall be worked out independently.

(5) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain shall be dealt with in the following manner, namely :—

(*a*) the capital gain computed with reference to the compensation awarded in the first instance or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as income under the head "Capital gains" of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received; and

(*b*) the amount by which the compensation or consideration is enhanced or further enhanced by the court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee :

Provided that any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which the final order of such court, Tribunal or other authority is made;

(*c*) where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause (*a*) or, as the case may be, enhanced compensation or consideration referred to in clause (*b*), and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.

Explanation.—For the purposes of this sub-section,—

(*i*) in relation to the amount referred to in clause (*b*), the cost of acquisition and the cost of improvement shall be taken to be *nil*;

(*ii*) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;

(*iii*) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (*b*) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.

(5A) Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by [41][any consideration received in cash or by a cheque or draft or by any other mode] shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset :

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(*ii*) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(*iii*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.

(6) Notwithstanding anything contained in sub-section (1), the difference between the repurchase price of the units referred to in sub-section (2) of section 80CCB and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the previous year in which such repurchase takes place or the plan referred to in that section is terminated and shall be taxed accordingly.

Explanation.—For the purposes of this sub-section, "capital value of such units" means any amount invested by the assessee in the units referred to in sub-section (2) of section 80CCB.

67.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 67 of the Bill provides for capital gains and also seeks to provide the chargeability of Income-tax under the head "Capital gains" for various kinds of transfer of capital assets. This clause corresponds to section 45 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

67.4 Important Views/Suggestions given by Experts/Stakeholders:

67.4.1 Suggestions pertaining to specific mention of Section 85 being an exemption provision in Clause 67(1) of Income-tax Bill, 2025–

- It is suggested that section 67(1) may be reworded as follows: "Capital gains. 67. (1) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 85, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place."
  Section 67(1), the charging section for capital gains, excludes sections 82 to 89, except section 85. Section 85 also provides for exemption from capital gain. Therefore, it is necessary to include section 85 also in section 67(1) for exclusion.

- Another suggestion reiterating the need for mentioning Section 85 for exclusion stated that :
  Proposed provision: Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 85, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place.
  Section 85 being an exemption provision must also be mentioned along with the other sections.

67.4.2 Suggestions pertaining to the phrasing of Clause 67(2) –

- Fair value of the asset together with money shall be the full value of consideration. To remove reference to "value of money" and substitute by money only. The existing language undoubtedly provides "value of money or the fair value of assets", as the full value of consideration. The phrase "value of money" is an inelegant phrase. The phrase "value of" is appropriate for nonmonetary assets only. The phrase "value of money"

appears in other sections also. If this suggestion is accepted, suitable change may be made in those sections also. For instance, section 72(5).

- Section 67(2)(b) refers to value of money, section 122(6)(c) refers to market value and section 69(1) uses the phrase "value". Thereby, inconsistent terminologies are used. A consistent terminology maybe employed to bring in uniformity. It is suggested that the statute uses the phrase 'fair market value' as any value (whether market or any other value) is expected to be a 'fair' one.

- Add a line at the end of sub-section (2) "such capital gains shall be taxed as long term or short term depending on the period for which the asset was held, for which the money or asset is received from the insurer."
  This will clarify how to determine whether the gains are long term or short term and there will be no ambiguity left nor any chance for several interpretations.

67.4.3 Suggestions pertaining to modifications in Clause 67(6) –

- In proposed section 67(6), it says ‘if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner…’ and thereafter provides the year of taxability and what shall be the full value of consideration. This provision may invite litigation by claiming that no profits and gains has arisen from transfer and hence, the second part will not trigger.
  Hence, the same may be modified as under: “(6) Irrespective of anything contained in sub-section (1), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,— (a) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold (or otherwise transferred by any other means); and (b) for the purposes of section 72, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

- In (6)(1)(a), please add the after the words …as his income "from capital gains as long terms or short term depending on the period for which the asset was held by the assessee before the conversion" ;
  This makes it clear that the income is in the nature of capital gains and not business income, though it is charged in the year when the stock is sold and leaves no ambiguity on whether it is long term or short term.

67.4.4 Suggestion pertaining to modifications in Clause 67(7) –

- In S.67(7)(a), after the words income tax, insert "as capital gains" and delete the words "as income".

This makes it clear that such income will be taxed as capital gains and not as regular income, and there would be no confusion for a lay person.

67.4.5 Suggestions pertaining to modifications in Clause 67(9) –

- The income shall be chargeable to tax as "capital gains" to be inserted. Mention is only made of income being chargeable to tax. The head under which it will be chargeable is not mentioned, which mention is there in other subsections. In the absence of a reference to a head of income, a challenge to the very inclusion of such income in the total income could be a matter of contest. To avoid this, a suitable amendment is suggested.

- In section 67 subsection 9 (a), after the words 'chargeable to tax as his income' insert the words "form capital gains" and after the words 'of such transfer', insert the words "as long term or short term depending on the period for which he held the asset before the transfer"

- Since the Partner's account is moving account there is no clarity for computing the period of holding to determine STCG/ LTCG. The provisions prescribe value of money or FMV of other assets as on date of receipt to be the full value of consideration for the purpose of capital gains computation. However, no clarity is provided on how to compute the cost of acquisition, in cases where the part of the consideration payable is deferred to a different FY. Thus, suitable provision in the relevant sections may be provided to prescribe period of holding starting from the date of admission of the partner. Further, computation mechanism for cost of acquisition may be provided in case part of the consideration is deferred to a different FY.

- The phrase "Irrespective of anything contained in sub-section (1)" to be added.
  Proposed provision: Irrespective of anything contained in subsection (1), if any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or cooperative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,— (a) such profits and gains shall be chargeable to tax as his income in the tax year of such transfer; and (b) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.
  To provide an overriding effect to sub-section (9) over sub-section (1). Otherwise, there would be an avoidable clash between section 67(9) and 67(11).

- Amendments proposed to be made in Clause 67(9) to curb litigations through claims that no profits and gains have arisen from the transfer of capital assets and hence the second part will not trigger :

"(9) ~~If any~~ The profits or gains ~~arise~~ arising from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, ~~then~~,— (a) ~~such profits and gains~~ shall be chargeable to tax as his income in the tax year of such transfer; and (b) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

67.4.6 Suggestion pertaining to incorporating the mandate of Circular no. 14 of 2021 dated 02.07.2021, in Clause 67(10) –

- With respect to Clause 67(10)(c)(ii), the following suggestion was submitted:
  It is important to factor in the amount on which taxes have been paid under section 8 while computing the capital account balance under section 67(10). Thereby, incorporating the mandate of Circular no. 14 of 2021 dated 02.07.2021, which was issued to remove difficulties, the proposed provision is : *the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated including the amount on which tax, if any, paid under section 8 without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset;*

67.4.7 Suggestion pertaining to Clause 67(14) –

- The following amendment was suggested with respect to Clause 67(14) –
  (14) Irrespective of anything contained in sub-section (1), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, ~~then~~,—
  (a) ~~such capital gains~~ shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and
  (b) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building, or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

67.4.8 Suggestions for modifying Clause 67(17) & (18) to drop any reference to section 80CCB(2) of the Income-tax Act, 1961 –

- With respect to Clause 67(17), the following suggestion was submitted :
  Proposed provision: "Irrespective of anything contained in sub-section (1), the difference between the repurchase price of the units *issued under a plan formulated under the Equity Linked Savings Scheme in respect of which a deduction has been allowed* and the capital value of such units shall be taxed considering it to be the capital gains arising to the assessee in the tax year in which....."

- With respect to Clause 67(18), the following suggestion was submitted :
  For the purposes of sub-section (17), "capital value of such units" means any amount invested by the assessee in the units referred to in *that sub-section*.

67.5 <u>Examination by the Committee:</u>

67.5.1 Clauses 67 of Income-tax Bill, 2025 corresponds to Sections 45 of the Income-tax Act, 1961. Regarding suggestions pertaining to specific mention of Clause 85 being an exemption provision in Clause 67(1) of Income-tax Bill, 2025, the Ministry of Finance, in its written replies submitted that –

> "The suggestion seeks to include clause 85 (Section 54EC of IT Act, 1961) in charging section 67(Section 45 of IT Act, 1961). 54EC is not mentioned in the section 45 in the Act. All the other Clauses mentioned in the charging section provide for charging of capital gains if the conditions prescribed in the said clauses are failed by the taxpayer. However, this is not applicable to clause 85(Section 54EC) as these involve investment in bonds that are locked-in for 3/5 years as applicable. The provisions are replaced in accordance with those of the IT Act. Therefore, it may not be feasible to act upon the suggestion."

67.5.2 Elaborating on the provisions mentioned in Clause 67(1) and inclusion of other relevant clauses therein, the representative of the Ministry of Finance, during the Sitting of the Committee, explained the reasons behind Clause 85 being an exemption provision in Clause 67(1) of Income-tax Bill, 2025 and submitted as under :

> "…There are many Sections which provide exemption from the capital gain tax. For example, have sold one residential property and invested in another residential property. So, that provides that you will get the exemption. Another provision says that if you are not able to do so within the time allowed for filing your return of income, then you deposit the money in your capital gain account with a bank. And then, the third provision says if this amount could not be used for three years, then in the last year it will

again become taxable as capital gain. It will be taxed in the third year. So, when the chargeability of capital gain is being provided, first of all, the capital gain which has already taken place, secondly, capital gain which will be deemed to be capital gain because of the provision that in third year, you could not use that amount deposited in the capital gain account. So, for that, we have provided the chargeability. So, whatever sections where in some other year also the capital gain was becoming charged, we included here in the charging section specifically. But, Sir, 54EC is very simple. You purchase a bond. Up to Rs. 50 lakh, you can purchase a bond and up to that extent, your capital gain is not taxable. And it is never again taxed because already you have invested in bond which, for five years, is locked in. So that is why 54EC corresponding section is not mentioned in the charging section. Somehow, they are saying that why we have missed out that we should include that also. So, this was as it is in the original Act also. We have done the same thing here…"

67.5.3 With respect to the phrase "value of money" used in Clause 67(2) of the Income-tax Bill, 2025, the Ministry of Finance, in its written reply submitted that :

"The suggestion made is to replace the phrase 'value of money' with 'money'. The word 'value' is appended to money so that it is correctly aligned with phrase 'full value of consideration' used in the clause. There is no error in drafting and use of the phrase "value of money" is appropriate both in the Act and in the Bill. This suggestion is already addressed in the Bill."

67.5.4 Emphasizing on the necessity of retaining the phrase 'value of money' in Clause 67(2), the representative of the Ministry of Finance, during the Sitting, submitted that :

"…there is a phrase that we use in clause 67(2), that is, 'value of money'. So, the stakeholder is saying that if the value is appended to money, how does it make sense. The clause is drafted like this. Because we compare value of money or fair market value on the date of receipt, it shall be deemed to be full value of consideration because we are deeming full value to be one of these two values. That is why 'value' word has been used in A and B so that for the purposes of C, the value can be imported…

… If we use value in A and value in B, then we can use value in C because then C value gets aligned to value in A or B. That is why, we accept that value of money is money only."

67.5.5 Elaborating on the need for using terminologies such as 'value of money', 'market value' and 'value' in different contexts in the Bill, the Ministry of Finance submitted that :

> “The three terminologies are used in different context and do not mean the same thing. Further, fair market value is already defined separately in the Act. Depending on the necessity of the provisions of the clause, suitable phrases have been used. This suggestion is already addressed.”

67.5.6 Regarding specificity with respect to long term and short term capital gains mentioned under sub-section (2) of Clause 67, the Ministry of Finance submitted that :

> “This suggestion is only asking to add the said phrase for more clarity. However, the suggestion is redundant as the clause is already clear with respect to taxation of such gains. The treatment of “long term” and “short term” is governed by the definitions of the same as given in the chapter on Definitions. This suggestion is already addressed.”

67.5.7 With respect to suggestions for modifications regarding addition of the phrase *‘Irrespective of anything contained in sub-section (1)’* in Clause 67(6), the Ministry of Finance stated that the suggested phrase was already included in the said clause and stated that :

> “The phrase "Irrespective of anything contained in sub-section (1)" is already in place in Clause 67(6)…”

67.5.8 Further, with regard to modifications suggested for clarifying the nature of income as capital gains instead of business income in the Clause 67(6)(1)(a), the Ministry submitted that :

> “This suggestion seeks to replace the phrase "as income" and replace it with "as capital gains" and to specify "short-term and long-term". However, the suggestion is redundant as the clause is already clear with respect to taxation of such gains as this is from the conversion of a capital asset. The treatment of ”long term” and “short term” is governed by the definitions of the same as given in the chapter on Definitions The intent is same as the existing section. Further, the provisions of Clause 67(1) clearly stated that this income will be charged as capital gains. This suggestion is already addressed in the Bill.”

67.5.9 In view of suggestions seeking to clarify that income being taxed as mentioned in Clause 67(7)(a) concerns capital gains and not regular income, the Ministry of Finance furnished that :

> “This suggestion seeks to replace the phrase "as income" and replace it with "as capital gains". However, the suggestion is redundant as the clause is already clear with respect to taxation of such gains. The provisions of Clause 67(7) are the same as corresponding provisions in the IT Act with simplified language. Further, the provisions of Clause 67(1) clearly stated that this income will be charged as capital gains. This suggestion is already addressed in the Bill.”

67.5.10 Regarding suggestion seeking specific mention of ‘capital gains’ as the head under which income would be charged under Clause 67(9), the Ministry of Finance stated that :

> “The suggestion is that the income arising to a partner on transfer of capital asset to firm etc. may be specifically mentioned to be charged under the head 'capital gains'. However the suggestion is redundant as the clause is already clear with respect to taxation of such gains as this is from the conversion of a capital asset. Further, the provisions of Clause 67(9) are the same as corresponding provisions in the IT Act with simplified language and the intent is the same. This suggestion is already addressed in the Bill. Still if any ambiguity is there, same shall be addressed **through drafting correction**.”

67.5.11 Furthermore, during the Sitting of the Committee, the representative of the Ministry of Finance specifically assured the Committee that in case of an ambiguity in the provisions mentioned under Clause 67(9), the Ministry would take necessary action to resolve the same.

67.5.12 With respect to suggestions seeking insertion of phrases for clarifying source of income as ‘capital gains’ and for specifying whether the gains mentioned under Clause 67(9) were ‘short term or long term’, the Ministry of Finance informed that the same had already been addressed in the Bill and submitted that :

> “This suggestion seeks to follow the phrase "as income" with "from capital gains" and to specify "short-term and long-term". However the suggestion is redundant as the clause is already clear with respect to taxation of such gains. The treatment of “long term” and “short term” is governed by the definitions of the same as given in the chapter on Definitions. Further, the provisions of Clause 67(9) are the same as corresponding provisions in the

IT Act with simplified language. This suggestion is already addressed in the Bill."

67.5.13 Regarding suggestions relating to computation of period of holding and cost of acquisition in relation to Short Term Capital Gains (STCG) and Long Term Capital Gains (LTCG), the Ministry of Finance submitted that :

"The suggestion relates to providing clarity regarding period of holding and computing cost of acquisition where a partner receives any asset on dissolution/reconstitution of a firm. There is no difference in this section from the present Act. For period of holding, the definition is defined in Clause 2(101)(a) and Clause 2(102) which corresponds to Section 2(42A) and 2(42B) of the Act determines short-term or long term. Even if the income is deferred to the next year, it will be taxed in the tax year in which it was received. A circular (No 14 of 2021) has been issued with examples to remove difficulties. This is already addressed by the present provisions in the Bill."

67.5.14 Further, during the Sitting, the representative of the Ministry of Finance apprised the Committee as under :

"…they are asking clarity regarding period of holding, and computing, cost of acquisition where a partner receives any asset on dissolution, reconstitution of firm. We are saying, the Bill is presently aligned with the Act. That is one point. The period of holding is very clear as to what is short term and long term. On that, there is no confusion as to what is short term and long term. Regarding circular also, we have issued with examples to remove difficulty in particular cases."

67.5.15 With respect to the suggestion regarding insertion of the phrase "Irrespective of anything contained in sub-section (1)" in Clause 67(9) to avoid any clash with Clause 67(11), the Ministry of Finance stated that :

"The phrase "Irrespective of anything contained in sub-section (1)" has not been added as the non-obstante clause is not present in Section 45(3) as well, which is the corresponding section in the Act. The provisions of the Act are faithfully reproduced in the Bill with only simplification of language. Clause 67(9) provides for charging when there is a transfer of a capital asset by a person on becoming a partner of a Firm/BoI/AOP. Clause 67(11) provides for definitions that are relevant for 67(10). Clause 67(10) provides for charging of capital gains where a partner receives capital asset or

money on the dissolution or reconstitution of a Firm/BoI/AoP. There is no conflict between these two sections. Therefore, this suggestion may not be feasible."

67.5.16 During the Sitting, the representative of the Ministry reiterated that since there is no conflict between the two provisions contained in Clauses 67(9) and 67(11) respectively, adding the phrase 'irrespective of anything' would be superfluous.

67.5.17 Concerning suggestion seeking to propose amendments in Clause 67(9) in order to avert the risk of litigations through claims that no profits and gains have arisen from the transfer of capital assets, the Ministry of Finance submitted that :

> "Clause 67(9) corresponds to Section 45(3) of ITA which doesn't have any non-obstante clause. The provisions of the Bill are similar to that in the Act and the suggestions made by the stakeholder are already in place. The suggestion is not clear."

67.5.18 Regarding incorporating the mandate of Circular no. 14 of 2021 dated 02.07.2021 in order to factor in the amount on which taxes have been paid under section 8 while computing the capital account balance under Clause 67(10), the Ministry of Finance, however, submitted that :

> "The suggestion calls for the incorporation of the Circular into the provision of the Bill. This will make the Bill unwieldy and complicated. Therefore, this suggestion may not be feasible."

67.5.19 In this context, when asked if notifications and circulars from the Act will continue to remain in force in this Bill, the representatives of the Ministry of Finance, while referring to Clause 536 on Repeal and Savings stated that this concern was clearly addressed under this clause and further submitted that :

> "…as far as a circular or notification is issued under the old Act, correspondingly the same will apply to corresponding clauses in the new Act.
>
> …I will read the Savings Clause 536(2)(j). "Any agreement undertaken, appointment made, approval given, recognition granted, direction, instruction, notice, order or rule issued under the provision of the Repealed Income-Tax Act, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into,

made, granted, given or issued under the corresponding provision of this Act." So, circular will come under this part. We need not reiterate all circulars again. That is our take on it."

67.5.20 With respect to the amendment suggested in Clause 67(14), the Ministry of Finance stated that :

> "The phrase "Irrespective of anything contained in sub-section (1)" is already in place in Clause 67(6) and 67(14)."

67.5.21 Regarding suggestions for modifying Clause 67(17) & (18) to drop any reference to section 80CCB(2) of the Income-tax Act, 1961, the Ministry of Finance submitted that :

> "It has been suggested that instead of referring to 80CCB of the IT Act, the relevant provisions or reference may be brought in to Clause 67(17) and (18). Section 80CCB allows for deduction only till 31.03.1992. This provision is now redundant. No assessee can claim this deduction anymore. However, to provide for the capital gains from such investments, the present Clause is in place. Further, the suggestion to only mention "units issued under ELSS" may also cause a reference to the deduction available under 80C(2)(xiii) (which also refers to ELSS by way of notification) which would result in unintended taxation. Therefore, the current version of the bill in which reference to Section 80CCB may be retained. Therefore, it may not be feasible to act upon the suggestion."

67.5.22 During the Sitting of the Committee, the representatives of the Ministry of Finance further simplified this issue and submitted that :

> "…there is a reference to Section 80CCB, which dealt with units of ELSS. The deduction was allowed only till 31.03.1992. But then the capital gains on units are still taxable. That is why, we have mentioned it."

67.6 Observations/Recommendations of the Committee:

The Committee note that Clause 67 of the Income-tax Bill, 2025 pertains to capital gains and seeks to provide for the chargeability of Income tax under the head "Capital gains" for various kinds of transfer of capital assets. The

Committee also note that Clause 67 of the Bill corresponds to Section 45 of the Income-tax Act, 1961. Further, on examination of the views/suggestions given by various stakeholders and also the justification provided by the Ministry of Finance, the Committee feel that with respect to provisions mentioned in sub-clause (9), the income arising to a partner on transfer of capital asset to a firm etc. may be specifically mentioned to be charged under the head 'capital gains'. The Committee, therefore, recommend that the said sub-clause may be suitably drafted to address any ambiguity in the provisions thereof.

Further, with respect to the remaining provisions under Clause 67, the Committee observe that they have been textually simplified while retaining the original intent of the corresponding Section of the Act. However, in sub-clause (18), the Committee find a cross reference to old Act of 1961 with respect to the mention of "any amount invested by the assessee in the units referred to in section 80CCB(2) of the Income-tax Act, 1961". The Committee feel that such cross referencing is a deviation from the clean break intended through this Bill. Therefore, the Committee recommend the Ministry to remove the reference to the old Act of 1961 by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 67, without any further change.

Clause 68 – Capital Gains on distribution of assets by companies in liquidation.

68.1 Provision proposed in the Income-Tax Bill, 2025 :

68. (1) Irrespective of anything contained in section 67, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of the said section.

(2) If a shareholder, on the liquidation of a company, receives any money or other assets from the company, then,—

(a) such shareholder shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of section 2(40)(c); and

(b) the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

68.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

46. (1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

(2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.

68.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 68 of the Bill provides for capital gains on distribution of assets by companies in liquidation. This clause corresponds to section 46 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

68.4 Observations / Recommendations of the Committee:

The Committee note that Clause 68 of the Income-tax Bill 2025 provides for taxation of capital gains arising from the distribution of assets by companies in liquidation and corresponds to Section 46 of the Income-tax Act, 1961. While recognizing the objective of addressing the taxation and value of consideration of money or assets received by an individual in the event of liquidation of a company, the Committee concur with the retention of the original intent and the textual simplification of the provisions under this clause. Therefore, after careful consideration of the proposal and the justifications provided by the Ministry of Finance, the Committee accept the clause as proposed.

Clause 69 – Capital gains on purchase by company of its own shares or other specified securities.

69.1 Provision proposed in the Income-Tax Bill, 2025 :

69. (1) If a shareholder or a holder of other specified securities receives any consideration from any company for the purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 72, the difference between the cost of acquisition and the value of consideration so received shall be deemed to be the "Capital gains" arising to such shareholder or the holder in the year in which the company purchases the shares or other specified securities.

(2) If the shareholder receives any consideration of the nature referred to in section 2(40)(f), from any company in respect of buy-back of shares, then for the purposes of this section, the value of such consideration shall be deemed to be nil.

(3) For the purposes of this section, "specified securities" shall have the same meaning as assigned to it in Explanation 1 to section 68 of the Companies Act, 2013.

69.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

46A. Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company:

[42][**Provided** that where the shareholder receives any consideration of the nature referred to in sub-clause (*f*) of clause (*22*) of section 2 from any company, in respect of any buy-back of shares, that takes place on or after the 1st day of October, 2024, then for the purposes of this section, the value of consideration received by the shareholder shall be deemed to be *nil*.]

Explanation.—For the purposes of this section, "specified securities" shall have the meaning assigned to it in *Explanation* to section 77A of the Companies Act, 1956 (1 of 1956).

69.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 69 of the Bill provides for capital gains arising to shareholders or holders of specified securities, when a company purchases its own shares or specified securities. This clause corresponds to section 46A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

69.4 Important Views/Suggestions given by Experts/Stakeholders:

Some of the important suggestions given by stakeholders are mentioned below :

(i) 69(1): "... deemed to be the "Capital gains" arising to such shareholder or the holder of other specified securities in the year in which the company purchases the shares or other specified securities."

a. The words "of other specified securities" may kindly be considered for insertion to read as "deemed to be the "Capital gains" arising to such shareholder or the holder of other specified securities in the year……."

(ii) Section 68 of the Companies Act 2013 provides for the requirements in respect of buy-back of securities by a company from its shareholders. This does not provide for any taxation aspects on buy-back which is covered under the Income-tax Act/Bill.

(iii) **Deletion of sub-section (2) to section 69(1)**. Taxation of gains on buy-back of shares as dividend goes against the premise that return of capital cannot be dividend. 2. Such tax regime of dividend taxation goes against the accepted economic and accounting norms; and international understanding. 3. Increases tax for oversees investors who otherwise would have availed an exemption under the treaty provisions. 4. Challenges may also arise if there are reserves and surplus in the company and the buy-back happens out of the fresh issue.

69.5 Examination by the Committee:

Corresponding views of the Ministry of Finance to the aforementioned suggestions are mentioned below :

i. With regard to the words "of other specified securities" being considered for insertion, the Ministry in their comments furnished that this suggestion is acceptable as it is a **drafting correction** and hence, the term '"of other specified securities"' may be inserted in line with the Income-tax Act, 1961.

ii. On the issue of taxation aspects on buy-back, the Ministry furnished the following comment :

"Companies Act provide for a different set of regulations. Tax provisions are to be provided by a tax statute. Therefore, comparison to Companies Act for a tax provision does not have any rationale. The suggestion has no merits."

iii. (a) With respect to deletion of sub-section (2) to section 69, the Ministry furnished that :

"It is suggested that the gains on buy-back of shares should not be taxed. This amendment has been made by F(No.2)A 2024 to prevent misuse of buyback provisions by the promoters of companies by availing low rate of buyback. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

(b) Elaborating on the current regulation followed for taxation of gains on buyback of shares, the representative of the Ministry of Finance, during the Sitting, submitted that :

> "…it is suggested that gains on buyback of shares should not be taxed. This was a provision. It came in the Budget of July 2024. The buyback tax was at 20 per cent. We said that it will be taxed in the hands of the shareholder as dividend. So, the scheme of buyback of shares was changed by the Budget of July 2024."

69.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 69 of the Income-tax Bill, 2025 provides for taxation on Capital gains on purchase by company of its own shares or other specified securities and corresponds to Section 46A of the Income-tax Act, 1961. After careful consideration of the provisions under this Clause, the Committee are of the opinion that provisions mentioned in sub-clause (1) are not in line with those of the corresponding Section of the Act such that the phrase 'of other specified securities' has not been expressly mentioned in respect of the holder acquiring the capital gains. Therefore, in order to ensure alignment of this Clause with the relevant provisions of the corresponding Section in the existing Act, the Committee recommend the insertion of the said phrase in sub-clause (1) and the same may be redrafted to read as :

“69(1) - ….deemed to be “Capital gains” arising to such shareholder or the holder ‘of other specified securities’ in the year…”

The Committee accept the remaining content of Clause 69 as proposed.

Clause 70 – Transactions not regarded as transfer

70.1 Provision proposed in the Income-Tax Bill, 2025:

70.(1) The provisions of section 67 shall not apply to transfer—

(*a*) of distribution of capital assets on the total or partial partition of a Hindu undivided family;

(*b*) of a capital asset by an individual or a Hindu undivided family, under a will or a gift or an irrevocable trust;

(*c*) of a capital asset, not being stock-in-trade, by a company to its subsidiary company, if—

(*i*) the parent company or its nominees hold the whole of the share capital of the subsidiary company; and

(*ii*) the subsidiary company is an Indian company;

(d) of a capital asset, not being stock-in-trade, by a subsidiary company to the holding company, if—

(i) the whole of the share capital of the subsidiary company is held by the holding company; and

(ii) the holding company is an Indian company;

(e) in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company, if the amalgamated company is an Indian company;

(f) by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held in the amalgamating company, if—

(i) the transfer is made in consideration of allotment of any share or shares in the amalgamated company, except when the shareholder itself is the amalgamated company; and

(ii) the amalgamated company is an Indian company;

(g) in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(ii) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;

(h) in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in section 9(9)(a), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(ii) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;

(i) of a capital asset by a banking company to a banking institution under a scheme of amalgamation sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949;

(j) in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(k) of shares by the resulting company or issue of shares by such company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking;

(l) in a demerger (where the provisions of sections 230 to 232 of the Companies Act, 2013 do not apply), of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(i) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(ii) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated;

(m) in a demerger (where the provisions of sections 230 to 232 of the Companies Act, 2013 do not apply), of a capital asset, being a share of a foreign company, referred to in section 9(9)(a), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—

(i) the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(ii) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated;

(n) in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company;

(o) by a shareholder, in a business reorganisation, of capital asset being share or shares held in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to the shareholder of share or shares in the successor co-operative bank or the converted banking company;

(p) of a capital asset, being bonds or Global Depository Receipts as referred to in section 209(1), made outside India by anon-resident to another non-resident;

(q) made outside India, of a capital asset, being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;

(r) of a capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency, and such capital asset is—

(i) bond or Global Depository Receipt referred to in section 209(1); or
(ii) rupee denominated bond of an Indian company; or
(iii) derivative; or
(iv) such other securities as notified by the Central Government;

(s) of a capital asset, being a Government security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident;

(t) in a relocation, of a capital asset by the original fund to the resulting fund;

(u) by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being share or unit or interest held in the original fund in consideration for the share or unit or interest in the resultant fund;

(v) of a capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;

(w) of a capital asset, under a plan approved by the Central Government, by a public sector company, to—

(i) another public sector company notified by the Central Government for the purposes of this clause; or
(ii) the Central Government; or
(iii) a State Government;

(x) of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an individual;

(y) of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold;

(z) by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

(za) by way of conversion of bonds referred to in section 209(1)(Table: Sl. No. 1) into shares or debentures of any company;

(zb) by way of conversion of preference shares of a company into equity shares of that company;

(zc) of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to—

(i) the Government; or
(ii) a University; or
(iii) the National Museum, National Art Gallery or National Archives; or
(iv) such other public museum or institution as notified by the Central Government to be of national importance or of renown throughout any State;

(zd) of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, if—

(i) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;
(ii) all the partners of the firm, immediately before the succession, become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;
(iii) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and
(iv) the aggregate of the shareholding of the partners in the company is at least 50% of the total voting power and such shareholding remains the same for five years from the date of succession;

(ze) of a capital asset or intangible asset by a private company or unlisted public company (herein referred to as the company) to a limited liability partnership or transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership under the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008, if—

(i) all the assets and liabilities of the company, immediately before the conversion, become the assets and liabilities of the limited liability partnership;

(ii) all the shareholders of the company, immediately before the conversion, become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(iii) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution in the limited liability partnership;

(iv) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than 50% at any time during five years from the date of conversion;

(v) the total sales, turnover or gross receipts in the business of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed sixty lakh rupees;

(vi) the total value of the assets, as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed five crore rupees; and

(vii) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for three years from the date of conversion;

(zf) of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if—

(i) all the assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, become the assets and liabilities of the company;

(ii) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company and this shareholding continues to remain the same for five years from the date of the succession; and

(iii) the sole proprietor does not receive any consideration or benefit, directly or indirectly, except through allotment of shares in the company;

(zg) in a scheme for lending of any securities under an agreement or arrangement, entered into by the assessee with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India or the Reserve Bank of India;

(zh) of a capital asset in a transaction of reverse mortgage under a scheme notified by the Central Government;

(zi) of a capital asset, being share or shares of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor;

(zj) of a capital asset, being a unit or units, held by a unit holder in the consolidating scheme of a mutual fund, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund subject to the condition that the consolidation is of two or more schemes—

(i) of an equity-oriented fund; or
(ii) of a fund other than equity-oriented fund;

(zk) of a capital asset, being a unit or units, held by a unit holder in the consolidating plan of a mutual fund scheme, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund;

(zl) of a capital asset, being an interest in a joint venture, by a public sector company, in exchange for shares of a company incorporated outside India by the government of a foreign State, as per the laws of that foreign State.

(*2*) In sub-section (*1*), the definitions of the expressions mentioned in column C of the Table below shall apply to the corresponding clauses of the said sub-section mentioned in column B of the said Table.

Table

Sl.No.	Clause	Definitions
A	B	C
1.	(*i*)	The expressions— (*a*) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949(10 of 1949); (*b*) "banking institution" shall have the same meaning as assigned to it in section 45(*15*) of the Banking Regulation Act, 1949(10 of 1949).

2.	(*n*) and (*o*)	"business reorganisation", "converted banking company", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 65.
3.	(*r*)	(*a*) "derivative" shall have the same meaning as assigned to it in section 2(*ac*) of the Securities Contracts (Regulation) Act, 1956(42 of 1956); (*b*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956(42 of 1956).
4.	(*s*)	"Government Security" shall have the same meaning as assigned to it in section 2(*b*) of the Securities Contracts (Regulation) Act, 1956(42 of 1956).
5.	(*t*) and (*u*)	(*a*) "original fund" means— (*A*) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:— (*i*) the fund is not a person resident in India; (*ii*) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(*1*) or (*2*) has been entered into; or is established or incorporated or registered in a country or a specified territory as notified by the Central Government; (*iii*) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and (*iv*) fulfils other conditions as prescribed;

A	B	C

(*B*) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or

(*C*) a fund notified by the Central Government subject to conditions as specified;

(*b*) "relocation" means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31stMarch, 2025, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to—

(*i*) a shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund,*inlieu* of their shares or units or interests in the original fund; or

(*ii*) the original fund, in the same proportion as referred to in sub-clause (*i*), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder;

(*c*) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, whichis located in an International Financial Services Centre as referred to in section 147 and has been granted—

(*i*) a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012

made under the Securities and Exchange Board of India Act, 1992(15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019(50 of 2019); or

(*ii*) a certificate as a retail scheme or an Exchange Traded Fund as per Schedule VI (Note 1)and which fulfils the conditions specified in Schedule VI (Table: Sl. No. 1).

6. (*y*) "Electronic Gold Receipt" and "Vault Manager" shall have the same meanings as respectively assigned to them inregulation 2(*1*)(*h*) and (*l*) of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992(15 of 1992).

A	B	C
7.	(*zc*)	"University" means a University established or incorporated by or under a Central Act or State Act or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956(3 of 1956), to be a University for the purposes of that Act.
8.	(*ze*)	"private company" and "unlisted public company" shall have the same meanings as respectively assigned to them in the Limited Liability Partnership Act, 2008(6 of 2009).
9.	(*zi*)	"special purpose vehicle" shall have the meaning assigned to it in Schedule V (Note 2).
10.	(*zj*)	(*a*) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger; (*b*) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992(15 of 1992); (*c*) "equity oriented fund" means a fund— (*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund, for which the percentage of equity shareholding shall be computed with reference to the annual average of the monthly averages of the opening and closing figures; and (*ii*) which has been set up under a scheme of Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21); (*d*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).
11.	(*zk*)	(*a*) "consolidating plan" means the plan

within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992(15 of 1992);

(*b*) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger;

(*c*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20or 21); and

12. (*zl*) "joint venture" means a business entity, as notified by the Central Government.

70.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

47. Nothing contained in section 45 shall apply to the following transfers :—

(*i*) any distribution of capital assets on the total or partial partition of a Hindu undivided family;

(*ii*) [***]

[43][*(*iii*)* *any transfer of a capital asset by an individual or a Hindu undivided family, under a gift or will or an irrevocable trust;*]

(*iv*) any transfer of a capital asset by a company to its subsidiary company, if—

(*a*) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

(*b*) the subsidiary company is an Indian company;

(*v*) any transfer of a capital asset by a subsidiary company to the holding company, if—

(*a*) the whole of the share capital of the subsidiary company is held by the holding company, and

(*b*) the holding company is an Indian company :

Provided that nothing contained in clause (*iv*) or clause (*v*) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;

(*vi*) any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;

(*via*) any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(*a*) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

(*b*) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;

(*viaa*) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution.

Explanation.—For the purposes of this clause,—

(*i*) "banking company" shall have the same meaning assigned to it in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(*ii*) "banking institution" shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);

(*viab*) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in the *Explanation 5* to clause (*i*) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(*A*) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(*B*) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;

(*vib*) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(*vic*) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(*a*) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(*b*) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated :

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

(*vica*) any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the

converted banking company;

(*vicb*) any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or to the converted banking company.

Explanation.—For the purposes of clauses (*vica*) and (*vicb*), the expressions "business reorganisation", "converted banking company", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 44DB;

(*vicc*) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in the *Explanation 5* to clause (*i*) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—

(*a*) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(*b*) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

(*vid*) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;

(*vii*) any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—

(*a*) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder itself is the amalgamated company, and

(*b*) the amalgamated company is an Indian company;

(*viia*) any transfer of a capital asset, being bonds or Global Depository Receipts referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;

(*viiaa*) any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;

(*viiab*) any transfer of a capital asset, being—

(*a*) bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or

(*b*) rupee denominated bond of an Indian company; or

(*c*) derivative; or

(*d*) such other securities as may be notified by the Central Government in this behalf,

made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

Explanation.—For the purposes of this clause,—

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

(*b*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation 1* to clause (*5*) of section 43;

(*c*) "derivative" shall have the meaning assigned to it in clause (*ac*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*d*) "securities" shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*viiac*) any transfer, in a relocation, of a capital asset by the original fund to the resulting fund;

(*viiad*) any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund.

Explanation.— For the purposes of clauses (*viiac*) and (*viiad*),—

[44][(*a*) "original fund" means—

(*A*) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:—

(*i*) the fund is not a person resident in India;

(*ii*) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government in this behalf;

(*iii*) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and

(*iv*) fulfils such other conditions as may be prescribed;

(*B*) an investment vehicle, in which Abu Dhabi Investment

Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or

(*C*) a fund notified by the Central Government in the Official Gazette in this behalf subject to such conditions as may be specified;]

(*b*) "relocation" means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31st day of March, [45]**[***2030***]**, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to,—

(*i*) shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, in lieu of their shares or units or interests in the original fund; or

(*ii*) the original fund, in the same proportion as referred to in sub-clause (*i*), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder;

(*c*) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which—

(*i*) has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or [46][regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022, made under the] International Financial Services Centres Authority Act, 2019 (50 of 2019); and

(*ii*) is located in any International Financial Services Centre as referred to in sub-section (1A) of section 80LA;

Following clause (*c*) of the *Explanation* to clause (*viiad*) of section 47 shall be substituted by the Finance Act, 2025, w.e.f. 1-4-2026 :

*(*c*) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which is located in an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, and has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund or a certificate as a retail scheme or as an Exchange*

Traded Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*viiae*) any transfer of capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;

(*viiaf*) any transfer of capital asset, under a plan approved by the Central Government, by a public sector company to another public sector company notified by the Central Government for the purposes of this clause or to the Central Government or to a State Government;

(*viib*) any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident.

Explanation.—For the purposes of this clause, "Government Security" shall have the meaning assigned to it in clause (*b*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*viic*) any transfer of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual;

[47][(*viid*) any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.

Explanation.—For the purposes of this clause, the expressions "Electronic Gold Receipt" and "Vault Manager" shall have the meanings respectively assigned to them in clauses (*h*) and (*l*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(*viii*) any transfer of agricultural land in India effected before the 1st day of March, 1970;

(*ix*) any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Explanation.—For the purposes of this clause, "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants

Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act;

(*x*) any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

(*xa*) any transfer by way of conversion of bonds referred to in clause (*a*) of sub-section (1) of section 115AC into shares or debentures of any company;

(*xb*) any transfer by way of conversion of preference shares of a company into equity shares of that company;

(*xi*) any transfer made on or before the 31st day of December, 1998 by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.—For the purposes of this clause, the expression "membership of a recognised stock exchange" means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*xii*) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) where such sick industrial company is being managed by its workers' co-operative :

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (*ga*) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*xiii*) any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, or any transfer of a capital asset to a company in the course of demutualisation or corporatisation of a recognised stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company :

Provided that—

(*a*) all the assets and liabilities of the firm or of the association of persons or body of individuals relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;

(*c*) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(*d*) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

(*e*) the demutualisation or corporatisation of a recognised stock exchange in India is carried out in accordance with a scheme for demutualization or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*xiiia*) any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*xiiib*) any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008 (6 of 2009):

Provided that—

(*a*) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(*b*) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(*c*) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;

(*d*) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;

(*e*) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous

year in which the conversion takes place does not exceed sixty lakh rupees;

(*ea*) the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed five crore rupees; and

(*f*) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

Explanation.—For the purposes of this clause, the expressions "private company" and "unlisted public company" shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009);

(*xiv*) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company :

Provided that—

(*a*) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(*c*) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(*xv*) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934), in this regard;

(*xvi*) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government;

(*xvii*) any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.

Explanation.—For the purposes of this clause, the expression "special purpose vehicle" shall have the meaning assigned to it in the *Explanation* to clause (*23FC*) of section 10;

(*xviii*) any transfer by a unit holder of a capital asset, being a unit or units, held by

him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund:

Provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.

Explanation.—For the purposes of this clause,—

(*a*) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;

(*b*) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*c*) "equity oriented fund" shall have the meaning assigned to it in clause (*38*)of section 10;

(*d*) "mutual fund" means a mutual fund specified under clause (*23D*)of section 10;

(*xix*) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund.

Explanation.—For the purposes of this clause,—

(*a*) "consolidating plan" means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*b*) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger;

(*c*) "mutual fund" means a mutual fund specified under clause (*23D*) of section 10;

[48][(*xx*) any transfer of a capital asset, being an interest in a joint venture, held by a public sector company, in exchange of shares of a company incorporated outside India by the Government of a foreign State, in accordance with the laws of that foreign State.

Explanation.—For the purposes of this clause, "joint venture" shall mean a business entity, as may be notified by the Central Government in the Official Gazette.]

70.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 70 of the Bill provides for delineation of all the transactions which will not be regarded as transfer of capital asset for taxation as capital gains under Clause 67. This clause corresponds to section 47 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Clause 70(2) contains a tabular form of the definitions of the expressions used in this clause for better understanding. (The definition of "relocation" in the clause needs to be modified to have the cut-off date as 31st march, 2030 as amended by the Finance Act, 2025, instead of 31st March, 2025.)"

70.4 Important Views/Suggestions given by Experts/Stakeholders:

70.4.1 Clause 70(1)(t) provides that provisions of Clause 67 shall not apply to transfer in a relocation, of a capital asset by the original fund to the resulting fund and the cut-off date for such 'relocation', as provided by the Income-tax Bill 2025, is on or before 31st March, 2025. A prominent suggestion seeking to extend this time limit to 31st March, 2030, in order to align with the proposal contained in the Finance Bill, 2025, stated that :

- ITB 2025 does not incorporate the extended time limit proposed by the Finance Bill, 2025, which increases the time limit for transfer of assets from the original fund to the resultant fund up to 31 March 2030. Thus, increase the time limit for transfer of capital assets from the original fund to the resultant fund up to 31 March 2030 to align with the proposal contained in the Finance Bill, 2025.

70.4.2 Suggestion pertaining to Clause 70(1)(zi) stated that :

- Currently, any transfer of a capital asset, being shares of a SPV to a BT in exchange of units allotted by that trust to the transferor is exempt from tax under section 47 of the Act (corresponding section 70 of the Bill). However, no similar exemption is provided in case of transfer of any convertible debt instruments (like CCDs / OCDs) of the SPV to the BT in exchange of units allotted by the BT to the transferor. Similarly, no exemption is provided for transfer of interest in an LLP to the BT in exchange of units allotted by the BT to the transferor. Further, there is no exemption provided for transfer of assets held directly by an individual or an LLP to a BT in exchange for units of a BTs.
  Thus, it is proposed to amend clause (xvii) of section 47 of the Act (corresponding section 70(1) (zi) of the Bill) to include convertible debt securities like OCDs / CCDs or interest in an LLP or directly held assets transferred to a BT in exchange of units allotted by that trust to the transferor. Similar amendments to be made to section 115JB of the Act (corresponding section 206 of the Bill) as well considering it defers share swap income to the year of actual transfer of units and doesn't extend such

benefit to income arising on cashless swap of CCD/ OCD/ LLP interest/ assets held directly etc.

70.4.3 Suggestion with respect to Clause 70(1)(a) :

- To insert "by way" before the expression "of distribution…" would provide elegance and clarity to the language.
  Thus, proposed provision: (1) The provisions of section 67 shall not apply to transfer— (a) by way of distribution of capital assets on the total or partial partition of a Hindu undivided family;

70.4.4 Suggestion with respect to Clause 70(1)(e)/(j) :

- Overseas merger of two foreign companies would result in issuance of shares by resulting company to shareholders of amalgamating company (which could be an Indian Company).Shares of amalgamated company received in lieu of the shares held in the amalgamating company is not a 'transfer'. Given that Indian companies are increasingly going global, there should be tax exemption for such Indian shareholders in case of transfer of shares of the amalgamating company in exchange for amalgamated company shares pursuant to the merger of foreign companies since amalgamation operates on the 'vesting principle'

70.4.5 Suggestion with respect to Clause 70(g)/(h) :

- Many group companies undertake restructuring schemes that involve the amalgamation of foreign entities. However, in some jurisdictions, there may be no legal requirement to issue shares to the shareholders of the amalgamating company. Imposing such a condition could potentially limit the benefits of the restructuring. It is recommended to remove the condition of issuing shares to the shareholders of foreign amalgamated company, wherein there is no change in ultimate ownership of the group.

70.4.6 Suggestion pertaining to Clause 70(1)(ze)(v)(vi):

- Enhancement of limits prescribed - The limits prescribed are outdated and warrant an upscaling. Such upward revision would enable ease of doing business which is the guiding factor for the limits prescribed.

70.4.7 Suggestion pertaining to Clause 70(1)(l) :

- To change the phrase "do not apply" to "shall not apply". Hence, proposed provision: in a demerger (where the provisions of sections 230 to 232 of the Companies Act, 2013 shall not apply), of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if— (i) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and (ii) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated;

- The objective of the provision is to make the sections 230 to 232 of the Companies Act, 2013 inapplicable to demerger of foreign companies. The expression “shall not” (instead of “do not”) conveys this intent in a more appropriate manner.

70.4.8 Suggestion with respect to Clause 70(1)(zf) :

- To change the phrase "remain the same" to "remain as such". Hence, proposed provision: of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if— (i) all the assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, become the assets and liabilities of the company; (ii) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company and this shareholding continues to remain as such for five years from the date of the succession;
- The legislative mandate is to maintain a shareholding above the stipulated limit of 50% of the voting power and not to enforce constant shareholding for a tenure of 5 years. The proposed language in the Bill may lead to unintended consequences. The same change has to be made for clause (zd) and (ze) of section 70(1).

70.4.9 Suggestion with respect to Clause 70(2) – opening portion in Column C corresponding to Sl. No. 1 of Column A in table under the clause :

- The phrase "The expressions-" to be removed as it is surplus to the definition. Hence, proposed provision: (a) “banking company” shall have the same meaning as assigned to it in section 5(c) of the Banking Regulation Act, 1949 (10 of 1949);

70.5 <u>Examination by the Committee:</u>

Corresponding views of the Ministry of Finance to the aforementioned suggestions are mentioned below :

70.5.1 In response to the suggestion regarding increasing the time limit for transfer of capital assets from the original fund to the resulting fund up to 31 March, 2030, the Ministry submitted that :

> “ACCEPTABLE: Drafting Correction. The term ‘relocation’ requires that the transfer of capital assets from the original fund to the resultant fund takes place prior to 31 March 2025. The time limit has been extended to 31 March 2030 by the Finance Bill, 2025.”

70.5.2 During the Sitting, the representative of the Ministry reiterated that one amendment was made in the recent Finance Bill that was left to be incorporated.

70.5.3 In response to the suggestion pertaining to Clause 70(1)(zi), the Ministry submitted that :

> "It is suggested that transfer of any convertible debt instruments (like CCDs / OCDs) of the SPV to the BT in exchange of units allotted by the BT should not be treated as a transfer under clause 70 (Section 47). The exemption is provided where ownership in SPV is transferred and ownership in BT is taken in lieu thereof. Debt instruments/ assets or any other interest thereof other than shares in SPV are not an instrument of ownership. The suggestion would result in tax avoidance and therefore not feasible."

70.5.4 Elaborating on the response to the suggestion pertaining to Clause 70(1)(zi), the representative of the Ministry, during the Sitting, deposed as under :

> "…relates to business trust. So, we provide exemption to business trust from transfer if the shares of SPV are sold and then the SPV takes a holding in the business trust. So, business trust is there and then below it there is company/SPV and then if the shares of that SPV are sold so as to acquire shares in the business trust, for that we provide exemption. So, here he is asking that where there is a transfer of Convertible Debt Instruments from SPV to business trust also should be provided exemption. We are saying that it is not in nature of ownership where the ownership of one company is given away and in lieu of that the ownership of business trust is acquired. That neutrality we provide, but then convertible debt instruments is not an instrument of transfer of ownership."

70.5.5 With respect to the suggestion pertaining to Clause 70(1)(a), the Ministry stated that :

> "This is in the nature of a drafting correction. The phrase "by way of" may be inserted before the expression "of distribution of capital assets". To bring about clarity. This is acceptable."

70.5.6 Regarding suggestion with respect to Clause 70(1)(e)/(j), the Ministry of Finance submitted that :

> "The suggestion seeks to provide exemption to Indian shareholders in case of transfer of shares of the amalgamating company in exchange for amalgamated company shares pursuant to the merger of foreign companies. Tax neutrality is provided where the foreign company is holding Indian shares and where the scheme for amalgamation is subject to regulatory oversight. The suggestion would result in tax avoidance and leakages. Therefore, suggestion may not be feasible."

70.5.7 Further, during the Sitting of the Committee, the representative of the Department deposed as under :

> "…they are asking for an exemption for Indian shareholders where there is a transfer of shares of amalgamating company in exchange for amalgamated company. Two foreign companies are merging and then two foreign companies have Indian shareholders, for their amalgamation of two foreign companies, then the Indian shareholder's one right is extinguished and then he gets right in some other company. They are saying, you build tax neutrality in Indian income-tax law for merger of two foreign companies. We cannot provide that kind of oversight mechanism in our law."

70.5.8 In response to the suggestion pertaining to Clause 70(g)/(h), the Ministry stated that :

> "The suggestion seeks to remove the condition of 25% of same shareholders in the amalgamating and amalgamated company. This is an anti-abuse provision so that Indian assets are not parted with in a disguised manner. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

70.5.9 Elaborating on the response to the suggestion pertaining to Clause 70(g)/(h), the representative of the Ministry, during the Sitting, submitted that :

> "…there is a requirement in the scheme of amalgamation which we recognize under Income-tax Act, for which we provide tax neutrality for transfers. There 25 per cent shareholders of the amalgamating company should continue to be shareholders in the amalgamated company. They are saying, you remove this requirement of 25 per cent shareholders."

70.5.10 With respect to the suggestion pertaining to Clause 70(1)(ze)(v)(vi), the Ministry responded as under :

> "The suggestion pertains to enhancement of limits prescribed for exemption of tax during conversion of the company into an LLP. This provision is enabled for small companies only to prevent misuse of the provisions. This suggestion is in the nature of a major policy change which is beyond the scope of the objectives of the IT Bill, 2025."

70.5.11 Responding to the suggestion pertaining to tax exemption in case of conversion of a company to a limited liability partnership (LLP), the representative of the Ministry deposed that :

"…It is for conversion of company into an LLP. So, there we provide exemption of tax, but there is a limit on turnover of the company also and that limit is Rs. 60 lakh. So, the suggestion is that this limit should be enhanced. What we are saying is that this provision is enabled only for small companies, so that the provision is not misused. That is why the limit of Rs. 60 lakh is there, so that small companies are enabled to convert into LLP."

70.5.12 In response to the suggestion pertaining to Clause 70(1)(l), the Ministry submitted that :

"This is a drafting correction. The clauses 70(1)(l) & 70(1)(m) shall be appropriately redrafted to provide that certain provisions of Companies Act shall not apply in the cases of demergers referred in the said clauses."

70.5.13 Regarding the suggestion pertaining to Clause 70(1)(zf), the Ministry stated that:

"This is in the nature of a drafting correction. The suggestion is to change the phrase "remain the same" to "remain as such" and is acceptable to bring about clarity and to ensure consistency with the provisions of the Act. The same change may also be considered for (zd) and (ze) of Section 70(1)."

70.5.14 With respect to the suggestion regarding Clause 70(2) – opening portion in Column C corresponding to Sl. No. 1 of Column A in table under the clause, the Ministry stated that :

"This is in the nature of a drafting correction. The phrase shall be considered for removal from the opening line also.

70.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 70 of the Income-tax Bill, 2025 corresponds to Section 47 of the Income-tax Act, 1961 and seeks to delineate transactions that shall not be regarded as transfers for the purposes of capital gains taxation under Clause 67. The Committee also note that the intent and substance of the existing law have been retained in the proposed clause, with textual simplification and inclusion of a tabular format for definitions in sub-

clause (2) for improved comprehension. After careful examination of the provisions in Clause 70 of the Bill – including the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee find the proposed provisions to be broadly acceptable.

However, on observing that certain drafting refinements are desirable for improved clarity, consistency, and alignment with legislative intent, the Committee, therefore, recommend the following modifications:

1. **In Clause 70(1)(a), the phrase "by way of" be inserted before the expression "of distribution of capital assets" to enhance clarity in expression.**
2. **In Clause 70(1)(l) and Clause 70(1)(m), appropriate redrafting be carried out to clarify that certain provisions of the Companies Act shall not apply in the context of demergers referred to in the said clauses.**
3. **In Clause 70(1)(zd), (ze), and (zf), the phrase "remain the same" be replaced with "remain as such" to ensure consistency with the terminology used elsewhere in the Act.**
4. **In the tabular portion under Clause 70(2), the Committee recommend removal of the redundant phrase from the opening portion in Column C corresponding to Sl. No. 1 in Column A, as accepted by the Ministry.**
5. **The Committee also note that the definition of "relocation" needs to be modified to reflect the amended cut-off date of 31st March, 2030, as per the Finance Act, 2025, in place of 31st March, 2025.**

Subject to the above modifications, the Committee find the provisions under Clause 70 to be acceptable.

Clause 71 – Withdrawal of exemption in certain cases

71.1 Provision proposed in the Income-Tax Bill, 2025:

71. (*1*) The profits or gains arising from the transfer of capital asset not charged under section 67 by virtue of section 70(*1*)(*c*) and (*d*) shall, irrespective of anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the tax year in which such transfer took place, if at any time before the expiry of eight years from the date of such transfer,—

(*a*) the transferee company converts the capital asset into, or treats it as, stock-in-trade of its business; or

(*b*) the parent company or its nominees or the holding company, ceases or cease to hold the whole of the share capital of the subsidiary company.

(*2*) If any of the conditions laid down in section 70(*zd*) or (*zf*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor company for the tax year in which such conditions are not complied with.

(*3*) If any of the conditions laid down in section 70(*ze*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains"of the successor limited liability partnership or the shareholder of the predecessor company, for the tax year in which such conditions are not complied with.

71.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

47A. (1) Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47,—

(*i*) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(*ii*) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (*iv*) or, as the case may be, clause (*v*) of section 47 shall, notwithstanding anything contained in the

said clauses, be deemed to be income chargeable under the head "Capital gains" of the previous year in which such transfer took place.]

(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (*xi*) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (*xi*) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.

(3) Where any of the conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (*xiii*) or the proviso to clause (*xiv*), as the case may be, are not complied with.

(4) Where any of the conditions laid down in the proviso to clause (*xiiib*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.

71.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> "Clause 71 of the Bill provides for conditions whereby exemption from taxation as capital gains are withdrawn. This clause corresponds to section 47A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

71.4 Important Views/Suggestions given by Experts/Stakeholders:

Some of the important suggestions pertaining to Clause 71 are as follows :

- The drafting to result in claw back in year of violation of conditions of S. 47A of ITA 1961/ 71 of ITB 2025 appears to be inadvertent.

- With respect to 71(1)- The reference to parent company may be deleted as the term holding company is already mentioned therein.The co-existance of both the terms "parent" as also "holding" co, is likely to cause needless uncertainty as when two terms are used by the Legislature they are presumed to have independent meaning. Even otherwise, the term

nominee attaches only one of the terms, i.e., the parent company, with the absence of nominee to the other term could cause avoidable difficulty. Similar change maybe made in 71(b).

71.5 <u>Examination by the Committee:</u>

The response of the Ministry of Finance corresponding to the aforementioned suggestions is as follows :

71.5.1 With regard to claw back in year of violation of conditions of S. 47A of ITA 1961, the Ministry furnished the following in their comments :

> "**ACCEPTABLE: Drafting Correction**. In the case of transfers defined as exempt from Capital Gains in Sections 47(iv) and (v), as per the provisions of Section 47A, the Capital Gain will be calculated for the year in which the transfer took place, and not in the year in which the conditions prescribed are satisfied. Suitable changes may be made in Clause 536(2)(q) (Repeal and Savings)."

71.5.2 Regarding suggestion with respect to Clause 71(1), the Ministry stated that :

> "The suggestion seeks to remove reference to a parent company as holding company is already mentioned. However, clause 70(1)(c) refers to "parent company" while the clause 70(1)(d) refers to a "holding company". Therefore the clause 71(1) which is applicable to the above two clauses has retained both the phrases in its provisions. This is consistent with the Act and the phrases have been kept the same. Therefore, it may not be feasible to act upon the suggestion."

71.5.3 Regarding retention of the phrase "parent company" in Clause 71(1), the Ministry submitted that :

> "…we have used the phrase 'parent company, audits nominees or the holding company.' So, the suggestion is that we should remove the reference to parent company because holding company is already there. No change has been made from that.
>
> …we have used here the word 'nominee'. If we remove the reference to parent company, then there are nominees of the holding company. There is a holding company; there is a subsidiary company. So, they have a direct relationship. Here, we have used parent company or its nominees when they cease to hold the share capital of the subsidiary company."

71.5.4 Further, when asked by the Committee to define the phrase 'parent company' for the purpose of clarity and to avoid any scope of misinterpretation, the representative of the Ministry assured the Committee that this would be examined.

71.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 71 of the Income-tax Bill 2025, corresponding to Section 47A of the Income-tax Act of 1961, provides for withdrawal of exemption in certain cases involving capital gains from transfer of capital assets and defines tax implications concerning situations wherein specified conditions are not met after such transfers. Thorough deliberation of the proposals made with regard to the clause, including the views/suggestions of the stakeholders and the justification provided by the Ministry of Finance point to certain relevant facts. The Committee find that the proposal regarding changing the phrase containing the year of claw back in respect of violations of conditions as mentioned in clause 536(2)(q) from 'the year in which such conditions are satisfied or not complied with' to 'the year in which such transfer took place' holds good considering that transfers deemed as income chargeable under the head 'Capital Gains' must be taxed in the year in which such transfers took place. Therefore, the Committee recommend that clause 536(2)(q) (Repeal and Savings) may be suitably amended in respect of provisions pertaining to Clause 71 and accordingly, changes, if any, may be made in Clause 71 wherever necessary in order to avoid any inconsistency.

Further, for the sake of clarity and to eliminate any scope of misinterpretation, the Committee also desire that the phrase 'parent company' featuring in clause 71(1)(b) may be examined and clearly defined by the Ministry of Finance. The Committee approve the rest of the provisions under clause 71 as proposed.

Clause 72 – Mode of computation of capital gains

72.1 Provision proposed in the Income-Tax Bill, 2025:

72. (*1*) Income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset, the following amounts:—

(*a*) expenditure incurred wholly and exclusively in connection with such transfer; and

(*b*) the cost of acquisition of the asset and the cost of any improvement thereto.

(*2*) In cases, as prescribed, the provisions of sub-section (*1*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.

(*3*) In computing the income chargeable under the head "Capital gains", the following amounts shall not be allowed as a deduction:—

(*a*) the interest claimed as deduction under section 22(*1*)(*b*) or under Chapter VIII;

(*b*) any sum paid as securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004.

(*4*) If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3.or4)and is not chargeable to tax under section 92(*2*)(*k*) or223(*2*), then,—

(*a*) such amount shall be reduced from the cost of acquisition of such unit; and

(*b*) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

(*5*) In case of value of any money or capital asset received by a specified person from a specified entity, as referred to in section 67(*10*), the specified entity is entitled to a deduction calculated in such manner, as prescribed for computing the amount chargeable to income-tax in its hands under that sub-section which is attributable to the transfer of such capital asset.

(*6*) In the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company (other than equity shares referred to in section 198) shall be computed—

(*a*) by converting the cost of acquisition, expenditure incurred, wholly and exclusively, in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures; and

(*b*) the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the said manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company.

(*7*) In the case of an assessee who is a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by the assessee, shall be ignored for the purpose of computing the full value of consideration.

(*8*) In this section, the expressions—

(*a*) "Cost Inflation Index", in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf;

(*b*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later; and

(*c*) "indexed cost of any improvement" means an amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place.

72.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

48. The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer;

(*ii*) the cost of acquisition of the asset and the cost of any improvement thereto:

[48a][**Provided** that the cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (*b*) of section 24 or under the provisions of Chapter VIA.

Explanation 1.—For the removal of doubt, it is hereby clarified that the cost of acquisition of a unit of a business trust shall be reduced and shall be deemed to have always been reduced by any sum received by a unit holder from the business trust with respect to such unit, which is not in the nature of income as referred to in clause (*23FC*) or clause (*23FCA*) of section 10 and which is not chargeable to tax under clause (*xii*) of sub-section (2) of section 56 and under sub-section (2) of section 115UA.

Explanation 2.—For the purposes of *Explanation 1,* it is clarified that where transaction of transfer of a unit is not considered as transfer under section 47 and cost of acquisition of such unit is determined under section 49, sum received with respect to such unit before such transaction as well as after such transaction shall be reduced from the cost of acquisition under the said *Explanation;*]

(*iii*) in case of value of any money or capital asset received by a specified person from a specified entity referred to in subsection (4) of section 45, the amount chargeable to income-tax as income of such specified entity under that sub-section which is attributable to the capital asset being transferred by the specified entity, calculated in the prescribed manner:

Provided that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company :

Provided further that where long-term capital gain arises from the transfer [48b][(which takes place before the 23rd day of July, 2024)] of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (*ii*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted:

Provided also that nothing contained in the first and second provisos shall apply to the capital gains arising from the transfer of a long-term capital asset being an equity

share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A:

Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset, being a bond or debenture other than—

(*a*) capital indexed bonds issued by the Government; or

(*b*) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015:

Provided also that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration under this section:

Provided also that where shares, debentures or warrants referred to in the proviso to clause (*iii*) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section :

Provided also that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.

Explanation.—For the purposes of this section,—

(*i*) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*ii*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(*iii*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st day of April, 2001, whichever is later;

(*iv*) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

(*v*) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the Consumer Price Index (urban) for the immediately preceding previous year to such previous year, by notification[48c] in the Official Gazette, specify, in this behalf.

72.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 72 of the Bill provides for mode of computation of capital gains. This clause corresponds to section 48 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

72.4 Important Views/Suggestions given by Experts/Stakeholders:

72.4.1 Suggestion regarding changing the phrase "the amount received" to "such amount received" in Clause 72(4) :

Section 72(4) provides for consequence of a particular genre of receipt from business trust. The two-fold "cumulative" consequences are captured in point (a) and (b) of the sub-section. Therefore, it may be appropriate to refer to the impugned amount as "such amount received" rather than "the amount received". Therefore, the proposed provision is – If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3. or 4) and is not chargeable to tax under section 92(2)(k) or 223(2), then,— (a) such amount shall be reduced from the cost of acquisition of such unit; and (b) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the such amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

72.4.2 Suggestion regarding restoration of Explanation (ii) of the Income-tax Act, 1961 in Clause 72(8), in order to obtain clarity on the rate at which the currency is to be converted :

Explanation (ii) of the Income-tax Act, 1961 maybe restored in section 72(8) of the Income-tax Bill, 2025 to obtain clarity on rate at which the currency is to be converted, the explanation (ii) has to be restored. Therefore, proposed provision : In this section, the expressions— (a) "Cost Inflation Index", in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf; (b) "indexed cost of acquisition" means an amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later; and (c) "indexed cost of any improvement" means an amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for

the year in which the improvement to the asset took place. (d) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

72.5 Examination by the Committee:

72.5.1 Regarding suggestion for changing the phrase “the amount received” to “such amount received” in Clause 72(4), the Ministry of Finance stated as follows :

> “The provisions in the Bill reproduce those in the Act faithfully and there is no change in the language used. The phrase "sum received" is used in the Act and "the amount" is used in the Bill. Futher, the reference is already made to "such unit" in the Bill. However, as the provisions in the Act were in the form of Explanations that are connected to each other, the use of the word such amount in the Bill may be acceptable.”

72.5.2 Responding to the suggestion regarding restoration of Explanation (ii) of the Income-tax Act, 1961 in Clause 72(8), in order to obtain clarity on the rate at which the currency is to be converted, the Ministry submitted that :

> “This is a drafting correction and Explanation (ii) to Section 48 of the IT Act may be restored as "(d) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;" in order to obtain clarity as suggested. This is acceptable.”

72.5 Observations / Recommendations of the Committee :

The Committee note that Clause 72 of the Income-tax Bill, 2025 provides for the mode of computation of capital gains and corresponds to Section 48 of the Income-tax Act, 1961. After thoughtful deliberation of the provisions proposed under sub-clause (4)(b), the Committee recommend that for the sake of congruity with the corresponding provision in the parent Act, the phrase “the amount” be changed to “such amount” and the modified provision be read as :

"72(4)(b) – if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, 'such amount' received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition."

Further, with respect to sub-clause (8), the Committee feel that in order to obtain clarity on the rate of conversion of currencies, the provision as contained in Explanation (ii) of Section 48 of the parent Act, needs to be included within the said sub-clause. Therefore, the Committee recommend that the said provision be included in sub-clause (8) as part (d) and the modified provision be read as :

"72(8)(d) - the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;".

Subject to the above modifications, the Committee find the provisions under Clause 72 to be acceptable.

Clause 73 – Cost with reference to certain modes of acquisition

73.1 Provision proposed in the Income-Tax Bill, 2025:

73. (*1*) In the case of a capital asset specified in column B of the Table below, the cost of acquisition of the asset shall be deemed to be the cost as mentioned in column C of the said Table.

Table

Sl. No.	Description of the capital asset	Cost of acquisition
A	B	C
1.	If the capital asset became the property of the assessee— (*a*) under a gift or will; or (*b*) by succession, inheritance or devolution; or	The cost for which the previous owner of the property acquired it,as increased by the cost of any improvement incurred or borne by the previous owner or the assessee.

A	B	C
	(*c*) on any distribution of assets on the liquidation of a company; or (*d*) under a transfer to a revocable or an irrevocable trust; or (*e*) being a Hindu undivided family, by the mode referred to in section 99(*3*) after the 31stDecember, 1969; or (*f*) under any such transfer as is referred to in section 70(*1*)(*a*),(*c*), (*d*), (*e*), (*g*), (*h*),(*i*), (*j*), (*l*), (*m*), (*n*), (*o*), (*t*),	

	(*u*), (*v*), (*w*), (*zd*), (*ze*) or (*zf*).	
2.	Capital asset, being a share or shares in an amalgamated company which is an Indian company that became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*f*).	The cost of acquisition to him of the share or the shares in the amalgamating company.
3.	Capital asset being a share or debenture of a company, which became the property of the assessee in consideration of a transfer referred to insection 70(*1*)(*z*) or (*za*).	That part of the cost of debenture, debenture-stock, bond or deposit certificate for which such asset is acquired by the assesse.
4.	Capital asset, being specified security or sweat equity shares, referred to in section 17(*2*).	Fair market value taken into account for the purposes of the said clause.
5.	Capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008(6 of 2009), which became the property of the assessee on conversion as referred to in section 70(*1*)(*ze*).	The cost of acquisition of the share or shares in the company immediately before its conversion.
6.	Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(*1*)(Table: Sl. No.2) held by such assessee.	The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made.
7.	Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer as referred to in section 70(*1*)(*zi*).	The cost of acquisition of the share referred to in the said clause.

A	B	C
8.	Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zj*).	The cost of acquisition of the unit or units in the consolidating scheme of the mutual fund.
9.	Capital asset, being equity share of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zb*).	That part of the cost of the preference shares in relation to which such asset is acquired.
10.	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zk*).	The cost of acquisition of the unit or units in the consolidating plan of the scheme of the mutual fund.
11.	Capital asset being a unit or units in the segregated portfolio.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of the unit or units in segregated portfolio; A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset

		transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation.
12.	Capital asset being original units held by the unit holder in the main portfolio.	The cost of acquisition as reduced by the amount as so arrived at under serial number 11.

A	B	C
13.	Capital asset, being shares as referred to in section 70(*1*)(*zl*)which became the property of the assessee.	The cost of acquisition to it of the interest in the joint venture referred to in the said clause.

14.	Shares in the resulting company as a result of demerger.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of shares in the resulting company; A = cost of acquisition of shares in demerged company; B = net book value of assets transferred in demerger; and C = net worth of demerged company immediately before demerger.
15.	Original shares held by the shareholder in the demerged company.	As reduced by the amount so arrived at under serial number 14.
16.	Capital asset deemed to be chargeable to tax according to the provisions of section 71(*1*).	Cost for which such asset was acquired by the transferee company.
17.	Capital asset being property, where the capital gain arises from the transfer of such property the value of which has been subject to income-tax	The value taken into account under section92(*2*)(*m*).

under section 92(*2*)(*m*).

18.	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.

A	B	C
19.	Specified capital asset referred to in clause (*c*) of the *Explanation* to section 10(*37A*) of the Income-tax Act, 1961(43 of 1961), which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20.	Capital asset, being share in the project, in the form of land or building, or both, under section67(*14*).	The amount deemed as full value of consideration under section 67(*14*).
21.	Capital asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and tax paid thereon as per section 352.	The fair market value of the asset considered for computation of accreted income as on specified date as per section 352(*3*).
22.	Capital asset referred to in section 26(*2*)(*j*).	The fair market value for section 26(*2*)(*j*).
23.	Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became	The cost of gold for the person in whose name

	the property of the person as consideration of a transfer, as referred to in section 70(*1*)(*y*).	Electronic Gold Receipt is issued.	
24.	Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in section 70(*1*)(*y*).	The cost of the Electronic Gold Receipt for such person.	

(*2*) For the purposes of the Table in sub-section (*1*), in respect of the entries against—

(*a*) serial number 1, "previous owner of the property" for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in column B thereof;

(*b*) serial numbers 11 and 12, "main portfolio", "segregated portfolio" and "total portfolio" shall have the same meanings as respectively assigned to them in the Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28thDecember, 2018, issued by the Securities and Exchange Board of India;

(*c*) serial numbers 14 and 15, "net worth" means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger;

(*d*) serial numbers 2, 14 and 15, the provisions as contained therein, shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 65.

73.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

49. (1) Where the capital asset became the property of the assessee—

(*i*) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(*ii*) under a gift or will;

(*iii*) (*a*) by succession, inheritance or devolution, or

(*b*) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken

place at any time before the 1st day of April, 1987, or

(*c*) on any distribution of assets on the liquidation of a company, or

(*d*) under a transfer to a revocable or an irrevocable trust, or

(*e*) under any such transfer as is referred to in clause (*iv*) or clause (*v*) or clause (*vi*) or clause (*via*) or clause (*viaa*) or clause (*viab*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vicc*) or clause (*viiac*) or clause (*viiad*) or clause (*viiae*) or clause (*viiaf*) or clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47;

(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

Explanation.—In this sub-section the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (*i*) or clause (*ii*) or clause (*iii*) or clause (*iv*) of this sub-section.

(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.

(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (*x*) or clause (*xa*) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.

(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (*vi*) of clause (*2*) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), became the property of the assessee on conversion as referred to in clause (*xiiib*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.

(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (*ba*) of sub-section (1) of section 115WC.

(2ABB) Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause *(b)* of sub-section (1) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

Explanation.—For the purposes of this sub-section, "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of the *Explanation 1* to sub- section (*5*) of section 43.

(2AC) Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (*xvii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.

(2AD)Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (*xviii*)of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.

(2AE) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee.

(2AF) Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.

(2AG) The cost of acquisition of a unit or units in the segregated portfolio shall be the amount which bears, to the cost of acquisition of a unit or units held by the assessee in the total portfolio, the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios.

(2AH) The cost of the acquisition of the original units held by the unit holder in the main portfolio shall be deemed to have been reduced by the amount as so arrived at under sub-section (2AG).

Explanation.—For the purposes of sub-section (2AG) and sub-section (2AH), the expressions "main portfolio", "segregated portfolio" and "total portfolio" shall have the meanings respectively assigned to them in the circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018, issued by the

Securities and Exchange Board of India under section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

[48d][(2AI) Where the capital asset, being shares as referred to in clause (*xx*) of section 47, became the property of the assessee, the cost of acquisition of such asset shall be deemed to be the cost of acquisition to it of the interest in the joint venture referred to in the said clause.]

(2B) [***]

(2C) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(2D) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).

(2E) The provisions of sub-section (2), sub-section (2C) and sub-section (2D) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.

Explanation.—For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.

(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47 is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.

(4) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (*vii*) or clause (*viia*) or clause (*x*) of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (*vii*) or clause (*viia*) or clause (*x*).

(5) Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme, the cost of acquisition of the asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme.

(6) Where the capital gain arises from the transfer of a specified capital asset referred to in clause (*c*) of the *Explanation* to clause (*37A*) of section 10, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such asset was handed over to the assessee, the cost of acquisition of such specified capital asset shall be deemed to be its stamp duty value as on the last

day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Explanation.—For the purposes of this sub-section, "stamp duty value" means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property.

(7) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (5A) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section.

(8) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.

(9) Where the capital gain arises from the transfer of a capital asset referred to in clause (*via*) of section 28, the cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of the said clause.

[49][(10) Where the capital asset, being—

(*i*) an Electronic Gold Receipt issued by a Vault Manager, became the property of the person as consideration of a transfer, referred to in clause (*viid*) of section 47, the cost of acquisition of the asset for the purposes of the said transfer, shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued;

(*ii*) gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer, referred to in clause (*viid*) of section 47, the cost of acquisition of the asset for the purposes of the said transfer shall be deemed to be the cost of the Electronic Gold Receipt in the hands of such person.]

73.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 73 of the Bill provides for the cost of acquisition of the asset with reference to certain modes of acquisition. This clause corresponds to section 49 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The provisions are in a tabulated format having "description of the capital asset" along with the manner of calculation of "cost of acquisition". This provides for better clarity and ease of understanding."

73.4 Important Views/Suggestions given by Experts/Stakeholders:

73.4.1 Suggestion regarding retention of Section 49(2AB) within Clause 73 of the Bill :

- Section 49(2AB) should be retained. Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC of the Income-tax Act, 1961.
  The sub-section may be relevant for transfer of securities obtained by employee on which fringe benefit tax was paid earlier, which securities are sold after the Income-Tax Bill 2025 becomes the operative Act.

73.4.2 Suggestion regarding changing the reference in Clause 73(1) Table Sl. No. 4 from Section 17(2) to Section 17(1)(d) :

- The reference to Section 17(1)(d) must be given instead of Section 17(2). Section 17(2) deals with exclusions from perquisites. The correct reference of section 17(1)(d) must be made. Hence, proposed provision: Capital asset, being specified security or sweat equity shares, referred to in section 17(1)(d).

73.4.3 Suggestion regarding redrafting of Clause 73(1) Table Sl. No. 15 in Column C :

- To specify that the cost of acquisition of shares held in the demerged company shall be the original cost of amount paid for acquiring the original shares as reduced by the amount so arrived by under serial number 14. Therefore, suggested change: Cost of acquisition is "the cost of acquisition of the original shares held by the shareholder in the demerged company as reduced by the amount so arrived at under serial number 14".
  The absence of a specific mention from which the amount arrived in serial number 14 would be deducted makes the provision incomplete. The proposed reference makes the ascertainment of cost of acquisition complete.

73.4.4 Suggestion regarding making reference to Section 47A of the Act in Clause 73(1) Table Sl. No. 16 :

- To provide that the cost of acquisition shall be the amount paid for acquiring the asset, if tax has been discharged upon the transaction totally exempted but subsequently charged to tax on account of exemption condition being violated - whether under the present law or the 1961 Act. Hence, suggested change in provision : Item No. 16 in table contained in Section 73(1): "Capital asset deemed to be chargeable to tax according to the provisions of section 71(1) and section 47A of the Income-tax Act, 1961."

Cost of acquisition in various cases of violation of exemption conditions shall be the actual consideration paid and not the deemed "follow up" cost of acquisition. The Bill has stepped up cost provisions where tax under the new dispensation is discharged. If there was a violation of the condition of exemption under the old law, but the new asset remained, and is sold under the new dispensation, what shall be the cost of acquisition is uncertain.

73.4.5 Suggestion pertaining to Clause 73(1), Table item 19 :

- The description of the specified capital asset should be incorporated in the section.

73.4.6 Suggestions regarding amendments in Clause 73(1) Table Sl. No. 20 :

- To provide a new provision in Clause 73(1) Table Sl. No. 20 outlining the deemed cost of acquisition of capital assets falling in Clause 67(16).
  Item No. 20 in table contained in Section 73(1): Capital asset being, "share in the project, in the form of land or building, or both, under section 67(14), not being the capital asset referred to in section 67(16)." Cost of acquisition is "The amount deemed as full value of consideration under section 67(14)."
  Proposed provision for outlining deemed cost of acquisition in cases covered under section 67(16): Capital asset, being "share in the project, in the form of land or building, or both, under section 67(16)." Cost of acquisition is "The amount of full value of consideration adopted for paying tax on capital gain under section 67(1)."
  If an assessee transfers his share in the project before issuance of certificate of completion, section 67(14) is not applicable. As per Section 67(16), the capital gains in such case shall be computed with reference to the other provisions of the Act. In such cases, the cost of acquisition of share transferred cannot be the cost referred in section 67(14). Hence, cases covered under section 67(16) of the Bill should be excluded from the clause as existing in the proposed Bill. Instead, a new clause as suggested maybe incorporated. In cases, where section 67(16) is applicable, the law does not provide for deemed cost of acquisition of share in the project. Providing deemed cost of acquisition in such cases would impart clarity.

- Column C of Sl. No.20 may be amended to provide that on subsequent sale of share of land or building or both, the cost of acquisition shall be deemed to be the stamp duty value of such share of land or building or both forming part of the full value of consideration u/s 67(14).
  The full value of consideration under section 67(14), however, includes both the Stamp Duty Value (SDV) of the share of land or building or both as well as consideration received in cash/cheque/draft etc.

73.5 Examination by the Committee:

73.5.1 Response of the Ministry of Finance on suggestion regarding retention of Section 49(2AB) within Clause 73 of the Bill :

> "The suggestion seeks for providing for cost of acquisition in cases where the shares obtained as fringe benefit are sold later with reference to section 49(2AB) of IT Act. Fringe Benefits are no longer applicable. Therefore, this provision is redundant. However, for cost of acquisition, this is covered by the Repeal and Savings Clause in 536(2), the provisions of which are : 536.(1) The Income-tax Act, 1961 is hereby repealed.(2) Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (3)—(a) nothing shall affect the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or(b) nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;
> This is already addressed in the Bill."

73.5.2 Responding to the suggestion regarding changing the reference in Clause 73(1) Table Sl. No. 4 from Section 17(2) to Section 17(1)(d), the Ministry of Finance stated that :

> "This is a drafting correction and the Entry at Si.No 4 in Clause 73 may be changed as : Capital asset, being specified security or sweat equity shares, referred to in section 17(1)(d). **This is acceptable."**

73.5.3 With respect to the suggestion regarding redrafting of Clause 73(1) Table Sl. No. 15 in Column C, the Ministry submitted that :

> "This is a drafting correction and 'S.No 15 in Column C may be changed as "the cost of acquisition of such original shares as reduced by the amount so arrived at under serial number 14"' in order to obtain clarity as suggested. **This is acceptable. Redrafting may provide more clarity."**

73.5.4 To the suggestion regarding making reference to Section 47A of the Act in Clause 73(1) Table Sl. No. 16, the Ministry responded as under :

> "The suggestion seeks that on violation of condition, when capital gains is charged, the cost of acquisition provided in section 47A should be protected by making reference to the provision of IT Act. This is covered in the Repeal and Savings clause in 536(2), the provisions of which are :536. (1) The Income-tax Act, 1961 is hereby repealed.(2) Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (3)—(a) nothing shall affect

the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or(b) nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;
This is already addressed in the Bill."

73.5.5 Regarding the suggestion pertaining to Clause 73(1), Table item 19, the Ministry submitted that "

"The suggestion seeks that reference to S. 10(37A) of the IT Act for specified asset may not be provided. The provisions of 10(37A) give exemption to "income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014". As the provisions of 10(37A) are redundant as on date, they have not been reproduced in the Bill and the reference is made to the IT Act, 1961. This is in line with the provisions in section 49(6) of the Act. This suggestion is already addressed."

73.5.6 During the Sitting, with respect to the suggestion pertaining to Clause 73(1) Table item 19 in the Bill, the representative of the Ministry of Finance submitted that :

"…this is in respect of capital gains in respect of transfer of specified capital assets arising to assessee being individual or HUF who was owner of such asset as on 2nd of June, 2014.
…. this issue is again relating to referencing of the 1961 Act. Fundamentally, it arises from that."

73.5.7 Further, when asked to incorporate the description of the phrase 'specified capital asset' in the said Clause so as to clarify and remove any scope for ambiguity, the representative of the Ministry assured the Committee that this would be considered.

73.5.8 Corresponding responses of the Ministry on the suggestions regarding amendments in Clause 73(1) Table Sl. No. 20 :

"The suggestion seeks a provision for determining the cost of acquisition for the transactions referred to in Clause 67(16) - where the assessee transfers his share in the project on or before the date of issue of certificate of completion in the case of a specified agreement (JDA). In such cases the cost of acquisition shall take its normal meaning. No specific deeming provision is required as the property stands transferred. Specific deeming provision is needed where the share is retained by the assessee at the time of completion certificate. The issue is already addressed."

73.5.9 Elucidating on the issue of deemed cost of acquisition for transactions where the assessee transfers his share of the asset between signing of Joint Development Agreement (JDA) and completion of project, the representatives of the Ministry of Finance stated that :

> "…we are saying that in these cases, cost of acquisition shall take its normal meaning. Like, there is a joint development agreement with the builder. Before that building comes into being, the taxpayer, the assessee sells his share. So, whatever is the cost of acquisition, that will take its normal meaning."

73.5.10 Providing further clarifications regarding the calculation of capital gains tax on the transfer of assets, the time of levying of such tax and the cost of acquisition of such transferred asset, the representative of the Department submitted that :

> "...यहां पर जो इश्यू है, वह काफी समय से लिटिगेटेड रहा है। पहला इश्यू यह था कि अगर मेरे पास एक पुरानी लैंड या बिल्डिंग है और मैं उसे किसी बिल्डर को दे देता हूं और उसके साथ एक ज्वायंट डेवलपमेंट एग्रीमेंट करता हूं। फिर उस पर वह बिल्डर घर बना करके या तो जो नया घर बन रहा है, उसमें से एक पार्ट हमें दे देगा और साथ में कुछ कैश भी हमें देगा। सर, इस स्थिति में लिटिगेशन हमेशा इस प्वाइंट पर होता था कि किस समय यह इनकम 'कैपिटल गेन' में टैक्सेबल होगा। क्या हमने जिस वर्ष में ज्वायंट डेवलपमेंट एग्रीमेंट साइन कर लिया, उस वर्ष में होगा या जिस वर्ष में हमें नया एसेट मिला? इसमें एक निश्चितता लायी गयी। उसमें यह बताया गया कि जिस साल में उस नये प्रोजेक्ट की कंप्लीशन सर्टिफिकेट मिल जाएगी, उस वर्ष में यह टैक्सेबल होगा और उस समय नए प्रॉपर्टी में मेरा जो शेयर मिला, और उसकी जो फेयर मार्केट वैल्यू है और जो मेरी अपनी पुरानी प्रॉपर्टी की वैल्यू थी, उसके साथ-साथ अगर मुझे कुछ कैश में मिला है तो वह कैश भी हमारी कंसिड्रेशन में जुड़ जाएगा। दोनों का डिफरेंस 'कैपिटल गेन' टैक्स होगा।
> .... यहां उसने यह प्रॉब्लम बतायी हुई है कि मैंने कंप्लीशन सर्टिफिकेट से पहले ही, जो मेरा राइट था, वह राइट मैंने किसी और को बेच दिया तो उसकी कॉस्ट ऑफ एक्विजीशन क्या होगी? सर, कॉस्ट ऑफ एक्विजीशन में तो कोई दिक्कत नहीं है, क्योंकि कॉस्ट ऑफ एक्विजीशन तो जो मेरी प्रॉपर्टी थी, वही है।..."

73.5.11 Regarding levying of capital gains tax over a transfer of capital assets, the representatives of the Ministry explained that :

> "...कैपिटल गेन्स में सेल कंसीड्रेशन रिसीव्ड पर नहीं है, सेल कंसीड्रेशन रिसीवेबल्स पर है, लेकिन गवर्नमेंट ने इंडिविज्युअल और एच.यू.एफ. पर यह प्रावधान किया है कि जब कम्पलीशन सर्टिफिकेट मिलेगा, उस समय इंसिडेंशियल कैपिटल गेन्स होगा, लेकिन

कैपिटल गेन्स पर वह दो फ्लैट हमको मिल जायेंगे तब चार्ज होगा। यह कैपिटल गेन्स की स्कीम में नहीं है। So, we have made an exception for individuals in HUF that you do not have money, when you get the completion certificate, that will be the year in which capital gains will be taxed.

… the provision is that before he gets two flats, if he sells them, then the deferment of capital gains to the year of completion does not survive. It gets taxed in the year in which we have sold a part of his sale consideration. या तो आप वेट करो, अगर पहले बेचते हो in that year, you get tax. That deferred rate does not operate then."

73.5.12 On the suggestion regarding 'Full value of consideration' on subsequent sale of an asset, the Ministry submitted that :

"The existing provisions under section 45(5A), Full Value of Consideration includes both the Stamp Duty Value (SDV) of the share of land or building as increased by consideration received in cash/cheque/draft etc. The provisions are same in the new IT Bill. The suggestion seeks that any consideration apart from the SDV should be ignored. This would bring inconsistency in tax treatment. The sale value for one transfer should be the cost of acquisition for subsequent transfer. Also, if the taxpayer receives any other amount in relation to the transfer, this should also be a part of cost of acquisition for subsequent stage- failing which the taxpayer would have to offer more income as capital gains. The suggestion made by the stakeholder is not feasible."

73.5.13 Further explaining the issue regarding 'Full value of consideration' in cases of subsequent sale of capital assets, the representative of the Ministry apprised the Committee that :

"…The stakeholder is saying what would be the cost of acquisition in case of subsequent transfer. There is one transfer and then, there is a subsequent transfer. For second transfer, the cost of acquisition should only be stamp duty value. So, Sir, what we are saying, for the first transfer, the full value of consideration that we take, that is stamp duty value plus anything other than stamp duty value, if over and above the taxpayer has received any cash or in kind, whatever, that is added to the consideration.

So, what is the sale consideration for the first transfer, that is taken as cost to acquisition for the second transfer. So, for the subsequent transfer, we cannot deem it to be only stamp duty value because stamp duty value is Rs. 100…"

73.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 73 of the Income-tax Bill, 2025 provides for the cost of acquisition of the asset with reference to certain modes of acquisition and is synonymous with Section 49 of the Income-tax Act, 1961. On careful examination, the Committee find that within the provision regarding description of the capital asset as contained in Table serial number 4 of sub-clause (1), an erroneous reference has been made to Section 17(2) instead of Section 17(1)(d) which is of relevance in this case as it provides for the value of any specified security or sweat equity shares as mentioned in Table serial number 4. Therefore, the Committee recommend that the reference be changed from Section 17(2) to Section 17(1)(d) and the modified provision be read as :

"73(1) Table serial number 4 – Capital asset, being specified security or sweat equity shares, referred to in 'Section 17(1)(d)'".

Further, regarding provisions relating to the cost of acquisition as contained in column C of Table serial number 15 under sub-clause (1), the Committee find that the absence of a specific mention from which the amount arrived in serial number 14 would be deducted makes the provision incomplete. The Committee feel that insertion of the phrase "the cost of acquisition of such original shares" at the beginning of the provision would accord better clarity and therefore, the Committee recommend that the phrase be suitably inserted and the modified provision be read as :

"73(1) Table serial number 15 column C – 'the cost of acquisition of such original shares' as reduced by the amount so arrived at serial number 14".

Furthermore, the Committee take cognizance of the fact that a cross references has been made to the Income-tax Act of 1961 with regard to specified capital asset mentioned in this clause. The Committee are of the view that such cross referencing to the IT Act, 1961 in the current Bill will necessitate the reference to a repealed Act in future and will make the exercise cumbersome and unsuitable. Thus, the Committee recommend the Ministry to remove any reference to the IT Act, 1961 from the text of specific clauses and instead create relevant provisions in the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961. Subject to the specified modifications, the Committee find the provisions proposed under Clause 73 to be acceptable.

Clause 74 – Special provision for computation of capital gains in case of depreciable assets.

74.1 Provision proposed in the Income-Tax Bill, 2025:

74.(*1*)Irrespective of anything contained in section 2(*101*), for a capital asset forming part of a block of assets on which depreciation has been allowed under this Act or under the Income-tax Act, 1961 or under the Indian Income-tax Act, 1922, the provisions ofsections72 and 73 shall be subject to the provisions of sub-sections (*2*), (*3*) and (*4*).

(*2*) If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets in a block of assets exceeds the total of the following:—

(*a*) expenditure incurred wholly and exclusively for such transfer;

(*b*) the written-down value of the block of assets at the start of the tax year; and

(*c*) the actual cost of any asset falling within the block of assets acquired during the tax year,

Such excess shall be deemed to be capital gains arising from the transfer of short-term capital assets.

(*3*) If any block of assets ceases to exist for the reason that all the assets in that block are transferred during the tax year, then,—

(*a*) the cost of acquisition of the block of assets shall be the writtendown value of the block of assets at the beginning of the tax year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year; and

(*b*) the income received or accruing as a result of such transfer or transfers shall be deemed to be short-term capital gains.

74.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50. Notwithstanding anything contained in clause (*42A*) of section 2, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), the provisions of sections 48 and 49 shall be subject to the following modifications :—

(*1*) where the full value of the consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received

or accruing as a result of the transfer of any other capital asset falling within the block of assets during the previous year, exceeds the aggregate of the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer or transfers;

(*ii*) the written down value of the block of assets at the beginning of the previous year; and

(*iii*) the actual cost of any asset falling within the block of assets acquired during the previous year,

such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets;

(*2*) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets:

Provided that in a case where goodwill of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short-term capital gain, if any, shall be determined in such manner as may be prescribed.

Explanation.—For the purposes of this section, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub-item (*B*) of item (*ii*) of sub-clause (*c*) of clause (*6*) of section 43 shall be deemed to be transfer.

74.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 74 of the Bill provides for special provision for computation of capital gains in case of depreciable assets. The said clause seeks to tabulate the methodology for arriving at the cost of acquisition for different capital assets. This clause corresponds to section 50 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

74.4 Important Views/Suggestions given by Experts/Stakeholders:

74.4.1 Suggestion regarding redrafting sub-clause (1) of Clause 74 :

- Sub-section (1) may be redrafted as follows - 74. (1) Irrespective of anything contained in section 2(101), for a capital asset forming part of a block of assets on which depreciation has been allowed under this Act or under the Income-tax Act, 1961 or under the Indian Income-tax Act, 1922, the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (2), (3) and (4) (2) and (3). There is no subsection (4) in section 74. Therefore, section 74(1) can be subject to the provisions of subsections (2) and (3).

74.4.2 Suggestion regarding restoration of the explanation of goodwill under Clause 74 sub-clause (3) :

- The following provision has now been changed in the IT Bill to provide that in case of goodwill forming part of a block of assets also, the transfer would result in short term capital gains : Provided that in a case where goodwill of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short-term capital gain, if any, shall be determined in such manner as may be prescribed. [Explanation—For the purposes of this section, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43 shall be deemed to be transfer.]
  Recommend that the provision of the proviso and explanation under section 50(2) of the IT Act, 1961 in respect of goodwill be restored.
  The proposed change results in policy change in the scheme of taxation of transfer of Goodwill. The intention of the IT Bill is not to make any policy change.

74.4.3 With respect to rewording of Clause 74(3)(b), it is suggested that:

- Since section 74(2) states that excess shall be deemed to be “capital gains arising from the transfer of short term capital assets”, similar language may be used in section 74(3)(b).
  Therefore, Section 74(3)(b) may be reworded as - (b) the income received or accruing as a result of such transfer or transfers shall be deemed to be short-term capital gains arising from the transfer of short-term capital assets.
  Different language in the sub-sections for different scenarios could result in unnecessary litigation when the ascribed meaning is intended to be the same in both the scenarios.

74.5 Examination by the Committee:

74.5.1 Response of the Ministry of Finance with respect to the suggestion regarding redrafting sub-clause (1) of Clause 74 :

> "This is a drafting correction and clause 74(1) may be modified to remove the reference to sub-clause (4). **This is acceptable**."

74.5.2 To the suggestion regarding restoration of the explanation of goodwill under Clause 74 sub-clause (3), the Ministry responded as under :

> "It was suggested that the provision of the proviso and explanation under section 50(2) of the IT Act, 1961 in respect of goodwill be restored. However, the Proviso was provided only for one year, i.e. AY starting on 01.04.2020 and it was meant to provide for taxation of goodwill on its removal from block of assets. Further, the Explanation refers to section 43(6)(c)(ii)(B) which is regarding the calculation of WDV of goodwill. However, "goodwill" itself was removed from the list of "intangible assets" in the definitions of Block of assets in Section 2(11) w.e.f 01.04.2021. Therefore the suggestion is not feasible."

74.5.3 During the Sitting, the representative of the Ministry shared details regarding the goodwill provision in the Income-tax Act and submitted that :

> "…the stakeholder is asking for a proviso in respect of goodwill which formed part of block of asset for only one particular year, that was 2020-21. So, that proviso is no longer applicable. That proviso was applicable only for one year. So, the goodwill treatment has changed from 2021…"

74.5.4 Responding to the suggestion regarding rewording of Clause 74(3)(b), the Ministry submitted that :

> "The short-term capital gains is defined as "capital gains arising from the transfer of short term capital assets" which is exactly what was used in clause 74(2). **However, this suggestion may be considered to ensure consistency in drafting**. Or, the corresponding change may be made in Clause 74(2) to ensure consistency within the Clause."

74.6 <u>Observations / Recommendations of the Committee:</u>

The Committee note that Clause 74 of the Income-tax Bill, 2025 defines a specific provision for computation of capital gains in case of depreciable assets and corresponds to Section 50 of the Income-tax Act, 1961. Upon careful deliberation of the provisions under sub-clause (1), the Committee note a

typographical error in the form of "sub-section (4)" within this sub-clause. Considering the response of the Ministry of Finance in this regard, the Committee recommend that this phrase may be deleted from sub-clause (1) in order to reflect the factually correct position and the said sub-clause may, therefore, be redrafted to read as :

"74(1) - … the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (2), (3)".

Further, the Committee observe that while "capital gains" in sub-clause (2) of Clause 74 have been specified to be "arising from the transfer of short-term capital assets", no such specification has been provided for "capital gains" mentioned under sub-clause (3)(b). Taking into consideration the response of the Ministry in this regard, the Committee feel that consistency in drafting must be ensured within the Clause. Therefore, for the sake of uniformity, the Committee recommend the addition of the phrase "arising from the transfer of short-term capital assets" in sub-clause (3)(b) and the same may be redrafted to read as :

"74(3)(b) - the income received or accruing as a result of such transfer or transfers shall be deemed to be short-term capital gains 'arising from the transfer of short-term capital assets'."

Furthermore, the Committee note that with respect to depreciation allowed on capital asset forming part of a block of assets, the provision mentioned under sub-clause (1) has a cross reference to the Income-tax Act, 1961 and also to the Indian Income-tax Act, 1922. The Committee are of the view that such cross referencing to the IT Act of 1961 or 1922 in the current Bill could result in a

cumbersome exercise of repeatedly referring to repealed Acts for referencing in future. Thus, to avoid any scope for complications in future, the Committee recommend that any reference to the IT Act, 1961 or 1922 be removed from the text of specific clauses and instead relevant provisions be created within the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961 or 1922. The Committee accept the remaining provisions under Clause 74 as proposed.

Clause 75 – Special provision for cost of acquisition in case of depreciable asset.

75.1 Provision proposed in the Income-Tax Bill, 2025:

75 .If depreciation has been obtained under section 33(*2*) for a capital asset in any tax year, the provisions of sections72 and 73 shall apply subject to the modification that the written down value, as defined in section 41, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

75.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (*i*) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (*6*) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

75.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> "Clause 75 of the Bill provides for computation of capital gains with respect to assets that are depreciable, as well as the provision for their cost of acquisition. This clause corresponds to section 50A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

75.4 Important Views/Suggestions given by Experts/Stakeholders:

75.4.1 Suggestion regarding Clause 75 :

- Restore the original provisions of the IT Act, section 50A and 32(1)(i) The current language of the Bill in section 75 and section 33(2) are referring to different class of assets and a different policy in respect of the referred assets as compared to the provisions of the IT Act. The proposed change results in a policy change. The intention of the IT Bill is not to make any policy change, only simplify the provisions of the Income-Tax Act, 1961.

75.5 Examination by the Committee:

75.5.1 Response of the Ministry to the above mentioned suggestion :

> "There seems to be no difference between the provisions of Clause 198(2)(a) in the Bill and those mentioned in the suggestion. The suggestion is not clear."

75.6 Observations / Recommendations of the Committee:

The Committee, after reviewing the provisions proposed under Clause 75, note that this clause relates to a special provision for calculating the capital gains to be taxed in respect of depreciable assets by adjusting the cost of acquisition to account for the depreciated value of the asset. The Committee also observe that while this clause corresponds with Section 50A of the Income-tax Act, 1961, the provisions proposed therein stay true to the content and intent as envisaged under the parent Act. Further, after careful deliberation of the replies and justifications furnished by the Ministry of Finance, the Committee, while expressing satisfaction with the submissions of the Ministry, accept the proposed the clause in entirety.

<u>Clause 76</u> – Special provision for computation of capital gains in case of Market Linked Debenture.

76.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

76. (*1*) Irrespective of anything contained in section 2(*101*) or section 72, the gains on the transfer or redemption or maturity, of a capital asset as mentioned in sub-section (*2*) shall be treated as short-term capital gains and shall be computed as per sub-section (*3*).

(*2*) For the purposes of sub-section (*1*), the capital asset shall be—

(*a*) a unit of a Specified Mutual Fund acquired on or after 1st April, 2023 or a Market Linked Debenture; or

(*b*) an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rdJuly, 2024.

(*3*) For the purposes of sub-section (*1*), the short-term capital gains shall be computed as per the following formula:—

X = A – B – C,

where,—

X = short-term capital gains;

A = full value of consideration received or accruing as a result of the transfer or redemption or maturity of the debenture or unit or bond;

B = the cost of acquisition of the debenture or unit or bond; and

C = the expenditure incurred wholly and exclusively for such transfer or redemption or maturity.

(*4*) No deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004.

(*5*) In this section,—

(*a*) “Market Linked Debenture” means a security, by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices, and include any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India; and

(*b*) “Specified Mutual Fund” means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market

instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—

(*i*) the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;

(*ii*) “debt and money market instruments” shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.

76.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50AA. [51][Notwithstanding anything contained in clause (*42A*) of section 2 or section 48, where the capital asset—

(*a*) is a unit of a Specified Mutual Fund acquired on or after the 1st day of April, 2023 or a Market Linked Debenture; or

(*b*) is an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd day of July, 2024,

the full value of consideration received or accruing as a result of the transfer or redemption or maturity of such debenture or unit or bond as reduced by—

(*i*) the cost of acquisition of the debenture or unit or bond; and

(*ii*) the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity,

shall be deemed to be the capital gains arising from the transfer of a short-term capital asset:]

Provided that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under the provisions of Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).

Explanation.— For the purposes of this section—

(*i*) "Market Linked Debenture" means a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India;

(*ii*) "Specified Mutual Fund" means a Mutual Fund by whatever name called, where not more than thirty five per cent of its total proceeds is invested in the

equity shares of domestic companies:

Provided that the percentage of equity shareholding held in respect of the Specified Mutual Fund shall be computed with reference to the annual average of the daily closing figures.]

Following clause (*ii*) shall be substituted for clause (*ii*) of *Explanation* to section 50AA by the Finance (No. 2) Act, 2024, w.e.f. 1-4-2026:

*(*ii*)* *"Specified Mutual Fund" means,--*

*(*a*)* *a Mutual Fund by whatever name called, which invests more than sixty-five per cent of its total proceeds in debt and money market instruments; or*

*(*b*)* *a fund which invests sixty-five per cent or more of its total proceeds in units of a fund referred to in sub-clause (*a*):*

Provided *that the percentage of investment in debt and money market instruments or in units of a fund, as the case may be, in respect of the Specified Mutual Fund, shall be computed with reference to the annual average of the daily closing figures:*

Provided further *that for the purposes of this clause, "debt and money market instruments" shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.*

76.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 76 of the Bill provides for special provision for computation of capital gains in case of Market Linked Debenture. This clause corresponds to section 50AA of the Act. The provisions of the existing section have been textually simplified by simplifying the language with the same intent as that of the existing section. The computation mechanism has been provided by way of formula/equation in clause 76(3)."

76.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

76.4.1 Suggestions pertaining to grandfathering provision for Specified Mutual Funds and for retaining language as used in Section 50AA :

- Removal of grandfathering for Specified Mutual Funds acquired before 1 April 2023 from deemed STCG treatment is unclear and may be an inadvertent drafting error. Substitution of 'expenditure wholly and exclusively incurred in connection with transfer' to 'for such transfer' may create ambiguity and litigation. Therefore, suggestions:
  i) Reinstate the grandfathering provision for units of Specified Mutual Funds acquired prior to 1 April 2023 in ITB 2025.
  ii)Continue the language employed in Section 50AA of ITA 1961 in Section 76 of ITB 2025 regarding expenditure incurred wholly and exclusively in connection with the transfer to avoid litigation.
- To prevent ambiguity and potential litigation regarding deductible expenses, it is recommended to retain the language from section 50AA of the Act in section 76 of the ITB. Specifically, the phrase "expenditure incurred wholly and exclusively **in connection with the transfer"** should be used instead of **"for such transfer"**. This would ensure continuity in the interpretation of deductible expenses and provide clarity to taxpayers in computing their capital gains.

76.4.2 Suggestion regarding Clause 76 (2) :

- It is suggested that this subsection 2 be split 3 ways as follows : For the purposes of sub-section (1), the capital asset shall be : (a) A unit of a Specified Mutual Fund acquired on or after 1st April 2023; OR (b) A Market Linked Debenture; OR (c) An unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after 23rd July 2024. This very clearly states that the Market Linked Debenture, whenever acquired, results in short-term capital gains. The language in the ITB leaves some uncertainty, where lay person interprets it to mean that the MLD would result in STCG only if acquired post 1st April 2023.

76.4.3 Suggestion regarding deletion of Clause 76 to prevent Market Linked Debentures (MLDs) being treated as Short Term Capital Gains (SCTG) :

- Section 76 causes distortions in investment decisions. Board notified instruments classified as Market Linked Debentures may suffer tax as Short Term Capital Gains although prior to such notification they were not to be so treated. A grandfathering provisions therefore to be incorporated in such cases. If it had been taxed as interest under the head 'Other Sources', interest paid on loans taken would have been available as a deduction which would be impermissible if the characterization is as capital gains. Thus, deletion of section 76 is suggested.

76.4.4 Suggestion regarding rewording of sub-clause (4) under Clause 76 :

- In computing the income chargeable under the head “Capital gains”, no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004.The proposed section does not mention the particular item from which deduction is not to be allowed. Such a clear reference is discernible in section 72(3). A language similar to that in section 72(3) of the Bill is proposed in section 76(4) also.

76.5 Examination by the Committee:

76.5.1 With respect to reinstating the grandfathering provision for units of Specified Mutual Funds acquired prior to 1 April 2023 in ITB 2025, the Ministry furnished that :

> "Grandfathering: The treatment of Specified Mutual Funds acquired prior to and post 1st April 2023 has been kept exactly the same in both the Bill (Clause 76) and Act (Section 50AA).
> Section 50AA was introduced to apply to Specific Mutual Funds defined in the Section, acquired on or after 01.04.2023. Clause 76 has similar language. The suggestion has no merits"

[Batch I, Sl. No. 86 part (i), Pg 76]

76.5.2 Further, during the Sitting of the Committee held on 26th May, 2025, the representative of the Ministry apprised the Committee about the issue of grandfathering and stated that :

> "…fundamentally, that grandfathering is already available. In the old provision, it is written that assets/units acquired before this date are exempted from this provision and after this date, these provisions are applicable. And the same provisions have been carried forward into the new Bill. The grandfathering has already been provided. No further grandfathering is required…"

76.5.3 Furthermore, with regard to continuing the language employed in Section 50AA of ITA 1961 in Clause 76 of ITB 2025 regarding expenditure incurred wholly and exclusively in connection with the transfer to avoid litigation, the Ministry in their response accepted that :

> "The phrase used in the IT Act, is preferable. This is a drafting correction and clause 76 may be redrafted to include the phrase ""expenditure incurred wholly and exclusively in connection with the transfer"" in line with the provisions of the ITA 1961. **This is acceptable**."

76.5.4 Responding the suggestion regarding Clause 76(2), the Ministry stated that :

> "The phrase "on or after 1st April 2023" is mentioned before "Market Linked debenture" and there is no doubt that this is not applicable to MLDs. This is only applicable for Specified Mutual Funds. This suggestion is already addressed."

76.5.5 In response to the suggestion regarding deletion of Clause 76 to prevent Market Linked Debentures (MLDs) being treated as Short Term Capital Gains (SCTG), the Ministry submitted that :

> "It is suggested that the Market Linked debentures (MLDs) purchased before the amendment in Section 50AA be allowed to have interest on

loans for them set off as deduction. The treatment of has been kept exactly the same in both the Bill (Clause 76) and Act (Section 50AA). Section 50AA was introduced to apply to MLDs defined in the Section, Clause 76 has similar language. The payout from MLDs is only at maturity and there is no income from other sources. Therefore, the concept of getting deduction for interest paid on loan taken is irrelevant. The only change brought in by Section 50AA was to treat MLDs as short-term capital assets irrespective of the period of holding. Therefore, this suggestion is not clear."

76.5.6 Responding to the suggestion regarding rewording of sub-clause (4) under Clause 76, the Ministry stated that :

"This is a drafting correction and clause 76 (4) may be redrafted as ""In computing the income chargeable under the head "Capital gains", no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004" in line with the provisions of the ITA 1961. **This is acceptable**."

76.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 76 of the Income-tax Bill, 2025 corresponds to Section 50AA of the Income-tax Act, 1961 and seeks to provide for a special provision for computation of capital gains in case of Market Linked Debenture by way of a defined formula/equation. After careful examination of the provisions contained in this clause, along with the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee find the proposed provisions to be broadly acceptable. Further, while taking note of the textual simplification, the Committee also observe that the intent and substance of the existing law have been retained in the proposed clause.

The Committee, however, observe that certain drafting refinements are desirable for improved clarity, consistency, and alignment with legislative intent. The Committee, therefore, recommend the following modifications :

1. **For the purpose of enhanced clarity, within the formula for computation of short term capital gains contained in Clause 76(3), the phrase "in connection with" be inserted within the provision contained under variable 'C' and the modified provision be read as :**

   "C= the expenditure incurred wholly and exclusively 'in connection with' such transfer for redemption or maturity".

2. **For making the provision contained in sub-clause (4) clearly discernible, the phrase "In computing the income chargeable under the head "Capital gains"," be inserted and the modified provision be read as :**

   "76(4) – 'In computing the income chargeable under the head "Capital gains"', no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004."

Subject to the above modifications, the Committee find the proposed provisions under Clause 76 to be acceptable.

<u>Clause 77</u> – Special provision for computation of capital gains in case of slump sale.

77.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

77. (*1*) Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long-term capital gains and shall be deemed to be the income of the tax year in which the transfer took place, subject to the provisions of sub-section (*2*).

(*2*) The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or divisions owned and held by an assessee for 36 months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.

(*3*) In relation to capital assets, being an undertaking or division transferred by way of slump sale,—

(*a*) the "net worth" of the undertaking or division shall be deemed as the cost of acquisition and the cost of improvement for sections 72 and 73; and

(*b*) the fair market value of the capital assets on the date of transfer, calculated in such manner, as prescribed, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(*4*) Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant, before the specified date referred to in section 63, and the report shall—–

(*a*) include the computation of the net worth of the undertaking or division; and

(*b*) certify that the net worth has been correctly arrived at as per the provisions of this section.

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

(*a*) the "net worth" shall be the "aggregate value of total assets" of the undertaking or division, as reduced by the value of its liabilities as appearing in the books of account, and for computing net worth, any change in the value of assets due to revaluation shall be ignored;

(*b*) the "aggregate value of total assets" shall,—

(*i*) for depreciable assets, be the written down value of the block of assets determined under section 41(*1*)(Table: Sl. No.3);

(*ii*) for capital asset being goodwill of a business or profession, which was not acquired by the assessee by purchase from a previous owner, be *nil*;

(*iii*) for capital assets for which the entire expenditure has been allowed or is allowable as a deduction under section 46, be *nil*; and

(*iv*) for other assets, be the book value.

77.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50B. (1) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place :

Provided that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

(2) In relation to capital assets being an undertaking or division transferred by way of such slump sale,—

(*i*) the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48;

(*ii*) fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(3) Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288 before the specified date referred to in section 44AB indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account :

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

Explanation 2.—For computing the net worth, the aggregate value of total assets shall be,—

(*a*) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (*c*) of item

(*i*) of sub-clause (*c*) of clause (*6*) of section 43;

(*aa*) in the case of capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner, *nil;*

(*b*) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil;* and

(*c*) in the case of other assets, the book value of such assets.

77.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 77 of the Bill provides for the computation of capital gains in the scenario of a slump sale of a capital asset. This clause corresponds to section 50B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

77.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

77.4.1 Suggestions regarding rewording of sub-clause (2) and reducing holding period in case of slump sale under Clause 77(2) :

- Reduce the period of holding to 24 months to qualify for long term capital gains. This will bring the period of holding to fall under short term capital asset, in line with the definition of Short Term Capital Asset under S 2(101)(a) of the IT Bill As the IT Bill proposes to streamline provisions, then, it is logical that no asset class should have a period of holding different than that provided in the definition section.

- Sub-section (2) may be reworded as given below- (2) The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or divisions owned and held by an assessee for 3624 months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.
  Section 77 contains the special provisions for computation of capital gain in case of slump sale. Section 77(2) provides that transfer under a slump sale of an undertaking held for "not more than 36 months" would be deemed to be capital gains from transfer of a short-term capital asset. Since the period of holding for treating capital assets as short-term and long-term are either 24 months or 12 months depending on the asset as per section 2(101), therefore, the period of holding for the undertaking transferred in slump sale to be treated as short term capital asset can be "not more than 24 months" in line with the period of holding of land and building.

77.4.2 Suggestion regarding incorporating cost accountants in practice under Clause 77(4) :

- 77(4) Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of a chartered accountant in practice or a cost accountant in practice, before the specified date referred to in section 63, and the report shall—
  Slump sale means sale of entire business as going concern with all assets and liabilities in one go.
  So for calculation of value of slump sale, the expertise of cost accountants is necessary. Hence, the cost accountants in practice may be allowed to furnish such a report.

77.5 <u>Examination by the Committee:</u>

77.5.1 Response of the Ministry of Finance regarding suggestions pertaining to rewording of sub-clause (2) and reducing holding period in case of slump sale under Clause 77(2) :

> "It was suggested to reduce the holding period in the case of slump sale from 36 months to 24 months. Slump sale is different from sale of any other capital asset and a shorter duration would enable misuse of the provision. This is a policy decision outside the mandate of the IT Bill, 2025."

77.5.2 Elaborating on the duration of holding period during the transfer of a capital asset under slump sale, the representative of the Department, during the Sitting, apprised the Committee that :

> "…We have provided slump sale for holding of capital asset as short term and long term. There is a limit of one year for listed and two years for others. But for slump sale, we have maintained a period of 36 months. Below 36 months, it is short term and above 36 months, it is long term. So, there is a differential treatment for slump sale which we are saying that it is justified because slump sale is different from sale of any other capital asset because a whole undertaking is being transferred. So, some guardrail has to be there. That is why, this is a different kind of transfer. So, 36 months is retained when we did that rationalization of capital gains. So, we have only retained this limit in the Act as well as in the Bill…"

77.5.3 To the suggestion regarding incorporating cost accountants in practice under Clause 77(4), the Ministry replied that :

> "The suggestion made by the stakeholder to incorporate "cost accountants" is not in line with the provisions of the IT Act 1961. This is in the nature of

policy change which is beyond the scope of the objectives of the IT Bill, 2025."

77.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, after a detailed examination of the provisions proposed under Clause 77 of the Bill, including the representations received from stakeholders and the rationale provided by the Ministry of Finance, observe that the proposed Clause seeks to govern the computation of capital gains in the event of a slump sale. The Committee note that the provisions under Clause 77 largely corresponding to those contained in Section 50B of the Income-Tax Act, 1961, and that the terminology and language have been simplified in the Bill for ease of reference without altering the legislative intent. The Committee observe that the concept of net worth, its computation methodology, and exclusions (such as ignoring revaluation of assets) have also been retained with appropriate clarification. Accordingly, the Committee find that the provisions proposed under Clause 77 are aligned with the objective of providing clarity, consistency, and continuity with the existing legal framework. The Committee, therefore, accept the provisions under Clause 77 as proposed.

Clause 78 – Special provision for full value of consideration in certain cases

78.1 Provision proposed in the Income-Tax Bill, 2025:

78. (*1*) If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:–

(*a*) the stamp duty value on the date of agreement may be taken as the full value of consideration, if—

(*i*) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and

(*ii*) part or full consideration is received on or before the date of the agreement by an account payee cheque or account payee bank draft or electronic clearing system through a bank account or any other electronic mode, as prescribed;

(*b*) if the stamp duty value does not exceed 110% of the consideration received or accruing, such consideration shall be deemed to be the full value of the consideration for section 72.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, and the provisions of sections 269(*3*) to (*8*), shall, with necessary modifications, apply in relation to such reference, where—

(*a*) the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer; and

(*b*) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

(*3*) In this section, "assessable" means the value which any authority of the Government would have adopted or assessed as if it were referred to such authority for the purposes of payment of stamp duty, regardless of anything to the contrary contained in any other law in force.

(*4*) If the value determined by the Valuation Officer on a reference made under sub-section (*2*) exceeds the stamp duty value, such stamp duty value shall be taken as the full value of consideration.

78.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50C. (1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer :

Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, on or before the date of the agreement for transfer:

Provided also that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration.

(2) Without prejudice to the provisions of sub-section (1), where—

(*a*) The assessee claims before any Assessing Officer that the value adopted or assessed or assessable by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;

(*b*) the value so adopted or assessed or assessable by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (*i*) of sub-section (1) and sub-sections (6) and (7) of section 23A, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

Explanation 1.—For the purposes of this section, "Valuation Officer" shall have the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

Explanation 2.—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.

(3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted or assessed or assessable by the stamp valuation authority referred to in sub-section (1), the value so adopted or assessed or assessable by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.

78.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 78 of the Bill provides for special provision for full value of consideration in certain cases. This clause corresponds to section 50C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

78.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

78.4.1 Suggestion regarding creating a new different sub-section from sub-clause 78(1)(b) :

- Sub-clause (b) of section 78(1) must be a different sub-section to give better clarity on the determination of full value of consideration.
  If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:— (a) the stamp duty value on the date of agreement may be taken as the full value of consideration, if— (i) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and (ii) part or full consideration is received on or before the date of the agreement by an account payee cheque or account payee bank draft or electronic clearing system through a bank account or any other electronic mode, as prescribed;

78.4.2 Suggestion regarding extending the 10% tolerance band to the value of asset determined by the Valuation Officer under Clause 78(4) :

- Sub-section (5) may be inserted after subsection (4) - (5) Where the value adopted or assessed or assessable by the stamp valuation authority or the value determined by the Valuation Officer, as the case may be, does not exceed 110% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the

transfer, shall, for the purposes of section 72, be deemed to be the full value of consideration received. A tolerance band of 10%, therefore, applies when the stamp duty value is determined by the Stamp Valuation Authority as per section 78(1). However, it is not clear whether the 10% tolerance band is also applicable to the value determined by the Valuation Officer, on a reference being made by the Assessing Officer under section 78(2). When the valuation is referred to the Valuation Officer and the officer determines a value lower than the stamp duty value, this lower value is taken as the full value of consideration. However, it is not clear whether the 10% tolerance band would also apply to such valuation.

78.5 <u>Examination by the Committee:</u>

78.5.1 Responding to the suggestion regarding creating a new different sub-section from sub-clause 78(1)(b), the Ministry of Finance submitted that :

> "The suggestion seeks to make a sub-clause as a sub-section. The provision has been kept exactly the same in both the Bill (Clause 78) and Act (Section 50C).The sub-clause (b) is part of 78(1) and thus it implicitly means that this is for the "purposes of 78(1). Therefore a different sub-section as suggested is not required. This has been already addressed in the Bill."

78.5.2 Regarding suggestion for extending the 10% tolerance band to the value of asset determined by the Valuation Officer under Clause 78(4), the Ministry submitted that :

> "It is suggested that the tolerance band of 10% be extended on the value determined by DVO. The provisions of 78(4) allow for the lower value to be taken between the SDV and Valuation officer's determination. The 10% band is not applicable here and is given only for the difference between the SDV and actual consideration paid. There is no overlap between these two conditions. Allowance of 10% band on DVO value where it is lower than SDV tantamounts to questioning the valuation itself. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

78.5.3 Giving a detailed explanation of the application of tolerance band to the value of an asset assessed by the Departmental Valuation Officer (DVO), the representative of the Ministry, during the Sitting, apprised the Committee that :

"…the Act provides that if the Departmental Valuation Officer (DVO) determines a value of the property which is more than the stamp duty value then the stamp duty value shall be taken as the full value of consideration.
We have provided a benchmark. The stamp duty valuation is final now. If DVO assesses less than this, then that value will be taken. But that is already less than the stamp duty value. The Act provides ten per cent tolerance band in case we are taking the stamp duty value. If it is Rs. 5,00,000 and somebody has purchased it in Rs. 4,50,0000, we say that up to Rs. 4,50,000 it is okay. If it is below that then the difference amount will be taxed as that will become your income…
…Suppose there is a house in Vasant Vihar which is being sold and the stamp duty value is Rs.5 crore. I say that I have sold it for Rs.4.5 crore. My capital gains will be computed on Rs.4.5 crore only, not on 5 crores because of that ten per cent window. I give a ten per cent window from Rs.5 crore to come up to Rs.4.5 crore and nothing below than that…"

78.5.4 Further elaborating on the process followed for valuation of an asset in scenarios such as distress sale, the representative apprised the Committee that :

"…For that, you can challenge the Assessing Officer and he is bound to refer it to the Departmental Valuation Officer. Again, he will go through the entire process and he will determine the fair market value…
…. We have provided two provisions. If the person challenges the stamp duty value itself, which is fixed and if he wins, he will get the benefit here.
Secondly, if he has not challenged that but says that due to all these reasons, my value is correct and the fair market value is less than the stamp duty value then the matter goes to DVO. He takes into consideration all these facts and determines the correct value…
… Once it goes to DVO, you need not pay the tax till the DVO reports come. There was some issue in that also which we have addressed in the current Bill so that when it goes to DVO in all sections, we get six months of time and after that only the order is made…"

78.5.5 Furthermore, explaining about the process for valuation followed in cases where the value gained on sale of an asset is much below the stamp duty value, the representative submitted that :

"…in that case, the assessee will have to write to the Assessing Officer that the value at which I have sold the property is correct. The stamp duty value may be higher. But my value is correct.
Then the Assessing Officer will refer the matter to DVO. Our DVOs are on deputation from CPWD. They are civil engineers. They will give you an opportunity and you will put up your case before them. After taking all the considerations into account, they will determine what should be the value…
…we take the value of every property where it is registered. A value is

determined by the Registration Officer. We take that value for that particular property..

…In the existing Act, it is Section 50C. So, Proviso 4 provides this tolerance limit. It says:

> "Provided also that where the value adopted or assessed or accessible by the Stamp Valuation Authority does not exceed 110 per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of Section 48, be deemed to be the full value of consideration."

So, it clearly says, Sir, if 10 per cent margin has been given, so Stamp Duty Valuation Officer says Rs. 5 crore, I have sold it for 4 crore 50 lakhs, it is fine. I will pay tax as per Rs. 4 crore 50 lakhs. Sir, when it goes to DVO, previously also it was a separate section. There, another tolerance limit has been provided. It says, even if the DVO assesses it more than the Stamp Valuation Authority, suppose the DVO says the property should have been of Rs. 6 crore, even in that case, we will be taxing only up to Rs. 5 crore…"

78.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, after thorough deliberation upon the proposal made in Clause 78 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions align with the policy objective of simplifying and clarifying the legal framework. The Committee observe that Clause 78 retains the essential features of the corresponding provisions under Section 50C of the Income-Tax Act, 1961. The Committee further note that while the structure and drafting of the provision have been simplified, the substantive content and intent remain unchanged from the existing law. Accordingly, the Committee find that the Clause promotes legal clarity without altering the underlying principles. The Committee, therefore, accept the provisions under Clause 78 as proposed.

Clause 79 – Special provision for full value of consideration for transfer of share other than quoted share

79.1 Provision proposed in the Income-Tax Bill, 2025:

79. (*1*) If the consideration received or accruing from the transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in the manner as prescribed, the value so determined shall be deemed as the full value of considerationreceived or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains".

(*2*) The provisions of sub-section (*1*) shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions, as prescribed.

(*3*) In this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

79.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50CA. Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer:

Provided that the provisions of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

79.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 79 of the Bill provides for special provision for full value of consideration for transfer of share other than quoted share. This clause corresponds to section 50CA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

79.4 Important Views/Suggestions given by Experts/Stakeholders:

79.4.1 Suggestion regarding modification of the language of Clause 79 to retain a phrase similar to Section 50CA of ITA 1961, clarifying that the substitution of fair market value will be for the purposes of Section 72 of ITB 2025 only :

- Section 79 makes reference to "computing income under the head 'capital gains'" and not to Section 72 (corresponding to Section 48 of ITA 1961). This can lead to controversy in respect of applicability of S. 79 to other sections under "capital gains" which provide a mechanism for determination of full value of consideration [such as Section 67(9) of ITB 2025 (corresponds to section 45(3) of ITA 1961) on transfer of capital asset by partner to firm], potentially subjecting them to Section 79.Modify the language of Section 79 to retain a phrase similar to Section 50CA of ITA 1961, clarifying that the substitution of fair market value shall be for the purposes of Section 72 of ITB 2025 only.

79.4.2 Suggestions regarding Clause 79 which have also been clubbed with Clause 92(2)(m) :

- Currently certain deeming provisions with valuation rules (e.g., 50CA, 50B, 56(2)(x), etc.) intended to be Anti-Tax Avoidance Rules ('ATAR') are part of charging provisions and hence apply as a default rule, creating uncertainties for genuine commercial transactions and leads to unnecessary litigation. Certain provisions lead to double taxation for buyer and seller. (S.50CA and 56(2)(x) of the Act/ S.79 & 92 of Bill). Only real income should be brought to tax, and notional norms should be removed, as they are burdensome, litigative and erodes investors confidence. Safeguard in the form of GAAR is available for dubious structures.

- To avoid litigation and ensure that genuine transactions are not adversely affected, it is essential to clarify that the provisions of sections 50CA and section 56(2)(x) of the Act do not apply to bona fide transactions supported by proper documentation and commercial negotiations. A proviso should be added to clarify that sections 50CA and section 56(2)(x) of the Act do not apply to genuine bonafide transactions, particularly those backed by robust commercial negotiations and valuation reports.

- 1. The only exemption provided is for transfer of a capital asset between holding company and its wholly owned subsidiary. Genuine transaction between group companies for realignment of shareholding is not given specific exemption from provisions of sections 50CA and 56(2)(x).
  If the taxpayers obtains any undue tax benefits, GAAR provisions can be invoked by tax authorities to deny such benefit. Transfer of shares amongst ultimate holding and any step-down subsidiary or amongst fellow subsidiaries should be exempted from the applicability of capital gains tax

and IFOS. For consistency, the definition of holding company and subsidiary company should be defined as per the Companies Act, 2013.
2. Transfer of shares to a 'relative' for consideration lower than FMV are though exempted in the hands of transferee relative, however, If transfer is done at price lower than FMV, then differential of FMV and transfer price will become taxable in the hands of transferor relative u/s 50CA. Further, the section does not exempt the transfer of assets between relatives on account of family settlement. Transfer of shares between relatives for consideration lower than FMV or on account of family settlement should be exempted from the applicability of section 50CA and section 56(2)(x)
3. In case of transfer of shares of a listed company through an off-the-exchange transaction at a pre-determined value, anti-abuse gains shall arise in case the traded price is higher than the pre-determined price on the date of transfer. This would create an unnecessary hardship for the acquirer by taxing notional gains arising from under a genuine transaction. Transfer of shares of a listed company through an off-the-exchange transaction at a pre-determined value should be exempted from the applicability of section 56(2)(x).

79.5 <u>Examination by the Committee:</u>

79.5.1 Responding to the suggestion regarding modification of the language of Clause 79, the Ministry submitted that :

> "For the purpose of removing ambiguity and possible litigation, the reference to section 48 (Clause 72 in ITB) used in the IT Act, is preferable and the suggestion is acceptable.
> **The suggestion is in the nature of a drafting correction**."

79.5.2 Response of the Ministry with respect to suggestions pertaining to Clause 79 which have also been clubbed with Clause 92(2)(m) and which stated that on the issue of real income being brought to tax, and notional norms being removed, as they are burdensome, litigative and erode investors confidence :

> "Suggestion seeks GAAR provisions be applied instead of Section 50CA and 56(2)(x). These are specific provisions to deal with specific cases of valuation. Usage of GAAR for such specific cases would dilute the purpose of GAAR. Additionally, GAAR would be too cumbersome to be invoked for cases where sale of property is at less than FMV/Stamp Duty Value. GAAR is used only in very few cases and it cannot substitute Section 50CA which is automatically applied. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

"The suggestion seeks to amend 50CA and 56(2)(x) so that these provisions that call for determination of Fair Market Value do not apply to "bona fide" transactions. 'Bona fide' is a subjective term and open to litigation. Undervaluation of shares and other assets is rampant and provision for anti-abuse are needed. This suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

"It is suggested that the transfer of unquoted shares among group companies, relatives/family settlement or by a listed company should not be subject to determination of Fair Market Value as called for in section 50CA/56(2)(x). These are anti-abuse provisions. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

79.6 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that Clause 79 of the Income-tax Bill, 2025 relates to a special provision for full value of consideration for transfer of share other than quoted share and is synonymous with Section 50CA of the Income-tax Act, 1961. After careful examination of the provisions contained in this clause, along with the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee note that though the provision under sub-clause (1) has been textually simplified, no reference to Clause 72 is found in the said provision, thereby relinquishing the original legislative intent and giving way to ambiguity and possible litigation. Therefore, the Committee recommend that the language of sub-clause (1) be modified to retain the reference to Clause 72 and the provision under Clause 79(1) be suitably amended to stay true to its original intent.

Subject to the above modification, the Committee find the provisions under Clause 79 to be acceptable.

Clause 80 – Fair market value deemed to be full value of consideration in certain cases

80.1 Provision proposed in the Income-Tax Bill, 2025:

80.If the consideration received or accruing from the transfer of a capital asset is not ascertainable or is unable to be determined, its fair market value on the date of transfer shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head “Capital gains”.

80.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

50D. Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

80.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> “Clause 80 of the Bill provides that the fair market value shall be deemed to be the full value of consideration as a result of transfer of a capital asset by an assessee in cases where the consideration is not ascertainable or cannot be determined. This clause corresponds to section 50D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

80.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestion regarding Clause 80 :

- The phrase "cannot be determined" suggests an impossibility or a situation where it is not possible to ascertain the consideration due to lack of information or inherent complexity, setting a high bar for using FMV. The revised phrase "unable to be determined" could give the Tax Authority more discretion, potentially leading to more frequent use of FMV and litigation.
  Retain the phrase “cannot be determined” as in Section 50D of ITA 1961 in Section 80 of ITB 2025 to avoid ambiguity and litigation.

80.5 Examination by the Committee:

Response of the Ministry regarding above mentioned suggestion :

> “For the removal of ambiguity, this is acceptable. Accordingly, the phrase may be replaced by “cannot be determined”.

80.6 Observations/Recommendations of the Committee:

The Committee note that Clause 80 of the Income-tax Bill, 2025 corresponds with Section 50D of the Income-tax Act, 1961 and prescribes that fair market value of the transferred capital asset be deemed to be the full value of consideration for taxation in cases where the same is not ascertainable. After careful consideration of the views/suggestions made by the stakeholders and the justification provided by the Ministry of Finance, the Committee, however, observe that the phrase "cannot be determined" is better suited compared to the revised phrase "unable to be determined" when referring to the gains accruing from the transfer of a capital asset. Therefore, with a view to avoid any scope for ambiguity or future litigations, the Committee recommend that the said phrase be replaced and accordingly, the modified clause be read as :

"80 - If the consideration received or accruing from the transfer of a capital asset is not ascertainable or 'cannot be determined', its fair market value on the date of transfer shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains"."

Clause 81 – **Advance money received.**

81.1 Provision proposed in the Income-Tax Bill, 2025:

Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations—

(*a*) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition;

(*b*) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(*2*)(*h*).

81.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Advance money received.

51. Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition :

Provided that where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year in accordance with the provisions of clause (*ix*) of sub-section (2) of section 56, then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

81.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 81 of the Bill provides for advance money received regarding the transfer of a capital asset. This clause corresponds to section 51 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

81.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestions regarding Clause 81(b) :

- Clause 81(b) of the New Bill / Section 51 of the current Law specifies that any advance money received and retained by a taxpayer during negotiations for the transfer of a capital asset should not be deducted from

the asset's cost if such amounts are included in the taxpayer's total income under section 56(2)(ix) of the current law/ clause 92(2)(h) of the new Bill.
The New Bill does not address whether amounts included in total income under the Current Law for tax years prior to 2026-27 should also be excluded from reduction, creating ambiguity. To address this, it is recommended that Clause 81(b) be revised to specify that no reduction is necessary when forfeited sums have already been taxed under the Current Law.

- In proposed section 81(b), there is no reference to the provisions of section 56(ix) which ought to be included. Further, the term used is 'retained' while in the present act the terms used are 'forefeited and the negotiations do not result in transfer'. The use of term 'retained' does not convey the meaning as required. Hence, the same be modified as under:
81. Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and forfeited retained and the transfer has not taken place, by the assessee in respect of such negotiations— (a) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition; (b) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(2)(h) or section 56(ix) of the Income-tax Act, 1961.

81.5 <u>Examination by the Committee:</u>

81.5.1 Responses of the Ministry of Finance corresponding to the aforementioned suggestions :

"This suggestion is already addressed. This is covered by the provisions of Repeal and Savings in Clause 536 of the Income-Tax Bill, the relevant provisions are as follows :536(2)(b): affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;"

"(i) The suggestion seeks reference to IT Act provision. The reference to clause 92(2)(h) of Bill has been made in the provisions of clause 81 in sub-clause (b). The explicit reference to 56(2)(ix) of Act has not been made as this is covered under the Repeal and savings clause in section 536.
(ii) The suggestion seeks to substitute 'retained' with 'forfeited'. The words "forefeited" and 'retained' cover different types of situations. The phrase "retained" has been used in the corresponding provisions in both the Bill and the Act. The suggestions have already been addressed in the Bill."

81.5.2 Elaborating on laws relating to money received and retained by the taxpayer during negotiations, the representative of the Ministry informed the Committee during the Sitting that :

> "…they are saying is that if any advance money has been received for some transaction and it is retained, and if it is received prior to the coming of the new IT Bill, then, you provide some repeal and savings for that also. In our repeal and savings, there is a specific Clause 536 2(b) which clearly says, 'Affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act'. They will be saved. So, this will be covered by that. No specific saving is required. This time, we have provided a very detailed repeal and savings this time and try to cover whatever is there…"

81.5.3 Regarding retention of the phrases 'retained' and 'forfeited', the representative of the Ministry apprised the Committee as under :

> "…the stakeholder is seeking a reference to an income tax provision. We are referring to 92H. There, sir, the reference to the clause of this has been made in provisions of 81B. So, explicit reference has not been made as this is covered in repeal and saving. Part of it, we are saying repeal and saving, and then there is another suggestion where it is said that we should substitute retained with forfeited. So, 'retained' and 'forfeited', we are saying it is used in different contexts. They have different meanings. Forfeited is different and where money is retained as an advance, that has different treatment. So, they are required to be retained…"

81.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 81 of the Income-tax Bill, 2025 provides for advance money received regarding the transfer of a capital asset and corresponds to Section 51 of the Income-tax Act, 1961. After a detailed examination of the provisions proposed under Clause 81 of the Bill, including the representations received from stakeholders and the rationale provided by the Ministry of Finance, the Committee observe that the proposed Clause seeks to define the structure for dealing with advance payments received during negotiations for transfer of a capital asset. The Committee also note that in the

provisions contained under this Clause, the terminology and language have been simplified for ease of reference without altering the legislative intent. Further, the Committee observe that the provisions proposed under this Clause seek to prevent tax avoidance by providing an unambiguous framework for the treatment of advance money received as capital gains during transfer of capital asset and have also been retained with appropriate clarification. Accordingly, the Committee find that the provisions proposed under Clause 81 are aligned with the objective of providing clarity, consistency, and continuity with the existing legal framework. The Committee, therefore, accept the provisions under Clause 81 as proposed.

Clause 82 – **Profit on sale of property used for residence.**

82.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where an individual or Hindu undivided family—

(*a*) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (original asset); and

(*b*) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not used by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(*3*) For the purposes of sub-section (*1*), the amount, already utilised for purchasing or constructing the new asset, together with the deposited amount under sub-section (*2*) shall, subject to sub-section (*7*), be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) If the capital gains under sub-section (*1*) does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(*a*) for the purposes of sub-section (*1*)(*b*), “one residential house in India” shall be read as “two residential houses in India”; and

(*b*) for the purposes of sub-sections (*1*)(*b*) and (*2*), “new asset” shall mean two residential houses in India.

(*6*) If during any tax year, the assessee has exercised the option mentioned in sub-section (*5*), he shall not be entitled to exercise such option for the same tax year or any other tax year.

(*7*) If the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*1*).

(*8*) If the capital gains on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*2*).

82.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Profit on sale of property used for residence.

54. (1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the residential house so purchased or constructed (hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the

case may be, the cost shall be reduced by the amount of the capital gain:

Provided that where the amount of the capital gain does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(*a*) the provisions of this sub-section shall have effect as if for the words "one residential house in India", the words "two residential houses in India" had been substituted;

(*b*) any reference in this sub-section and sub-section (2)to "new asset" shall be construed as a reference to the two residential houses in India:

Provided further that where during any assessment year, the assessee has exercised the option referred to in the first proviso, he shall not be subsequently entitled to exercise the option for the same or any other assessment year:

[52-54][**Provided also** that where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of this sub-section.]

(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall [52-54][, subject to the third proviso to sub-section (1)] be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) theassessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid:

[52-54][**Provided further** that the capital gains in excess of ten crore rupees shall not be taken into account for the purposes of this sub-section.]

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

82.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 82 of the Bill provides for the capital gains arising from profits on sale of residential properties not to be charged in certain cases. This clause corresponds to section 54 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

82.4 Important Views/Suggestions given by Experts/Stakeholders:

82.4.1 Suggestion regarding Clause 82(1) :

- Sub-section (1) of section 82 may be redrafted as follows - 82. (1) Where an individual or Hindu undivided family–– (a) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (original asset); and b) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset), then, instead of the capital gain being charged to incometax as income of the tax year in which the transfer took place, it shall be dealt with as follows:— (i) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, ~~and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be nil~~; or (ii) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 ~~and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains~~. Sub-section (1A) may be inserted – **If the new asset is transferred within two years of its purchase or construction, the capital gains not charged under section 67 on the basis of the cost of such new asset as per sub-section (1) shall be charged as capital gains of the tax year in which such new asset is transferred.** If the new asset is sold or transferred within 3 years, the manner in which the earlier exempted capital gains is subject to tax varies in sections 82, 83, 84 , 85 and 86. In sections 82,83 and 84, the earlier exempted capital gains is reduced from the cost, whereas sections 85 and 86 deems the capital gains not charged to tax earlier as income chargeable to tax of the year in which the transfer of the new asset takes place. Moreover, whereas the period of holding of an asset to be treated as long-term is "more than 24 months", the minimum period of holding of new asset is 3 years in sections 82 to 86 (except section 85, where it is 5 years). The minimum period of holding of new asset be reduced from 3 years to 2 years in line with the minimum period of holding of an asset to be treated as long-term capital asset under section 2(67) read with 2(101). In case of the new asset is not held for a minimum period of 2 years, the capital gains exempt earlier should be deemed as income chargeable to tax in the year of transfer of the new asset. This should be

the consequence of transfer of new asset before the minimum period of 2 years in all sections [sections 82 to 86 (except section 85)].

82.4.2 Suggestion regarding Clause 82(2) :

- With respect to 82(2)- Purchase or construction must be done before filing return of income under section 263(1) and not under a belated or other type of return under section 263.The return can be updated or belated as well. Updated return can be filed upto 4 years. There may be contentions that purchase or construction can be done upto 4 years as well. Thus, to give better clarity, reference to section 263(1) to be mentioned, as to the date by which the property has to be purchased or constructed, absent which, the consideration alternatively may be deposited as per the notified scheme.

  Proposed Provision: If the capital gains is not used by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263(1), then— (a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government; (b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and (c) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

82.4.3 Suggestion regarding Clauses 82 to 86 :

- There are too many scenarios under which the specific exemption from capital gains is provided. Recommend that these sections be collapsed into one single section with the benefit to be provided and all the conditions and restrictions for the sale of various assets be captured in a separate schedule. These sections are some of the most litigated sections, due to misinterpretation and confusion arising out of very small difference in the description of specific assets for which the exemption is provided. This suggested change will make it easier to understand the differentiation and better understood by the lay persons so as to reduce litigation.

82.5 <u>Examination by the Committee:</u>

82.5.1 Response of the Ministry to the suggestion regarding redrafting of Clause 82(1):

"It is suggested that the holding period of the new asset under this clause 82 where exemption from capital gains is taken be reduced from 3 years to 2 years. It is a beneficial roll over provision where benefit is allowed on condition that asset is retained for a reasonable period. A period of 3 years is prescribed as it is reasonable. This is not connected to the period of holding of an asset to be treated as long-term or short-term. This

suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill. 2025."

82.5.2 Explaining the provisions under Clause 82(1), the representative of the Ministry apprised the Committee that :

"…this relates to rollover provisions for capital gains. So, capital gains, it is claimed exempt, and then it is to be invested in new asset. For investing in new asset, the period is three years. So, it is a beneficial provision. Three years is a reasonable period. So, that is what we are saying…"

82.5.3 Response of the Ministry to the suggestion regarding Clause 82(2) :

"The suggestion seeks that date for utilisation for capital gains be provided as return filing due date rather than date under s. 263 (which includes time available for belated return). The insertion of 263(1) would give the assessee less time to purchase the new asset when compared to the present provisions. Therefore the suggestion is not feasible."

82.5.4 Elaborating on this further, the representative of the Ministry stated that :

"…the suggestion is that utilization for capital gain be provided as return filing due date rather than date under Section 263, which includes time available for billeted return. Sir, this is actually against the taxpayer. So, because we are providing for time available for capital gain utilization, they are saying that it should be return filing due date. Return filing due date comes earlier than the date for belated return. So, this insertion, if we accept the suggestion, it will give less time to the taxpayer to utilize his capital gains…"

82.5.5 Response of the Ministry regarding suggestion pertaining to Clauses 82 to 86 :

"There are a number of subtle differences in the provisions which are not uniform in nature. Therefore, tabular formulations would not be conducive for easy reading. Therefore, it may not be feasible to act upon the suggestion."

82.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, after careful consideration of the proposal contained in Clause 82 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be appropriate. The Committee, noting the Ministry's

justification, observe that Clause 82 corresponds to Section 54 of the Income-Tax Act, 1961, and that the drafting has been simplified without altering the substantive scope or legislative intent of the existing provision. Accordingly, the Committee accept the Clause as proposed.

<u>Clause 83</u> – Capital gains on transfer of land used for agricultural purposes not to be charged in certain cases

83.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

83. (*1*) Where an assessee, being an individual or a Hindu undivided family,—

(*a*) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and

(*b*) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset),

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for purchase of the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which two years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the scheme referred to in sub-section (*2*).

83.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.

54B. (1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset being land which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee being an individual or his parent, or a Hindu undivided family for agricultural purposes (hereinafter referred to as the original asset), and the assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced, by the amount of the capital gain.

(2) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139 in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and

(*ii*) The assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

83.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 83 of the Bill provides for capital gains on transfer of land used for agricultural purposes not to be charged in certain cases. This clause corresponds to section 54B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

83.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestion regarding Clause 83(1) :

- **Section 83(1) be reworded as follows** - 83. (1) Where an assessee, being an individual or a Hindu undivided family,— (a) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and (b) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset), then, instead of the capital gains being charged to incometax as income of the tax year in which the transfer took place, it shall be dealt with as follows:— (i) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, ~~and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be nil~~; or (ii) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, ~~and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.~~ Sub-section (1A) may be inserted – **(1A) If the new asset is transferred within two years of its purchase, the capital gains not charged under section 67 on the basis of the cost of such new asset as per sub-section (1) shall be charged as capital gains of the tax year in which such new asset is transferred.**

  If the new asset is sold or transferred within 3 years, the manner in which the earlier exempted capital gains is subject to tax varies in sections 82, 83, 84, 85 and 86. In sections 82,83 and 84, the earlier exempted capital gains is reduced from the cost, whereas sections 85 and 86 deems the capital gains not charged to tax earlier as income chargeable to tax of the year in which the transfer of the new asset takes place. Moreover, whereas the period of holding of an asset to be treated as long-term is "more than 24 months", the minimum period of holding of new asset is 3 years in sections 82 to 86 (except section 85, where it is 5 years). The minimum period of holding of new asset be reduced from 3 years to 2 years in line with the minimum period of holding of an asset to be treated as long-term capital asset under section 2(67) read with 2(101). In case of the new asset is not held for a minimum period of 2 years, the capital gains exempt earlier should be deemed as income chargeable to tax in the year of transfer of the new asset.

This should be the consequence of transfer of new asset before the minimum period of 2 years in all sections [sections 82 to 86 (except section 85)].

83.5 Examination by the Committee:

Response of the Ministry with respect to the suggestion :

> "It is suggested that the holding period of the new asset under this clause 83 where exemption from capital gains is taken be reduced from 3 years to 2 years. It is a beneficial roll over provision where benefit is allowed on condition that asset is retained for a reasonable period. A period of 3 years is prescribed as it is reasonable. This is not connected to the period of holding of an asset to be treated as long-term or short-term. This suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill. 2025."

83.6 Observations/Recommendations of the Committee:

The Committee note that Clause 83 of the Income-tax Bill, 2025 corresponds to Section 54B of the Income-tax Act, 1961 and provides for exemption of capital gains from being taxed in certain cases regarding transfer of land used for agricultural purposes. The Committee also understand that this clause introduces a structure where capital gains accrued from the transfer of agricultural land are not immediately taxed if these are reinvested in new agricultural land within a specified period of time. Further, after careful deliberation of the views/suggestions give by stakeholders and the justification provided by the Ministry of Finance, the Committee concur with the retention of the original intent and the textual simplification of the provisions and therefore, accept the clause as proposed.

Clause 84 – Capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases.

84.1 Provision proposed in the Income-Tax Bill, 2025:

84. (*1*) Where an assessee has—

(*a*) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and

(*b*) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

84.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.

54D. (1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking (hereafter in this section referred to as the original asset), and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

(2) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the

case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) The assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

84.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 84 of the Bill provides for capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases. This clause corresponds to section 54D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

84.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestion pertaining to rewording of Clause 84(1) :

- Section 84(1) be reworded as follows - 84. (1) Where an assessee has— (a) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and; (b) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset), then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:— (i) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67 , ~~and for computing any capital gains arising from the transfer of the new asset~~

~~within three years of its purchase or construction, the cost shall be nil~~; or (ii) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 ~~and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.~~
(1A) If the new asset is transferred within two years of its purchase or construction, the capital gains not charged under section 67 on the basis of the cost of such new asset as per sub-section (1) shall be charged as capital gains of the tax year in which such new asset is transferred.
If the new asset is sold or transferred within 3 years, the manner in which the earlier exempted capital gains is subject to tax varies in sections 82, 83, 84 , 85 and 86. In sections 82,83 and 84, the earlier exempted capital gains is reduced from the cost, whereas sections 85 and 86 deems the capital gains not charged to tax earlier as income chargeable to tax of the year in which the transfer of the new asset takes place. Moreover, whereas the period of holding of an asset to be treated as long-term is "more than 24 months", the minimum period of holding of new asset is 3 years in sections 82 to 86 (except section 85, where it is 5 years). The minimum period of holding of new asset be reduced from 3 years to 2 years in line with the minimum period of holding of an asset to be treated as long-term capital asset under section 2(67) read with 2(101). In case of the new asset is not held for a minimum period of 2 years, the capital gains exempt earlier should be deemed as income chargeable to tax in the year of transfer of the new asset. This should be the consequence of transfer of new asset before the minimum period of 2 years in all sections [sections 82 to 86 (except section 85)].

84.5 <u>Examination by the Committee:</u>

Response of the Ministry of Finance on suggestion pertaining to rewording of Clause 84(1) :

> "It is suggested that the holding period of the new asset under this clause 84 where exemption from capital gains is taken be reduced from 3 years to 2 years. It is a beneficial roll over provision where benefit is allowed on condition that asset is retained for a reasonable period. A period of 3 years is prescribed as it is reasonable. This is not connected to the period of holding of an asset to be treated as long-term or short-term. This suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill. 2025."

84.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, after careful consideration of the provisions contained in Clause 84 of the Income-tax Bill, 2025 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be appropriate. While noting the justifications provided by the Ministry of Finance, the Committee also observe that Clause 84 corresponds to Section 54D of the Income-Tax Act, 1961, and that the drafting of the provisions under this Clause has been simplified without altering the substantive scope or legislative intent of the existing provision. Accordingly, the Committee accept the provisions under Clause 84 as proposed.

Clause 85 – Capital gains not to be charged on investment in certain bonds.

85.1 Provision proposed in the Income-Tax Bill, 2025:

85. (*1*) Where an assessee has—

(*a*) long-term capital gains arising from the transfer of land or building, or both, (original asset); and

(*b*) within six months after the date of such transfer, invested whole or part of the capital gains in a long-term specified asset (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the capital gains exceed the investment in the new asset, the amount of capital gains as exceeds such investment shall be charged under section 67; or

(*ii*) if the capital gains is equal to or less than the investment in the new asset, the whole of such capital gains shall not be charged under section 67.

(*2*) For the purposes of sub-section (*1*), investment made in the long-term specified asset from capital gain arising from transfer of one or more original asset shall not exceed fifty lakh rupees,—

(*a*) during any tax year; or

(*b*) in the year of transfer of the original asset or assets and in the subsequent tax year.

(*3*) If the new asset is transferred or converted (otherwise than by transfer) into money within five years of its acquisition, the capital gains not charged under section 67 as per sub-section (*1*), shall be deemed to be income chargeable as long-term capital gains in the tax year of its transfer or conversion.

(*4*) Any loan or advance taken on the security of the new asset shall be regarded as transfer of the new asset on the date of such loan or advance.

(*5*) Where the investment in the new asset has been taken into account for sub-section (*1*), no deduction under section 123 for any tax year shall be allowed for such investment.

(*6*) In this section, “new asset” means any bond, redeemable after five years and as notified by the Central Government for the purposes of this section with such conditions (including a condition for providing a limit on the amount of investment by an assessee in such bond).

85.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Capital gain not to be charged on investment in certain bonds.

54EC. (1) Where the capital gain arises from the transfer of a long-term capital asset, being land or building or both, (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a

period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45 :

Provided that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees :

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (*a*) or, as the case may be, clause (*b*) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money:

Provided that in case of long-term specified asset referred to in sub-clause (*ii*) of clause (*ba*) of the *Explanation* occurring after sub-section (3), this sub-section shall have effect as if for the words "three years", the words "five years" had been substituted.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (1),—

(*a*) [57][***]

(*b*) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.

Explanation.—For the purposes of this section,—

(*a*) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

(*b*) "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March,2007,—

(*i*) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988); or

(*ii*) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956),

and notified by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond) as it thinks fit:

Provided that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (*b*) as they stood immediately before their amendment by the Finance Act, 2007, such bond shall be deemed to be a bond notified under this clause;

(*ba*) "long-term specified asset" for making any investment under this section,—

(*i*) on or after the 1st day of April, 2007 but before the 1st day of April, 2018, means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 but before the 1st day of April, 2018;

(*ii*) on or after the 1st day of April, 2018, means any bond, redeemable after five years and issued on or after the 1st day of April, 2018,

by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988) or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956) or any other bond notified in the Official Gazette by the Central Government in this behalf.

85.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 85 of the Bill provides for capital gains not to be charged on investment in certain specific bonds. This clause corresponds to section 54EC of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

85.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestions regarding Clause 85 :

- Under Section 54EC of the existing Act, the gains arising from transfer from long-term capital assets are eligible for exemption. The proposed amendment, which replaces the term “asset” with “gains” in Clause 85 of the New Bill, will restrict the scope of the exemption. Consequently, the deemed short-term capital gains arising from the transfer of long-term depreciable assets will no longer be eligible for exemption.
  Retain the provisions of the Income-tax Act, 1961 (or) clarification should be introduced that deemed short-term capital gains on long- term depreciable capital assets will be eligible for exemption under these provisions.

- Section 54EC (corresponding section 85 of the Bill) provides for exemption of capital gains arising from long term capital assets, being land or building or both and invested in any bonds issued by NHAI, REC or any other bonds notified by Central Government which are redeemable after five years. To attract retail investors in BT units and to enable them to participate in commercial real estate, the benefit of this section be extended in case the capital gains is invested in units of BT and held for a period of 5 years from the date of investments. Alternatively, the benefit of section 54F (corresponding section 86 of the Bill) may be extended to investment in units of BT to promote commercial real estate investments which is currently restricted to investment in residential house. Other conditions like lock-in of three years may equally be applied to investment in units of BTs.

- Section 85(1) may be redrafted as follows - 85. (1) Where an assessee has— (a) long-term capital gains arising from the transfer of land or building, or both, (original asset); and (b)within six months after the date of such transferon or before the due date applicable in his case for filing return of income under section 263(1), invested whole or part of the capital gains in a long-term specified asset (new asset), The time limit for investment in long-term specified asset is presently 6 months from the date of transfer. This is the position under section 54EC of the Income-tax Act, 1961 also. There are certain concerns arising out of this time limit, which needs to be addressed (i) In a number of transactions, there is some difference in dates of actual handing over of possession, submission of documents for registration of transfer, actual date of registration and even a subsequent modification of registered document due to demand of additional stamp duty. All these dates, though may fall in the same year but still may differ from each other, creating an unnecessary dispute regarding actual date of transfer and thereby time limit of 6 months. If the date of investment in specified bonds is made upto the due date of filing return u/s 139(1), such disputes can be avoided. (ii) Bringing the time limit upto the due date of filling of ITR shall also bring parity with exemption provisions under sections 54 to 54F of the Income-tax Act, 1961 (Sections 82 to 86 of the Income-tax Bill, 2025), where assessee is permitted to deposit the money in Capital Gains Account Scheme upto the due date of filing of return. In fact, assessee would be in a better position to take a call as to which exemption

option is better suited for him. (iii) In many cases, the assessee is not aware about exemption provision and comes to know about it only when he approaches his/her tax consultant at the time of filling of return of income. By this time, 6 months period is already over and thus, the assessee inadvertently loses the benefit of exemption. (iv) The time limit expires exactly at 6 months from the date of transfer. Due to this, even an otherwise aware assessee may miss it unintentionally.

85.5 <u>Examination by the Committee:</u>

85.5.1 Corresponding response of the Ministry of Finance with respect to the above-mentioned suggestions :

> "The current clause, as drafted in the Bill is clearer and unambiguous in meaning. The deduction under section 54EC is intended only for long term capital gains and not for assets that are long term. The current provisions may be retained. The suggestion has no merits."
>
> "It was suggested that exemption from capital gains by investing in certain long-term specified bonds be extended for investment in units of Business Trust. Units of BT are not in nature of bonds. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."
>
> "It was suggested that the time given to invest in Bonds prescribed in 54EC be extended till the time of filing return rather than within 6 months of the transfer of the capital asset. Investment in bond does not require much time. A uniform timeline of 6 months for all taxpayers seeking exemption u/s 54EC is sufficient. Further, if a property is sold in March of an year by an individual, the proposed provision will give only 4 months, i.e before July to make the investment u/s 54EC. This suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill. 2025."

85.5.2 Elaborating on the steps taken to address ambiguities in Clause 85 regarding investment in capital gains, the representative of the ministry, during the Sitting, apprised the Committee as under :

> "…regarding the investment of capital gains in bonds. Here, there is some difference from the old Act. The old Act used the word, 'Where the capital gain arises from the transfer of a long-term capital asset'. This was the word which was used. Now, we are saying, 'Where the assessee has earned long-term capital gain'. In the earlier Act as well as in the present Act, there is a specific section which states that if a depreciable asset was sold, then whatever capital gain was earned, was taxed as a short-term

capital gain. But using this, some ambiguities were there. So, we have set it right…"

…it is also for NRIs if they earn long-term capital gains and they invest in capital bonds…

…Last year, when we rationalized the capital gains, then we said that this indexation benefit was taken away and a straightforward a half per cent tax was provided. For the residents, we provided that they can opt for both…

…As regards the non-residents, whatever the gain is there, for that there is a provision for TDS for the similar amount because non-resident may file his return of income or may not file his return of income. So, as per the present provisions of IT Act, whatever his income is, the corresponding the deductor, the payer, he has to deduct that amount as TDS…

…So, one issue which will come in case of non-residents is that if we provide option to him, then it will become difficult for the deductor also and for the non-resident also because whether he is opting that or that, how, that will become difficult to determine for the payer, for the deductor, that what amount of TDS he will do. So, that is why, for non-residents, we have kept the things simple in that sense. For residents, yes, there is some benefit but at the same time, there is some complication also because of that benefit. So, just, that is I have tried to explain the rationale behind it…"

85.5.3 During the Sitting, the Secretary of the Ministry of Finance assured the Committee that the provision regarding long term capital gains of NRIs shall be examined further.

85.5.4 Regarding extension of exemption from capital gains by investing in certain long-term specified bonds for investment in units of Business Trust, the representative of the Ministry apprised the Committee as under :

"…rollover benefit under Section 54 EC in the Act, we provide for certain long-term specified bonds. So, the suggestion is that this exemption from capital gains should also be provided for investment in units of business trust…

… these funds, 54 EC bonds, we generally give for large infrastructure projects and for public sector companies. So, like REC is mentioned, the Rural Electrification Corporation, that is mentioned. They get these funds because the coupon rate that is given on these bonds, that is around 5 per cent little less than 5 per cent.

So, the company gets those funds, say Rs. 2000 crore or Rs. 3000 crore, at a very reduced rate. So, basically, the Government, by way of 54EC, is giving tax subsidy on these bonds because partly we are giving away our tax. So, that is why those companies are able to float these bonds at a

rate of 5 per cent or less than 5 per cent. So, that benefit should be available…
… We have said that units of business trust are not in nature of bonds. Bonds are different because interest is available on bonds; so, that the taxability of bond is different. And the units of business trust – they get dividend. Then if they sell it, the unit holder gets capital gain and dividend income. So, the taxability of a unit of business trust is different and taxability of a bond is different. So, they are asking that the benefits which are given to bonds should be given to the units of business trust. That is why we have mentioned that units are on a different footing and bonds are on a different footing…"

85.5.5 On the issue of extending time given to invest in Bonds prescribed in 54EC till the time of filling return, the representative of the Ministry apprised the Committee as under :

"…it talks about 54EC bonds. There is a time limit of six months in which they have to be invested. The taxpayer gets capital gains and within six months, he has to invest in these bonds. So the suggestion is that instead of six months, that time should be available till the filing of returns. So if I have capital gains, suppose in April, then my return filing date comes, in July next year. So he is asking that much time. We are saying six months' time is enough for subscription to a bond…
…if I sell in March, then I will get only four months…"

85.6 Observations/Recommendations of the Committee:

While noting that Clause 85 of the Income-tax Bill, 2025 pertains to non-chargeable capital gains accrued from investment in certain specific bonds, the Committee also recognize that exemptions offered under this clause are aimed at encouraging investments in specified financial instruments and intended for providing financial stability. Further, the Committee observe that the provisions proposed under this clause are synonymous with Section 54EC of the Income-tax Act, 1961. Furthermore, after thoughtful deliberation of the views / suggestions made by the stakeholders, the Committee express satisfaction with the response

and justifications provided by the Ministry of Finance and therefore, accept the clause as proposed in its entirety.

<u>Clause 86</u> – Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house.

86.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

86. (*1*) If an individual or a Hindu undivided family has—

(*a*) capital gains arising from the transfer of any long-term capital asset, not being a residential house (original asset); and

(*b*) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or

(*ii*) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall, subject to the sub-section (*8*), be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(*a*) the amount determined as per with the following formula shall be charged under section 67 as income of the tax year in which three years from the date of the transfer of the original asset expires:—

X - Y,

where,—

X = the capital gains not charged under section 67 as per sub-section (*1*).

Y = the capital gains that would not have been charged under section 67, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset;

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) The provisions of sub-section (*1*) shall not apply, if—

(*a*) the assessee—

(*i*) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(*ii*) purchases any residential house, other than the new asset, within two years of transfer of the original asset; or

(*iii*) constructs any residential house, other than the new asset, within three years of transfer of the original asset; and

(*b*) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".

(*6*) If the assessee purchases within two years of the transfer of the original asset, or constructs within three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*), shall be charged as long-term capital gains of the tax year in which such residential house is purchased or constructed.

(*7*) If the new asset is transferred within three years of its purchase or its construction, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*) shall be charged as long-term capital gains of the tax year in which such new asset is transferred.

(*8*) If the cost of the new asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*1*).

(*9*) If the net consideration on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*2*).

(*10*) In this section, "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the original asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

86.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.

54F. (1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45 ;

(*b*) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

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

(*a*) the assessee,—

(*i*) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(*ii*) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(*iii*) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(*b*) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property":

[59][**Provided further** that where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of this sub-section.]

Explanation.—For the purposes of this section,—

"net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the assessee purchases, within the period of two years after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis

of the cost of such new asset as provided in clause (*a*), or, as the case may be, clause (*b*), of sub-section (1), shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

(3) Where the new asset is transferred within a period of three years from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.

(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall [60][, subject to the second proviso to sub-section (1)] be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount by which—

(*a*) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (*a*) or, as the case may be, clause (*b*) of sub-section (1),

exceeds

(*b*) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid:

[60][**Provided further** that the net consideration in excess of ten crore rupees shall not be taken into account for the purposes of this sub-section.]

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

86.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 86 of the Bill provides for non-chargeability of capital gains in specific scenarios of investment in residential house. This clause corresponds to section 54F of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

86.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Suggestion relation to Clause 86 sub-clauses (1) & (7) :

- **Section 86(1) and (7) be re-worded as follows** - 86. (1) If an individual or a Hindu undivided family has—(a) capital gains arising from the transfer of any longterm capital asset, not being a residential house (original asset); and (b) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset), then, the capital gains shall be dealt with as follows:— (i) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or (ii) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67. (7) If the new asset is transferred within **two** ~~three~~ years of its purchase or its construction, the capital gains not charged under section 67 on the basis ofcost of such new asset as per subsection (1) shall be charged as long-term capital gains of the tax year in which such new asset is transferred. If the new asset is sold or transferred within 3 years, the manner in which the earlier exempted capital gains is subject to tax varies in sections 82, 83, 84 , 85 and 86. In sections 82,83 and 84, the earlier exempted capital gains is reduced from the cost, whereas sections 85 and 86 deems the capital gains not charged to tax earlier as income chargeable to tax of the year in which the transfer of the new asset takes place. Moreover, whereas the period of holding of an asset to be treated as long-term is "more than 24 months", the minimum period of holding of new asset is 3 years in sections 82 to 86 (except section 85, where it is 5 years). The minimum period of holding of new asset be reduced from 3 years to 2 years in line with the minimum period of holding of an asset to be treated as long-term capital asset under section 2(67) read with 2(101). In case the new asset is not held for a minimum period of 2 years, the capital gains exempt earlier should be deemed as

income chargeable to tax in the year of transfer of the new asset. This should be the consequence of transfer of new asset before the minimum period of 2 years in all sections [sections 82 to 86 (except section 85)].

86.5 Examination by the Committee:

Response of the Ministry of Finance in respect of the suggestion :

> "It is suggested that the holding period of the new asset under this clause 86 where exemption from capital gains is taken be reduced from 3 years to 2 years. It is a beneficial roll over provision where benefit is allowed on condition that asset is retained for a reasonable period. A period of 3 years is prescribed as it is reasonable. This is not connected to the period of holding of an asset to be treated as long-term or short-term. This suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill. 2025."

86.6 Observations/Recommendations of the Committee:

The Committee note that Clause 86 of the Income-tax Bill, 2025 relates to non-chargeability of capital gains in specific scenarios of investment in residential house and is synonymous with Section 54F of the Income-tax Act, 1961. After carefully examining the suggestions made by stakeholders and the justification and the response of the Ministry of Finance, the Committee note that the content and intent of the proposed clause do not deviate from the core as envisioned under Section 54F of the parent Act and therefore accept the said clause as proposed.

<u>Clause 87</u> – Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.

87.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

87. (*1*) If the assessee has—

(*a*) capital gains arising from the transfer of capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the case of shifting of an industrial undertaking situated in an urban area (original asset) to any non-urban area (new area); and

(*b*) within one year before or three years after the date of such transfer,—

(*i*) purchased new machinery or plant for business of the industrial undertaking in the new area;

(*ii*) acquired building or land or constructed building for his business in the said area;

(*iii*) shifted the original asset and transferred its establishment to such area; and

(*iv*) incurred expenses on such other purpose as specified in a scheme notified by the Central Government for this section,

then, instead of the capital gains being charged to income tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset),—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gain, no capital gain shall be charged under section 67;

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*) or shall be reduced by the amount of the capital gain in case of clause (*b*).

(*2*) If the capital gain is not used by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) In this section, the expression “urban area” means any area within the limits of a municipal corporation or municipality, declared to be an urban area by the Central Government for the purposes of this section, having regard to—

(*a*) the population;

(*b*) concentration of industries; and

(c) need for proper planning of the area and other relevant factors.

87.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.

54G. (1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(*a*) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted ;

(*b*) acquired building or land or constructed building for the purposes of his business in the said area ;

(*c*) shifted the original asset and transferred the establishment of such undertaking to such area; and

(*d*) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be *nil* ; or

(*ii*) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section, "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the purposes aforesaid together with the amount, so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within the period specified in that sub-section, then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the

transfer of the original asset expires; and

(*ii*) The assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

87.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> "Clause 87 of the Bill provides for exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area. This clause corresponds to section 54G of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

87.4 Examination by the Committee:

87.4.1 During a discussion on exemption of capital gains for an industrial undertaking in the event of shifting from an urban area, the representatives of the Ministry of Finance, during the Sitting of the Committee, submitted that :

> "…there are two provisions where some exemption is allowed on rollover of assets. One asset is given away and then other asset is purchased. So, Section 54G is applicable where exemption on Capital Gain is claimed on transfer of assets in case of shifting of industrial undertaking from urban area. There, the rollover is allowed.
>
> We also provide rollover under Section 54GA where transfer of assets is in cases of shifting of industrial undertaking from urban area to any Special Economic Zone. So, we provide exemption in these two cases."

87.4.2 Further, apprising the Committee about the intent of the provisions under this Clause, the representatives of the Ministry also stated that :

> "…this exemption was given to decongest the urban areas. There was a specific purpose for that. The exchequer is foregoing the due tax which should have been charged on the capital gain…. Here, the purpose is the urban areas are decongested and the industries move out of urban area."

87.5 Observations/Recommendations of the Committee:

While noting that Clause 87 of the Income-tax Bill, 2025 provides for exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking

from urban area, the Committee also recognize that this clause is aimed at encouraging decongestion of urban areas through tax exemptions and corresponds to Section 54G of the Income-tax Act, 1961. After thoughtful deliberation of the proposal and justifications provided by the Ministry of Finance, the Committee concur with the retention of the original intent in this clause along with the textual simplification of its provisions in this Bill and therefore, accept the clause as proposed.

<u>Clause 88</u> – Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

88.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

88. (*1*) Irrespective of anything contained in section 87 if the assessee has—

(*a*) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any area; and

(*b*) has within one year before or three years after the date of such transfer,—

(*i*) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(*ii*) acquired building or land or constructed building for his business in such Special Economic Zone;

(*iii*) shifted the original asset and transferred the establishment to such Special Economic Zone; and

(*iv*) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf,

then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset)—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*), or shall be reduced by the amount of the capital gain in case of clause (*b*).

(*2*) If the capital gain is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) In this section "urban area" shall have the meaning assigned to it in section 87.

88.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

54GA. (1) Notwithstanding anything contained in section 54G, where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of the shifting of such industrial undertaking to any Special Economic Zone, whether developed in any urban area or any other area and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(*a*) purchased machinery or plant for the purposes of business of the industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;

(*b*) acquired building or land or constructed building for the purposes of his business in the Special Economic Zone;

(*c*) shifted the original asset and transferred the establishment of such undertaking to the Special Economic Zone; and

(*d*) incurred expenses on such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall, subject to the provisions of sub-section

(2), be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be *Nil*; or

(*ii*) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section,—

(*a*) "Special Economic Zone" shall have the meaning assigned to it in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*b*) "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the aforesaid purposes together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within the period specified in that sub-section, then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the

transfer of the original asset expires; and

(*ii*) The assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

88.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 88 of the Bill provides for exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone. This clause corresponds to section 54GA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

88.4 Examination by the Committee:

As also mentioned in Para 87.4.1, during a discussion on exemption of capital gains for an industrial undertaking in the event of shifting from an urban area, the representatives of the Ministry of Finance, during the Sitting of the Committee, stated that such exemption is provided under Section 54GA (of the Act) where transfer of assets is in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

88.5 Observations / Recommendations of the Committee:

The Committee, after thorough scrutiny of proposed Clause 88 pertaining to exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone, find that it is aimed at encouraging relocations of industrial undertakings for fostering economic growth in Special Economic Zones and is synonymous with Section 54GA of the Income-tax Act, 1961. The Committee also note that the content of the clause does not deviate from its core and retains the spirit envisaged under Section 54GA of the IT Act. After careful consideration of the proposal and justifications

provided by the Ministry of Finance, the Committee express satisfaction with the response of the Ministry in this regard and therefore, accept the clause as proposed.

Clause 89 – Extension of time for acquiring new asset or depositing or investing amount of capital gains.

89.1 Provision proposed in the Income-Tax Bill, 2025:

89. Irrespective of anything contained in sections 82, 83, 84, 85, and 86,—

(*a*) if the transfer of the original asset mentioned in those sections is by way of compulsory acquisition under any law; and

(*b*) if the compensation awarded for such acquisition is not received by the assessee on the date of transfer, then, the period available to him under those sections for acquisition of the new asset or investment or deposit of capital gain in specified bank or institution shall be reckoned from the date of receipt of compensation.

89.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Extension of time for acquiring new asset or depositing or investing amount of capital gain.

54H. Notwithstanding anything contained in sections 54, 54B, 54D, 54EC and 54F, where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period for acquiring the new asset by the assessee referred to in those sections or, as the case may be, the period available to the assessee under those sections for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation :

Provided that where the compensation in respect of transfer of the original asset by way of compulsory acquisition under any law is received before the 1st day of April, 1991, the aforesaid period or periods, if expired, shall extend up to the 31st day of December, 1991.

89.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 89 of the Bill provides for scenarios for extension of time for acquiring new assets or depositing or investing amounts, with respect to capital gains. This clause corresponds to section 54H of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

89.4 Observations/Recommendations of the Committee:

The Committee, after reviewing the provisions proposed under Clause 89 understand that this clause seeks to extend the time available to taxpayers for reinvesting capital gains in cases where the original asset is compulsorily acquired and compensation to the assessee is delayed. The Committee also find that the proposed clause does not alter the content and intent introduced *vide* Section 54H of the Income-tax Act, 1961. Further, after careful deliberations of the replies and justifications furnished by the Ministry of Finance, the Committee, while expressing satisfaction with the submissions of the Ministry, accept the proposed clause in entirety.

<u>Clause 90</u> – Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

90.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

90. (*1*) For the purposes of sections 72 and 73, "cost of improvement",—

(*a*) in relation to a capital asset being goodwill or any intangible asset of a business, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or any other right, shall be taken to be *nil*; and

(*b*) in relation to any other capital asset,—

(*i*) if the capital asset became the property of the previous owner or the assessee before the 1stApril, 2001, means all expenditure of a capital nature incurred on or after the said date in making any additions or alterations to the capital asset by the previous owner or the assessee; and

(*ii*) in any other case, all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), by the previous owner.

(*2*) For the purposes of sub-section (*1*)(*b*), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources".

(*3*) For the purposes of sections 72 and 73, "cost of acquisition", of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, or any other right) means—

(*a*) purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(*b*) purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (*2*) of the said section; and

(*c*) *nil*, in any other case.

(*4*) For the purposes of sub-section (*3*)(*a*) or (*b*), if—

(*a*) the capital asset is goodwill of a business or profession; and

(*b*) the assessee has obtained a deduction on account of depreciation under section 32(*1*) of the Income-tax Act, 1961 in a tax year preceding the tax year commencing on the 1stApril, 2020,

then the total amount of depreciation obtained before the tax year commencing on the 1stApril, 2020 shall be reduced from the amount of purchase price.

(*5*) For the purposes of sections 72 and 73(*a*) and (*b*), and subject to the provisions of sub-sections (*9*)(*a*) and (*b*), "cost of acquisition" shall be as per sub-section (*6*), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (herein referred to as the financial asset), the assessee—

(*a*) becomes entitled to subscribe to any additional financial asset; or

(*b*) is allotted any additional financial asset without any payment.

(*6*) In a case referred to in sub-section (*5*), "cost of acquisition", in relation to—

(*a*) the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;

(*b*) any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee;

(*c*) the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid for acquiring such asset;

(*d*) the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil*; and

(*e*) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the total amount of the purchase price paid to the person renouncing such right and the amount paid to the company or institution, for acquiring such financial asset.

(*7*) For the purposes of sections 72 and 73, "cost of acquisition", subject to sub-sections (*9*)(*a*) and (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

(*a*) the cost of acquisition of such asset; and

(*b*) lower of—

(*i*) the fair market value of such asset; and

(*ii*) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(*8*) For the purposes of sub-section (*7*),—

(*a*) “Cost Inflation Index”, shall have the meaning assigned to it in section 72(*8*)(*a*);

(*b*) “fair market value” means,—

(*i*) in a case where the capital asset is listed on any recognised stock exchange as on the 31stJanuary, 2018, the highest price of the capital asset quoted on such exchange on that date;

(*ii*) irrespective of sub-clause (*i*), if there is no trading in such asset on such exchange on the 31stJanuary, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31stJanuary, 2018 when such asset was traded shall be the fair market value;

(*iii*) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31stJanuary, 2018, the net asset value of such unit as on that date;

(*iv*) if the capital asset is an equity share in a company which is—

(*A*) not listed on a recognised stock exchange as on the 31stJanuary, 2018 but listed on the date of transfer;

(*B*) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);

(*C*) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31stJanuary, 2018 by way of transaction mentioned in section 70,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the tax year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1stApril, 2001, whichever is later.

(*9*) For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—

(*a*) if the capital asset became the property of the assessee before the 1stApril, 2001, subject to sub-section (*10*), shall be the cost of acquisition of the asset to the

assessee or its fair market value on the 1stApril, 2001, at the option of the assessee;

(*b*) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (*10*), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;

(*c*) if the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 68, means the fair market value of the asset on the date of distribution;

(*d*) if the capital asset, being a share or a stock of a company, became the property of the assessee on—

(*i*) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares; or

(*ii*) the conversion of any shares of the company into stock; or

(*iii*) the re-conversion of any stock of the company into shares; or

(*iv*) the sub-division of any of the shares of the company into shares of smaller amount; or

(*v*) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(*10*) In case of a capital asset referred to in sub-sections (*9*)(a) and (*9*)(*b*), being land or building, or both, the fair market value of such asset on the 1stApril, 2001 for the said clauses shall not exceed the stamp duty value, wherever available, of such asset as on the 1stApril, 2001.

(*11*) If the cost for which the previous owner acquired the property is unable to be ascertained, the cost of acquisition to the previous owner shall be the fair market value on the date on which the capital asset became the property of the previous owner.

90.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

55. (1) For the purposes of sections 48 and 49,—

(*a*) [***]

(*b*) "cost of any improvement",—

(*1*) in relation to a capital asset being goodwill [61-62][or any other intangible asset] of a business or a right to manufacture, produce or process any article or thing or right to carry on any business or profession [61-62][or any other right] shall be taken to be *nil* ; and

(*2*) in relation to any other capital asset,—

(*i*) where the capital asset became the property of the previous owner or the assessee before the 1st day of April, 2001, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(*ii*) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in sub-section (1) of section 49, by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly.

(2) For the purposes of section 48 and 49, "cost of acquisition",—

(*a*) in relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, [63][or any other intangible asset] or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, [63][or any other right]—

(*i*) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and

(*ii*) in the case falling under sub-clauses (*i*) to (*iv*) of sub-section (1) of section 49 and where such asset was acquired by the previous owner (as defined in that section) by purchase, means the amount of the purchase price for such previous owner; and

(*iii*) in any other case, shall be taken to be *nil*:

Provided that where the capital asset, being goodwill of a business or profession, in respect of which a deduction on account of depreciation under sub-section (1) of section 32 has been obtained by the assessee in any previous year preceding the previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, the provisions of sub-clauses (*i*) and (*ii*) shall apply with the modification that the total amount of depreciation obtained by the assessee under sub-section (1) of section 32 before the assessment year commencing on the 1st day of April, 2021 shall

be reduced from the amount of purchase price;

(*aa*) in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee—

(*A*) becomes entitled to subscribe to any additional financial asset ; or

(*B*) is allotted any additional financial asset without any payment,

then, subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*),—

(*i*) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset ;

(*ii*) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee ;

(*iii*) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset ;

(*iiia*) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil* in the case of such assessee ; and

(*iv*) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset ;

(*ab*) in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall be the cost of acquisition of his original membership of the exchange:

Provided that the cost of a capital asset, being trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*;

(*ac*) subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A, acquired before the 1st day of February, 2018, shall be higher of—

(*i*) the cost of acquisition of such asset; and

(*ii*) lower of—

(*A*) the fair market value of such asset; and

(*B*) the full value of consideration received or accruing as a result of the transfer of the capital asset.

Explanation.—For the purposes of this clause,—

(*a*) "fair market value" means,—

(*i*) in a case where the capital asset is listed on any recognised stock exchange as on the 31st day of January, 2018, the highest price of the capital asset quoted on such exchange on the said date:

Provided that where there is no trading in such asset on such exchange on the 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value;

(*ii*) in a case where the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st day of January, 2018, the net asset value of such unit as on the said date;

(*iii*) in a case where the capital asset is an equity share in a company which is—

(*A*) not listed on a recognised stock exchange as on the 31st day of January, 2018 but listed on such exchange on the date of transfer;

[64][(*AA*) not listed on a recognised stock exchange as on the 31st day of January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47, as the case may be, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);]

(*B*) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later;

(*b*) "Cost Inflation Index" shall have the meaning assigned to it in clause (*v*) of the *Explanation* to section 48;

(*c*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation 1* to clause (*5*) of section 43;

(*b*) in relation to any other capital asset,—

(*i*) where the capital asset became the property of the assessee before the 1st day of April, 2001, means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the 1st day of April, 2001, at the option of the assessee ;

(*ii*) where the capital asset became the property of the assessee by any of the modes specified in sub-section (1) of section 49, and the capital asset became the property of the previous owner before the 1st day of April, 2001, means the cost of the capital asset to the previous owner or the fair market value of the asset on the 1st day of April, 2001, at the option of the assessee :

Provided that in case of a capital asset referred to in sub-clauses (*i*) and (*ii*), being land or building or both, the fair market value of such asset on the 1st day of April, 2001 for the purposes of the said sub-clauses shall not exceed the stamp duty value, wherever available, of such asset as on the 1st day of April, 2001.

Explanation.—For the purposes of this proviso, "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;

(*iii*) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 46, means the fair market value of the asset on the date of distribution ;

(*iv*) [***]

(*v*) where the capital asset, being a share or a stock of a company, became the property of the assessee on—

(*a*) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares,

(*b*) the conversion of any shares of the company into stock,

(*c*) the re-conversion of any stock of the company into

shares,

(*d*) the sub-division of any of the shares of the company into shares of smaller amount, or

(*e*) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

90.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 90 of the Bill provides for meaning of the terms "adjusted", "cost of improvement" and "cost of acquisition" with respect to calculation of capital gains. This clause corresponds to section 55 of the Act. The provisions of the existing section have been textually simplified. Further, the section 55(2)(ab) of the Act which deals with the cost of acquisition in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation was omitted as it was considered to be redundant. (After reconsideration, it is proposed to include these provisions."

90.4 Important Views/Suggestions given by Experts/Stakeholders:

90.4.1 Suggestion regarding amendment of the provisions for cost of acquisition under Clause 90 :

- The absence of corresponding provisions of Section 55(2)(ab) can lead to litigation on the computation of capital gains on the transfer of such shares. Insert provisions similar to Section 55(2)(ab) of ITA 1961 in Section 90 of ITB 2025 to avoid litigation and ensure clarity in the computation of capital gains on the transfer of such shares.

90.4.2 Suggestion regarding updation of Base Year of cost of acquisition as mentioned under Clause 90 sub-clauses (9) &(10) :

- The Base Year may be changed as 1st April, 2021. Since, 25 years have elapsed from the last Base Year. Reflect a 25-year update cycle.

90.5 Examination by the Committee:

90.5.1 Response of the Ministry on the suggestion regarding amendment of the provisions for cost of acquisition under Clause 90 :

> "For the removal of ambiguity and to avoid litigation, **this is acceptable**. Accordingly, the provisions for cost of acquisition may be amended."

90.5.2 Regarding suggestion relating to updation of Base Year of cost of acquisition as mentioned under Clause 90 sub-clauses (9) &(10), the Ministry submitted that :

> "This suggestion relates to the updating of the Base Year of cost of acquisition. The suggestion seeks exemption to capital gains accrued upto 1.4.2021. This has significant impact on exchequer. This is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. However, this suggestion is noted."

90.5.3 During the Sitting of the Committee held on 05th June, 2025, the representative of the Ministry of Finance informed the Committee about the meaning of updating Base Year of cost of acquisition and submitted that :

> "…this relates to updating the base year for cost of acquisition. So, right now, we take it as 1st April, 2001. That means, capital gains incurred up to 2001 are not charged to tax. So we take cost of acquisition as cost of acquisition, whatever is the value of a property on 1st April 2001. So that is the base year. So, they are saying that the base year be changed to 1st April 2021…"

90.5.4 Further, during the Sitting, the Secretary of the Ministry of Finance also apprised the Committee that this issue regarding updation of Base Year of the cost of acquisition will fall in the category of a Finance Bill and that the Ministry would re-examine the provision relating to such an updation.

90.6 Observations/Recommendations of the Committee

The Committee note that Clause 90 of the Income-tax Bill, 2025 provides for meaning of the terms "adjusted", "cost of improvement" and "cost of acquisition" with respect to calculation of capital gains and corresponds to Section 55 of the Income-tax Act, 1961. The Committee also note that while Section 55(2)(ab) of the parent Act specifically provides for transfers to be

considered as cost of acquisition or full value of consideration for the purpose of taxation, the clause lacks in such specifications, thereby intensifying the possibilities of ambiguity or litigation. Therefore, after careful deliberation of relevant views/suggestions given by the stakeholders and the response of the Ministry of Finance, the Committee recommend that for the purpose of providing clarity in the computation of capital gains, provisions similar to Section 55(2)(ab) of the parent Act may be inserted in Clause 90 and the clause may be suitably amended to include the provision for cost of acquisition.

The Committee further note that in sub-clause (4)(b), with respect to deduction on account of depreciation of a capital asset, a reference has been made to the Income-tax Act, 1961. The Committee are of the view that such cross referencing to the IT Act of 1961 in the current Bill could result in a cumbersome exercise of repeatedly referring to repealed Act for referencing in future. Thus, to avoid any scope for complications in future, the Committee recommend that any reference to the IT Act, 1961 be removed from the text of specific clauses and instead relevant provisions be created within the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961.

Expressing satisfaction with the response and justifications of the Ministry of Finance, the Committee accept the remaining provisions under this clause as proposed.

Clause 91 - Reference to Valuation Officer.

91.1 Provision proposed in the Income-Tax Bill, 2025:

91. (*1*) For ascertaining the fair market value of a capital asset for this Chapter, the Assessing Officer may refer the valuation of capital asset to a Valuation Officer,—

(*a*) if the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value;

(*b*) in any other case, if the Assessing Officer is of the opinion that—

(*i*) the fair market value of the asset exceeds the value claimed by the assessee by more than the percentage or amount, as prescribed; or

(*ii*) having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(*2*) The provisions of section 269(*3*) to (*8*) shall, with necessary modifications, apply in relation to such reference made under sub-section (*1*).

91.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Reference to Valuation Officer.

55A. With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Assessing Officer may refer the valuation of capital asset to a Valuation Officer—

(*a*) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value;

(*b*) in any other case, if the Assessing Officer is of opinion—

(*i*) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf ; or

(*ii*) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (*ha*) and (*i*) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a

reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, "Valuation Officer" has the same meaning, as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

91.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

> "Clause 91 of the Bill provides for reference to Valuation Officer for ascertaining the fair market value of a capital asset. This clause corresponds to section 55A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

91.4 <u>Observations/Recommendations of the Committee:</u>

The Committee, after thorough scrutiny of the proposed Clause 91 pertaining to the reference of capital asset to Valuation Officer for assessment of fair market value of the said asset, find that it is synonymous with Section 55A of the Income-tax Act that was invented with the objective of conferring powers on the Assessing Officer to revaluate the capital asset and bring it to fair valuation. Noting that the content and intent of the proposed clause do not deviate from the core as envisioned under Section 55A of the Income-tax Act, the Committee express satisfaction with the justification and response of the Ministry of Finance and therefore accept the clause as proposed.

F – INCOME FROM OTHER SOURCES

Clause 92 – Income from other sources

92.1 Provision proposed in the Income-Tax Bill, 2025:

92. (*1*) Income of every kind which is not to be excluded from the total income, shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 13(*a*) to (*d*).

(*2*) In particular, and without prejudice to the generality of the provisions of sub-section (*1*), the following incomes shall be chargeable to income-tax under the head "Income from other sources":—

(*a*) any dividend;

(*b*) any winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(*c*) any sum received by the assessee from employees as contributions to any provident fund, superannuation fund, any fund set up under the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees, if the income in not chargeable to income-tax under the head "Profits and gains of business or profession";

(*d*) any sum received under a Keyman insurance policy, as defined Schedule II (Note 1) including the bonus allocated on such policy, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";

(*e*) any income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*f*) any income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*g*) any income from letting on hire of machinery, plant or furniture, belonging to the assessee and also buildings, where the letting of the building is inseparable from the letting of such machinery, plant or furniture, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*h*) any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset, if—

(*i*) such sum is forfeited; and

(*ii*) the negotiations do not result in transfer of such capital asset;

(*i*) any income by way of interest received on compensation or on enhanced

compensation referred to in section 278(*1*);

(*j*) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment, or the modification of its terms and conditions;

(*k*) any specified sum received by a unit holder from a business trust during the tax year with respect to a unit held by him at any time during such tax year, the computation of which shall be—

specified sum = A-B-C (which shall be deemed to be zero, if the sum of B and C is greater than A), where—

A = aggregate of the sum distributed by the business trust with respect to such unit, during the tax year or during any earlier tax year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is—

(*a*) not in the nature of income referred to in Schedule V (Table: Sl. No. 3 or 4); and

(*b*) not chargeable to tax under section 223(*2*);

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under this clause in any earlier tax year;

(*l*) where any sum, including bonus allocated, is received, during a tax year, under a life insurance policy, other than—

(*a*) sums received under a unit linked insurance policy; or

(*b*) income referred to in clause (*d*),

and such sum is not to be excluded from the total income of that tax year under Schedule II (Table: Sl. No. 2), the sum exceeding the aggregate of the premium paid, during the term of such policy, and not claimed as a deduction under this Act, computed in such manner, as prescribed;

(*m*) where any person receives in any tax year, from any person or persons—

(*i*) any sum of money without consideration, the total of which exceeds fifty thousand rupees, the whole of such sum;

(*ii*) any immovable property—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration, the stamp duty value of such property that exceeds such consideration, if this excess amount is more than the higher of the following amounts:—

(*I*) fifty thousand rupees; or

(*II*) 10% of the consideration;

(*iii*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration.

(*3*) The provisions of sub-section (*2*)(*m*) shall not apply to any sum of money or any property received—

(*a*) from any relative; or

(*b*) on the occasion of marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer or donor; or

(*e*) from any local authority as defined in Schedule III (Note 6); or

(*f*) from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section 355(*i*); or

(*g*) by way of a transaction not regarded as transfer under section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*g*), (*i*), (*j*), (*l*), (*n*), (*o*), (*k*), (*f*), (*t*), (*u*), (*v*) or (*w*); or

(*h*) from an individual by a trust created or established solely for the benefit of relative of the individual; or

(*i*) from such class of persons and subject to such conditions, as prescribed.

(*4*) For the purposes of sub-section (*2*)(*m*)(*ii*),—

(*a*) if the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement shall apply, provided the consideration, in whole or in part, has been paid by account payee cheque or account payee bank draft or by electronic clearing system through a bank account or through any prescribed electronic mode, on or before the date of agreement for transfer of such immovable property;

(*b*) if the stamp duty value of immovable property is disputed by the assessee on the grounds mentioned in section 78(*2*) the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of sections 78(*2*) and 288 (Table: Sl. No. 8) shall, as far as may be, apply to the stamp duty value of such property as they apply for valuation of capital asset under those sections.

(*5*) In this section,—

(*a*) “assessable” shall have the meaning assigned to it in section 78(*3*);

(*b*) “card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, where people compete to win prizes or any similar game;

(*c*) “fair market value” of a property, other than an immovable property, means the value determined in such method as prescribed;

(*d*) “jewellery” shall have the meaning assigned to it in section 2(*22*);

(*e*) “lottery” includes winnings from prizes awarded by draw of lots, by chance, or in any other manner under any scheme or arrangement by whatever named called;

(*f*) “property” means the following capital asset of the assesse:—

(*i*) immovable property being land or building or both;

(*ii*) shares and securities;

(*iii*) jewellery;

(*iv*) archaeological collections;

(*v*) drawings;

(*vi*) paintings;

(*vii*) sculptures;

(*viii*) any work of art;

(*ix*) bullion; or

(*x*) virtual digital asset;

(*g*) “relative” means—

(*i*) in case of an individual—

(*A*) spouse;

(*B*) brother or sister;

(*C*) brother or sister of the spouse;

(*D*) brother or sister of either of the parents;

(*E*) any lineal ascendant or descendant (maternal as well as paternal);

(*F*) any lineal ascendant (maternal as well as paternal) or descendant (maternal as well as paternal) of the spouse;

(*G*) spouse of the person referred to in items (*B*) to (*F*); and

(*ii*) for a Hindu undivided family, any member thereof;

(*h*) “unit linked insurance policy” shall have the meaning assigned to it in Schedule II (Note 1).

92.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from other sources.

56. (1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items *A* to *E*.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely :—

(*i*) dividends ;

(*ia*) income referred to in sub-clause (*viii*) of clause (*24*) of section 2;

(*ib*) income referred to in sub-clause (*ix*) of clause (*24*) of section 2;

(*ic*) income referred to in sub-clause (*x*) of clause (*24*) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*id*) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*ii*) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*iii*) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*iv*) income referred to in sub-clause (*xi*) of clause (*24*) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";

(*v*) where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004 but before the 1st day of April, 2006, the whole of such sum :

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA or section 12AB.

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

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

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

(*iv*) brother or sister of either of the parents of the individual;

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

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*);

(*vi*) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006 but before the 1st day of October, 2009, the whole of the aggregate value of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA or section 12AB.

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

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

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

(*iv*) brother or sister of either of the parents of the individual;

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

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*);

(*vii*) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009 but before the 1st day of April,2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*i*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*ii*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of this sub-clause:

Provided further that the said proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property;

(*c*) any property, other than immovable property,—

(*i*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*ii*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that where the stamp duty value of immovable property as referred to in sub-clause (*b*) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (*b*) as they apply for valuation of capital asset under those sections :

Provided further that this clause shall not apply to any sum of money or any property received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer or donor, as the case may be; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA or section 12AB; or

(*h*) by way of transaction not regarded as transfer under clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47.

Explanation.—For the purposes of this clause,—

(*a*) "assessable" shall have the meaning assigned to it in the *Explanation 2* to sub-section (2) of section 50C;

(*b*) "fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

(*c*) "jewellery" shall have the meaning assigned to it in the *Explanation* to sub-clause (*ii*) of clause (*14*) of section 2;

(*d*) "property" means the following capital asset of the assessee, namely:—

(*i*) immovable property being land or building or both;

(*ii*) shares and securities;

(*iii*) jewellery;

(*iv*) archaeological collections;

(*v*) drawings;

(*vi*) paintings;

(*vii*) sculptures;

(*viii*) any work of art; or

(*ix*) bullion;

(*e*) "relative" means,—

(*i*) in case of an individual—

(*A*) spouse of the individual;

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

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

(*D*) brother or sister of either of the parents of the individual;

(*E*) any lineal ascendant or descendant of the individual;

(*F*) any lineal ascendant or descendant of the spouse of the individual;

(*G*) spouse of the person referred to in items (*B*) to (*F*); and

(*ii*) in case of a Hindu undivided family, any member thereof;

(*f*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;

(*viia*) where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010 but before the 1st day of April, 2017, any property, being shares of a company not being a company in which the public are substantially interested,—

(*i*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*ii*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (*via*) or clause (*vic*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47.

Explanation.—For the purposes of this clause, "fair market value" of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the *Explanation* to clause (*vii*);

(*viib*) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person [65][***], any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Provided that this clause shall not apply where the consideration for issue of shares is received—

(*i*) by a venture capital undertaking from a venture capital company or a venture capital fund or a specified fund; or

(*ii*) by a company from a class or classes of persons as may be notified by the Central Government in this behalf:

Provided further that where the provisions of this clause have not been applied to a company on account of fulfilment of conditions specified in the notification issued under clause (*ii*) of the first proviso and such company fails

to comply with any of those conditions, then, any consideration received for issue of share that exceeds the fair market value of such share shall be deemed to be the income of that company chargeable to income-tax for the previous year in which such failure has taken place and, it shall also be deemed that the company has under reported the said income in consequence of the misreporting referred to in sub-section (8) and sub-section (9) of section 270A for the said previous year:

[66][**Provided also** *that the provisions of this clause shall not apply on or after the 1st day of April, 2025.*]

Explanation.—For the purposes of this clause,—

(*a*) the fair market value of the shares shall be the value—

(*i*) as may be determined in accordance with such method as may be prescribed; or

(*ii*) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,

whichever is higher;

(*aa*) "specified fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the [67][International Financial Services Centre Authority (Fund Management) Regulations, 2022 made under the] International Financial Services Centres Authority Act, 2019 (50 of 2019);

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

(*b*) "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (*a*), clause (*b*) and clause (*c*) of *Explanation* to clause (*23FB*) of section 10;

(*viii*) income by way of interest received on compensation or on enhanced compensation referred to in sub-section (1) of section 145B;

(*ix*) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if,—

(*a*) such sum is forfeited; and

(*b*) the negotiations do not result in transfer of such capital asset;

(*x*) where any person receives, in any previous year, from any person or persons on or after the 1st day of April,2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:—

(*i*) the amount of fifty thousand rupees; and

(*ii*) the amount equal to ten per cent of the consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause :

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections:

Provided also that in case of property being referred to in the second proviso to sub-section (1) of section 43CA, the provisions of sub-item (*ii*) of item (*B*) shall have effect as if for the words "ten per cent", the words "twenty per cent" had been substituted;

(*c*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as

exceeds such consideration :

Provided that this clause shall not apply to any sum of money or any property received—

(*I*) from any relative; or

(*II*) on the occasion of the marriage of the individual; or

(*III*) under a will or by way of inheritance; or

(*IV*) in contemplation of death of the payer or donor, as the case may be; or

(*V*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*VI*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*VII*) from or by any trust or institution registered under section 12A or section 12AA or section 12AB; or

(*VIII*) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*IX*) by way of transaction not regarded as transfer under clause (*i*) or clause (*iv*) or clause (*v*) or clause (*vi*) or clause (*via*) or clause (*viaa*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) or clause (*viiac*) or clause (*viiad*) or clause (*viiae*) or clause (*viiaf*) of section 47; or

(*X*) from an individual by a trust created or established solely for the benefit of relative of the individual;

(*XI*) from such class of persons and subject to such conditions, as may be prescribed;

(*XII*) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*XIII*) by a member of the family of a deceased person,—

(*A*) from the employer of the deceased person; or

(*B*) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,

where the cause of death of such person is illness related to COVID-19 and the payment is—

(*i*) received within twelve months from the date of death of such person; and

(*ii*) subject to such other conditions, as the Central Government may, by

notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of clauses (*XII*) and (*XIII*) of this proviso, "family", in relation to an individual, shall have the same meaning as assigned to it in *Explanation 1* to clause (*5*) of section 10:

Provided further that clauses (*VI*) and (*VII*) of the first proviso shall not apply where any sum of money or any property has been received by any person referred to in sub-section (3) of section 13.

Explanation.—For the purposes of this clause,—

(*a*) the expressions "assessable", "fair market value", "jewellery", "relative" and "stamp duty value" shall have the same meanings as respectively assigned to them in the *Explanation* to clause (*vii*); and

(*b*) the expression "property" shall have the same meaning as assigned to it in clause (*d*) of the *Explanation* to clause (*vii*) and shall include virtual digital asset;

(*xi*) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

[68][(*xii*) any specified sum received by a unit holder from a business trust during the previous year, with respect to a unit held by him at any time during the previous year.

Explanation.—For the purposes of this clause, "specified sum" shall be computed in accordance with the following formula, namely:—

Specified sum = A-B-C (which shall be deemed to be zero if sum of B and C is greater than A), where—

A = aggregate of sum distributed by the business trust with respect to such unit, during the previous year or during any earlier previous year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is,—

(*a*) not in the nature of income referred to in clause (*23FC*) or clause (*23FCA*) of section 10; and

(*b*) not chargeable to tax under sub-section (2) of section 115UA;

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under this clause in any earlier previous year;

(*xiii*) where any sum is received, including the amount allocated by way of bonus, at any time during a previous year, under a life insurance policy, other than the sum,—

(*a*) received under a unit linked insurance policy;

(*b*) being the income referred to in clause (*iv*),

which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (*10D*) of section 10, the sum so

received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act, computed in such manner as may be prescribed.

Explanation.—For the purposes of this clause "unit linked insurance policy" shall have the meaning assigned to it in *Explanation 3* to clause (*10D*) of section 10.]

92.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 92 of the Bill provides for incomes which are chargeable to tax under the head "Income from other sources". This clause corresponds to section 56 of the Act. The provisions of the existing section have been textually simplified. Further, in sub-clause 92(5)(g), specific reference to maternal and paternal lineage in the definition of "relative" has been made with the intent to remove ambiguity. This is retained with the same intent in this clause."

92.4 Important Views/Suggestions given by Experts/Stakeholders:

92.4.1 Suggestion with respect to transfer of units of (publicly / privately) listed Business Trusts under Clause 92 :

- Section 56(2)(x) of the Act (corresponding section 92 of the Bill) read with Rule 11UA of the Income-tax Rules provides that FMV of quoted security transacted other than through stock exchange shall be the last lowest price traded on-exchange. Given the nature of BT units, such units aren't frequently traded and quarterly/ regular distributions occur on such units; therefore, unlike typical listed equity shares, valuation of these listed units should not be considered basis the last traded price.
  In case of privately listed, It may be noted that SEBI regulations require quarterly reporting of value of such units in public domain. Thus, the FMV of units may be ascertained basis the last valuation report available rather than the last traded price.
  Rule 11UA (to notify new set of Rules in relation to the Bill) for listed BT units to determine FMV of such units based on last valuation report in public domain.

92.4.2 Suggestion regarding lowering the tax-slab under Clause 92(2) for dividend received from Indian Companies :

- Taxation of dividends (section 92 of the Bill)
  Dividends are distributed by Corporate from its profits after paying a corporate tax. of 25% (approx.). Further, the recipient of dividend again

pays tax on such dividend. This results in double taxation. It disincentivizes investment, hurts retired and small investors, creates administrative burdens, etc.
Higher tax on dividends received from overseas subsidiaries disincentivizes
Suggestions are: Lower tax slabs for dividend received from Indian companies.
Lower tax rate of 15% on dividends received from overseas subsidiaries as it has a precedent in section 115BBD of the present Act.

92.4.3 Suggestion with respect to Clause 92(2)(l) :

- For annuity policies, where lump sum amount used for purchase of the same is generally out of the previously taxed incomes, the annuities paid to senior citizens may be exempted from tax to encourage the provisions for old age. The purchase price may also be exempt from the GST.Also the commuted income as allowed by IRDAI upto 60% may be considered for tax exemption.
  The senior citizen group is expected to be around 20% of the population by year 2050 in and around the Amrit Kal period and for the larger social security and old age income for them particularly in a falling interest rate scenario and to bridge the protection gap, the income coming from the annuities which is bought from the post taxed income of the individuals needs to be considered for tax relief to some extent if not fully.This will greatly facilitate a move toward inclusive Viksit Bharat with protected and financially independent senior citizen society.

92.4.4 Suggestions related to Clause 92(2)(m) :

- 1. Although conversion of debentures or preference shares into shares have been specifically exempt from capital gains tax, there is lack of clarity regarding exemption on receipt of shares pursuant to conversion under section 56(2)(x). It is recommended to bring in a clarification regarding non-applicability of section 56(2)(x) on conversion of such compulsorily convertible instruments, if:
  Issuance of original instrument was done at FMV (in compliance with section 56(2)(x)); and
  Conversion is done as per the terms specified at the time of issuance based on the valuations at that time
  2. It appears that the section 56(2)(x) applies to issue of right shares/ bonus shares as well. In the case of bonus issue or rights issue there is no change in pre and post shareholding pattern as the same is issued to all the shareholders in equal proportion. Subjecting issue of bonus shares and rights issue to gift tax would create unnecessary ambiguity in the hands of shareholders considering that their interest in the entity remains intact post issue of shares by way of bonus/ rights issue.It is recommended that necessary amendments are made to carve out issue of shares by way of bonus and rights issue from taxation under section 56(2)(x).

3. The resolution plan approved under the IBC, may require that the acquirer take over the management of the company ata nominal consideration. The purpose of the resolution process is to encourage acquirers to take over debt ridden companies and turn them around thus saving jobs and infrastructure and support the economy, if there is still a case for continuing profitable operations if appropriately managed. Transactions effected due to resolution plan approved by NCLT under IBC to be kept outside purview of provisions of taxes in the hands of recipient under section 56(2)(x).Further, such transaction should also be kept outside the purview of capital gains taxability under section 50CA.

- The provisions of s.56(2)(x) of ITA 1961 has been retained in clause 92(2)(m) of ITB 2025 and s. 50CA of ITA 1961 in clause 79 of ITB 2025.
  These are anti-abuse provisions to check underpricing of transactions but do not contain adequate safeguards for bonafide transactions where the price is lower than Rule 11UA value for genuine reasons.
  Pursuant to industry representations, the Finance (No.2) Act 2019 amended s.50CA and s.56(2)(x) to give power to CBDT to notify cases to which these provisions will not apply. CBDT has issued Rule 11UAC and 11UAD.
  However, the CBDT has used this power very sparingly to remove hurdles in PSU divestment like Air India, ILFS/ IDBI restructuring, etc. Following are Illustrative cases where bonafide transactions face tax hurdles u/s. 56(2)(x) and/or 50CA :-
  Fresh issue of shares in scenarios like Initial Public Offer (IPO), private placement, rights, bonus, etc.
  Investment made by holding company into its wholly owned subsidiary (domestic as well as foreign company) or other intra-group reorganization
  Time lag involved between fixing up share price by the parties under an agreement and actual allotment / transfer of shares due to time taken in making regulatory compliances and / or seeking shareholder or regulatory approvals
  Transfer of shares of a listed company through an off-the-exchange transaction at a pre-determined value (where SEBI takeover code is applicable)
  Options or share warrants which are issued at a particular date giving option to the holder to subscribe for shares at a future date at the prefixed value which is generally at FMV on the date of issue of options/warrants (E.g. ESOP Trusts of unlisted companies).
  Conversion of an existing instrument into equity shares as per the terms specified at the time of issuance based on the valuations at that time
  Transfer or issue of shares or securities in case of corporate insolvency resolution process under IBC or stressed companies, whose book value of assets is much higher than the actual realizable value.
  Transfer of assets between relatives for consideration lower than FMV or on account of family settlement.
  Recommendation:

To codify that clauses 92(2)(m) & 79 of ITB 2025 (S. 56(2)(x) and 50CA of ITA 1961) do not apply in bonafide and genuine commercial transactions as supported by documentary proof.

It is also recommended that Rule 11UAC and 11UAD be amended by way of a notification. Further, prior to the issue of Final Notification, it is recommended that a draft Notification should be published for stakeholders' comments to ensure that all possible bonafide cases faced by industry get adequately represented in the Final Notification.

- It is recommended that any waiver of loans pursuant to the resolution plans approved under the Code may not be subject to tax under the Income-Tax Bill.

- Considering the clear object and purpose behind introduction of sections 50CA & 56(2)(x) and to avoid any unnecessary litigation in this regard, it needs to be clarified through a proviso/explanation that the said sections would not be applicable to genuine bona fide transactions entered into by a taxpayer. The initial onus to demonstrate that the transaction is not with the motive of tax abuse may be on the taxpayer. For instance, transactions entered into between parties based purely on commercial negotiations backed by documentary evidence of a robust process supported say by auction or bid processes, or transactions supported by Valuation reports of Registered Valuers or transactions which meet the Arm's Length Price test under the Transfer Pricing Rules ought not to be covered within the ambit of sections 50CA & 56(2)(x) as a matter of routine. And, if the AO is able to rebut the aforesaid claims put forth by the taxpayer, it may still be open to him to invoke the provisions of the said sections.

  Additionally, in M&A deals, typically there is always a time gap between the signing of the deal and its eventual closure i.e. consummation of the transaction. For instance, an acquirer agreeing to acquire controlling interest in shares of a listed company having signed a definitive binding agreement would have to go through the elaborate processes under the SEBI Takeover Code before the final acquisition as agreed can be consummated. This causes a significant problem especially where listed price moves up between the date of signing and the eventual acquisition/transfer of the shares. For instance, if an agreement for acquisition of shares is signed at a price of Rs.105 per share and on that date the listed price is say Rs. 100 and if thereafter the listed price runs up to Rs. 120 by the time of closing of the deal, the difference between Rs.120 and Rs. 105 may be deemed to be a gift in the hands of the acquirer. This seems totally unintended since the acquirer actually signed the deal to acquire the share at Rs. 105 at the time when the listed price was only Rs. 100. This issue persists in the parallel provision proposed in clauses 79 & 92(2)(m) of ITB 2025.

  It is recommended to clarify that that so long as the acquisition price is more than prescribed Rule 11UA value (listed price) on the date of signing

of the deal, the provisions of section 56(2)(x) of ITA 1961 (clause 92(2)(m) of ITB 2025) ought not to apply. In any case, the deemed gift may be clarified to not exceed the difference between Rule 11UA value and acquisition price on the signing date.

92.4.5 Suggestions pertaining to Clause 92(5)(g) :

- Suggestion 1 - Specific reference to maternal and paternal lineage in the definition of "relative" removes ambiguity. Typographical error in referencing Section 355(i) instead of Section 355(h) for exemptions when specified persons receive amounts from non-profit organizations (registered charitable/ religious trusts).Align the definition of “relative” in all provisions of ITB 2025 to include both paternal and maternal lineage. Correct the typographical error to reference Section 355(h) for exemptions when specified persons receive amounts from non-profit organizations (registered charitable/ religious trusts).
- Suggestion 2 - Align the definition of “relative” in all provisions of ITB 2025 to include both paternal and maternal lineage. Correct the typographical error to reference Section 355(h) for exemptions when specified persons receive amounts from non-profit organizations.

- Clause 92(5)(g) (same as S 56(2)(viib) in the existing Act) defines "relative" from the perspective of the donor (in case of direct gifts) or settlor (in case of trusts) but does not recognize reciprocal relationships. For example, an uncle gifting to a nephew qualifies as a gift between relatives (since father’s brother is considered a “relative” from the donee’s perspective); however, a settlement into trust is to be seen from the settlor’s perspective – and from the uncle perspective, nephew is not expressly defined as a “relative” (though logically. It should be so assumed). This not only creates an artificial asymmetry that is inconsistent with the common understanding of familial relationships, since it is obvious that reciprocity should be implied also, but important to clarify this expressly.

- In clause 92(5)(g), subpoint (e), reference to maternal and paternal may also be made immediately after ‘lineal ascendants’ Following text may be considered for subpoint (e) “(E) any lineal ascendant (maternal as well as paternal) or descendant (maternal as well as paternal);” Rationale: Proposed change would make 1. Make Tax laws simple and lucid. 2. Would be read and understood by taxpayers and tax administration in a uniform manner. 3. Reduce tax litigation thereby providing certainty. The manner in which sub-clause E has been worded, it may leave scope for one to argue that maternal and paternal relationship would apply to ‘descendants’ and not apply to ‘ascendants’. One may also contend that as far as ‘lienal ascendents’ are concerned, it would apply to paternal

ascendents (and not to maternal or vice versa). If the intent is to advance the benefit to both lienal ascendants as well, the change suggested may be considered. In clause 92(5)(g), subpoint (e), reference to maternal and paternal may also be made immediately after 'lineal ascendants'.

- It is suggested that in item (E), the phrase "maternal as well as paternal" be added after both "ascendant" and "descendant" for consistency Alternatively, the bracketed clarifications may be omitted entirely from both sub-clauses (E) and (F), as they are unnecessary and may introduce ambiguity The use of bracketed qualifiers like "maternal as well as paternal" after "descendant" is redundant since a descendant is inherently lineal Further, the absence of the phrase after "ascendant" in item (E), when it is included in (F), creates inconsistency Uniform language or omission of such qualifiers would avoid interpretative confusion and promote clarity in defining "relative".

92.4.6 Suggestion which is common to Clause 92 and Clause 79 :

- Currently certain deeming provisions with valuation rules (e.g., 50CA, 50B, 56(2)(x), etc.) intended to be Anti-Tax Avoidance Rules ('ATAR') are part of charging provisions and hence apply as a default rule, creating uncertainties for genuine commercial transactions and leads to unnecessary litigation. Certain provisions lead to double taxation for buyer and seller. (S.50CA and 56(2)(x) of the Act/ S.79 & 92 of Bill).
  Only real income should be brought to tax, and notional norms should be removed, as they are burdensome, litigative and erodes investors confidence. Safeguard in the form of GAAR is available for dubious structures.

92.5 <u>Examination by the Committee:</u>

92.5.1 Response of the Ministry of Finance to the suggestion with respect to transfer of units of (publicly / privately) listed Business Trusts under Clause 92 :

> "This suggestion seeks that FMV of units of BT based on last valuation be adopted for 56(2)(x) rather than last traded price. This will increase litigation. The provision is in nature of anti-abuse. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

92.5.2 Elaborating on the last traded value being considered as the income from units of business trust, the representative of the Ministry, during the Sitting, submitted that :

> "…it talks about units of business trust. What we take for purposes of income from units of business trust, they are gifted to somebody. Then what would be the fair market value in their hands? The fair market value is taken as the last traded price. The suggestion is that rather than last

traded price, you take it based on the last valuation. We are saying that last traded price is a definitive price which is available as per records. So, the suggestion would increase in litigation because it is a very subjective matter that what is the last valued price."

92.5.3 Response of the Ministry to the suggestion regarding lowering the tax-slab under Clause 92(2) for dividend received from Indian Companies :

"Until FY 2019-20, dividends were tax-free in the hands of the recipients (shareholders) as companies paid a Dividend Distribution Tax (DDT) while disbursing dividends. Since FY 2020-21 when DDT was abolished, dividends are taxable in the hands of the shareholders and not the companies. The reference to 115BBD is misplaced as this was provided for dividend received from specified Foreign companies as no DDT is leviable on overseas enterprises and this section is redundant as on date. Moreover, the provisions of section 80M(Clause 148) provide for deduction for dividend that is further distributed by companies to their shareholders. Therefore, this suggestion may not be feasible."

92.5.4 Response of the Ministry with respect to suggestion regarding Clause 92(2)(l) :

"It is suggested that the annuities paid to senior citizens may be exempted from tax. Annuity is in nature of pension which is taxable. After an exemption limit of 12 lakh, separate exemption may not be required. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

92.5.5 Corresponding responses of the Ministry of Finance relating to suggestions related to Clause 92(2)(m) :

"It is suggested that the transfer of unquoted shares by conversion of debentures/preference share or issues of right shares/bonus shares or transactions approved by NCLT should not be subject to determination of Fair Market Value as called for in section 50CA/56(2)(x). These are anti-abuse provisions. Also, separate carve-outs for specific cases will only complicate the provisions. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

"The suggestion seeks to amend 50CA and 56(2)(x) so that these provisions that call for determination of Fair Market Value do not apply to "bona fide" transactions. 'Bona fide' is a subjective term and open to litigation. Undervaluation of shares and other assets is rampant and provision for anti-abuse are needed. This suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

With regard to waiver of loans pursuant to the resolution plans approved under the Code, the Ministry in their comments furnished that, "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

92.5.6 Regarding determination of fair market value provisions under Clause 92(2)(m), the representative of the Ministry submitted that :

"…we adopt fair market value for unquoted shares. So, the suggestion is that for unquoted share, by conversion of debentures, preference shares or issue of right shares or bonus shares or transactions approved by NCLT, they should not be subject to determination of fair market value. So, Sir, these are specific anti-abuse provisions and separate carve-outs will only complicate the provision…
…I will just try to explain it slightly. Clause 92(2)(m) is a generic provision where it says that if I receive an asset which is lesser than the fair market value, then the difference between the asset value and the fair market value…."

92.5.7 With regard to waiver of pursuant to resolution plans, the representative of the Ministry of Finance, during the Sitting held on 16th June, 2025, assured the Committee that the Ministry would submit a detailed note on waiver of loans pursuant to resolution plans.

92.5.8 When asked to furnish views with respect to the suggestion relating to Clause 92(2)(m), the Ministry in its written reply submitted that :

"The suggestion seeks to clarify in Sections 50CA and 56(2)(x) that these provisions that call for determination of Fair Market Value do not apply to "bona fide" transactions. 'Bona fide' is a subjective term and open to litigation. Undervaluation of shares and other assets is rampant and provision for anti-abuse are needed. The market price of a listed share is determined by the price as on the stock exchange. The price on the date when the shares were received by the taxpayer will be the market price as this is a movable property. In the example mentioned in the suggestion, if the taxpayer received shares of Rs. 120/- for Rs 105/-, then it stands to reason that he has received a property for Rs 15/- less. Therefore, it will remain as income under the provisions of section 56(2)(x) of the Act. The provisions are faithfully reproduced here in the Bill as well. Any change in this may lead to misuse whereby the agreement may be signed at a certain pre-determined rate that may not reflect the true market price."

92.5.9 Corresponding responses of the Ministry of Finance relating to suggestions pertaining to Clause 92(5)(g) :

> "Suggestion 1 – **Acceptable. This is a typographical error** - reference to Section 355(i) in Clause 92(3)(f) appears incorrect and the correct reference is to 355(h)."
> "Suggestion 2: The reference to maternal and paternal lineage is specific to Clause 92(5)(g). The term relative is defined in various provisions of the IT Act, 1961 giving different meanings.
> The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."
>
> "It is suggested that the lineal descendant of a brother or sister be also be treated as a relative for the purposes of this clause 92(5)(g). This is against the traditional concepts of who can be a relative for gift purposes. This suggestion is in the nature of a major policy change which is beyond the scope of the objectives of the IT Bill, 2025."
>
> "**The suggestion is in the nature of a drafting correction**. For the purpose of providing clarity, the words "maternal or paternal" may be place after the phrase "lineal ascendant" as well. **This is acceptable**."

92.5.10 Response of the Ministry regarding suggestion which is common to Clause 92 and Clause 79 :

> "Suggestion seeks GAAR provisions be applied instead of Section 50CA and 56(2)(x). These are specific provisions to deal with specific cases of valuation. Usage of GAAR for such specific cases would dilute the purpose of GAAR. Additionally, GAAR would be too cumbersome to be invoked for cases where sale of property is at less than FMV/Stamp Duty Value. GAAR is used only in very few cases and it cannot substitute Section 50CA which is automatically applied. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

92.5.11 Expounding on the provisions under Clause 92(5)(g) regarding persons who can be treated as relatives for the purpose of gifting, the representative of the Ministry, during the Sitting held on 05th June, 2025, apprised the Committee as under :

> "…there is a definition of relative, and the stakeholder is asking for change in its definition. They want to include 'linear descendant of a brother or a sister' also in that definition…
> .. In this Section, we have defined relative as a spouse, brother or sister, brother or sister of the spouse, any linear descendant or ascendant, now

we have clarified maternal and paternal both, of the person and of the spouse. This much we have already provided.

… It is different in some other provisions. But this is specifically for those where we are saying that any gift received from these persons will not be taxed, even if it is without any consideration.

So, now they say that brothers, sisters and children also should be included in this. That is not included here. We have limited it up to your own brother, sister and brother and sister of the parents. We have It is different in some other provisions. But this is specifically for those where we are saying that any gift received from these persons will not be taxed, even if it is without any consideration.

So, now they say that brothers, sisters and children also should be included in this. That is not included here. We have limited it up to your own brother, sister and brother and sister of the parents. We have included this up to that extent…"

The uncle can gift to me. That would be exempt in my hands. But I cannot gift to my uncle.

… Sir, in case of an individual, it is his lineal ascendant, descendant, like nana, nani. They all will be covered under this. You can go up to whatever stage. Similarly, my son, my grandson will also be covered in this. …

… It is because the gift has to be taxed at the hands of the recipient. They can gift to me. What is exempt is gift received from a relative."

92.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 92 of the Income-tax Bill, 2025 pertains to taxation of income accrued from other sources and corresponds to Section 56 of the Income-tax Act, 1961. Upon thoughtful deliberation of the provisions under this clause, the Committee observe that in sub-clause (3)(f) an incorrect reference to Clause 355(i) - "relative", in relation to an individual, has been made instead of a reference to Clause 355(h) – "related persons" in relation to non-profit organizations. The Committee, therefore recommend that in sub-clause (3)(f) the reference to Clause 355(i) be changed to Clause 355(h) and accordingly, the modified provision be read as :

“92(3)(f) - from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section 355(h);”.

Further, with regard to the provisions contained in sub-clause (5)(g) sub-point (E), the Committee note that the phrase “maternal as well as paternal” not being expressly mentioned in respect of “lineal ascendant” makes this provision open to ambiguity, thus making way for litigations. Therefore, for the sake of clarity, the Committee recommend that suitable changes be made in sub-clause (5)(g) and the modified provision be read as :

“92(5)(g)(E) - any lineal ascendant “(maternal as well as paternal)” or descendant (maternal as well as paternal);”.

Further, after careful consideration of the views/suggestions of the stakeholders, the Committee express satisfaction with the justification and response of the Ministry of Finance thereto, and therefore, accept the remaining provisions under Clause 92 as proposed.

Clause 93 – Deductions

93.1 Provision proposed in the Income-Tax Bill, 2025:

93. (*1*) The income chargeable under the head "Income from other sources" shall be computed after making the following deductions:—

(*a*) for dividends [excluding those referred to in section 2(*40*)(*f*) or interest on securities, any reasonable sum paid as commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee;

(*b*) for income of the nature referred to in section 92(*2*)(*c*), so far as may be, an amount as per section 29(*1*)(*e*);

(*c*) for income of the nature referred to in section 92(*2*)(*f*) and (*g*), so far as may be, an amount as per section 28(*1*)(*a*), (*b*), (*d*), section 33, and subject to the provisions of section 28(*2*);

(*d*) for income in the nature of family pension (a regular monthly amount payable by the employer to a family member of an employee upon the death of such employee),—

(*i*) an amount equal to one-third of such income or twenty-five thousand rupees, whichever is less, where income-tax is computed under section 202(*1*); and

(*ii*) an amount equal to one-third of such income or fifteen thousand rupees, whichever is less, in any other case;

(*e*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for making or earning such income;

(*f*) for income of the nature referred to in section 92(*2*)(*i*), an amount equal to 50% of such income and no other deduction shall be allowed under this section.

(*2*) In respect of—

(*a*) dividend income of the nature referred to in section 2(*40*)(*f*), no deduction shall be allowed;

(*b*) any other dividend income [other than in clause (*a*)], or income from units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21) or income from units of a specified company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, only deduction allowed shall be interest expense which, for any tax year, shall be limited to 20% of such income (included in the total income for that year, without deduction under this section).

93.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deductions.

57. The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely :—

(*i*) in the case of dividends, [69][other than that referred in sub-clause (*f*) of clause (*22*) of section 2] or interest on securities, any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee ;

(*ia*) in the case of income of the nature referred to in sub-clause (*x*) of clause (*24*) of section 2 which is chargeable to income-tax under the head "Income from other sources", deductions, so far as may be, in accordance with the provisions of clause (*va*) of sub-section (1) of section 36;

(*ii*) in the case of income of the nature referred to in clauses (*ii*) and (*iii*) of sub-section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (*ii*) of clause (*a*) and clause (*c*) of section 30, section 31 and sub-sections (1) and (2) of section 32 and subject to the provisions of section 38 ;

(*iia*) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or fifteen thousand rupees, whichever is less:

[70][**Provided** *that in a case where income-tax is computed under clause (*ii*) of sub-section (1A) of section 115BAC, the provisions of this clause shall have effect as if for the words "fifteen thousand rupees", the words "twenty-five thousand rupees" had been substituted*.]

Explanation.—For the purposes of this clause, "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death;

(*iii*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income;

(*iv*) in the case of income of the nature referred to in clause (*viii*) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section:

Provided that no deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund specified under clause (*23D*) of section 10 or income in respect of units from a specified company defined in the *Explanation* to clause (*35*) of section 10, other than deduction on account of interest expense, and in any previous year such deduction shall not exceed twenty per cent of the dividend income, or income in respect of such units, included in the total income for that year, without deduction under this section:

[71][**Provided further** that no deduction shall be allowed in case of dividend income of the nature referred to in sub-clause (*f*) of clause (*22*) of section 2.]

Explanation.—[*Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.*]

93.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> "Clause 93 of the Bill provides for deductions for eligible expenses for computing the taxable income under the head "Income from other sources". This clause corresponds to section 57 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

93.4 Important Views/Suggestions given by Experts/Stakeholders:

Suggestion related modification of Clause 93(1)(a) :

- In ITB 25, after words "referred to in section 2(40)(f)", bracket is to be closed.

93.5 Examination by the Committee:

Response to the Ministry to the above mentioned suggestion :

> "This is in the nature of a **drafting corrections** and the square bracket may be closed as suggested. **This is acceptable**."

93.6 Observations/Recommendations of the Committee:

The Committee note that Clause 93 of the Income-tax Bill, 2025 provides for deductions for eligible expenses for computing the taxable income under the head "Income from other sources" and corresponds to Section 57 of the Income-tax Act, 1961. After careful deliberation of the provisions under the clause, the Committee find an erratum in the provision contained in sub-clause (1)(a) wherein the square bracket enclosing the phrase "excluding those referred to in section 2(*40*)(*f*)" has not been closed. Therefore, the Committee recommend that the typographical error be corrected and the provision be modified to read as :

"93(1)(a) – for dividends '[excluding those referred to in section 2(40)(f)]'…".

Further, after careful examination of the justification provided by the Ministry of Finance, the Committee express satisfaction with the response of the Ministry and accept the remaining provisions as proposed.

Clause 94 – Amounts not deductible.

94.1 Provision proposed in the Income-Tax Bill, 2025:

94. (*1*) Irrespective of anything contained in section 93, the following amounts shall not be deductible in computing the income of any assessee chargeable under the head "Income from other sources":—

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

(*b*) any interest chargeable under this Act, payable outside India, on which tax has not been paid or deducted under Chapter XIX-B; or

(*c*) any payment chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid or deducted under Chapter XIX-B.

(*2*) The provisions of sections 29, 35(*b*)(*i*), and 36 shall apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(*3*) For an assessee, being a foreign company, the provisions of section 59 shall apply in computing the income chargeable under the head "Income from other sources", as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(*4*) In computing the income from winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, or from gambling or betting of any form or nature, no deduction for any expenditure or allowance related to such income shall be allowed under this Act.

(*5*) Sub-section (*4*) shall not apply in computing the income of an assessee, being the owner of horses maintained for running in horse races, from the activity of owning and maintaining such horses.

(*6*) In this section, "horse race" means a horse race upon which wagering or betting may be lawfully made.

94.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Amounts not deductible.

58. (1) Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely :—

(*a*) in the case of any assessee,—

(*i*) any personal expenses of the assessee ;

(*ia*) any expenditure of the nature referred to in sub-section (12) of section

40A;

(*ii*) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B [***] ;

(*iii*) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B ;

(*iv*) [***]

(*b*) [***]

(1A) The provisions of sub-clauses (*ia*) and (*iia*) of clause (*a*) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(2) The provisions of section 40A shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(3) In the case of an assessee, being a foreign company, the provisions of section 44D shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(4) In the case of an assessee having income chargeable under the head "Income from other sources", no deduction in respect of any expenditure or allowance in connection with such income shall be allowed under any provision of this Act in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature, whatsoever :

Provided that nothing contained in this sub-section shall apply in computing the income of an assessee, being the owner of horses maintained by him for running in horse races, from the activity of owning and maintaining such horses.

Explanation.—For the purposes of this sub-section, "horse race" means a horse race upon which wagering or betting may be lawfully made.

94.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

"Clause 94 of the Bill seeks to enumerate the deductions that are not allowable to be set off against incomes referred to in clause 92. This clause corresponds to section 58 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

94.4 Observations/Recommendations of the Committee:

The Committee note that Clause 94 of the Income-tax Bill, 2025 provides for enumeration of deductions that are not allowable to be set off against incomes obtained from other sources, as referred to in clause 92. The Committee also understand that this clause is synonymous with Section 58 of the Income-tax Act, 1961 and aims at correct computation and charging of taxable income, thereby improving tax compliance by the assessee. After careful deliberation of the proposal and justifications provided by the Ministry of Finance, the Committee express satisfaction with the response of the Ministry and accept the clause as proposed.

Clause 95 – Profits chargeable to tax.

95.1 Provision proposed in the Income-Tax Bill, 2025:

95. The provision of section 38(*1*)(*a*) shall apply in computing the income of an assessee under section 92, as they apply in computing the income of an assessee under the head “Profits and gains of business or profession”.

95.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Profits chargeable to tax.

59. (1) The provisions of sub-section (1) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".

(2) [***]

(3) [***]

Explanation.—[***]

95.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

> “Clause 95 of the Bill seeks to propose that any benefit in cash or otherwise obtained on account of remission or cessation of any liability, for which a deduction has been allowed in an earlier year, shall be taxable in the year in which the benefit has been obtained. This clause corresponds to section 59 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

95.4 Observations/Recommendations of the Committee:

After reviewing the provisions proposed under Clause 95, the Committee understand that this clause, while being synonymous with Section 59 of the Income-tax Act, 1961, seeks to propose that any benefit in cash or otherwise obtained on account of remission or cessation of any liability, for which a deduction has been allowed in an earlier year, shall be taxable in the year in which the benefit has been obtained. While recognizing the objective of making any profitable income of an assessee chargeable to tax, the Committee concur

with the retention of the original intent and the textual simplification of the provisions under this clause. Therefore, after careful consideration of the proposal and justifications provided by the Ministry of Finance, the Committee accept the clause as proposed.

CHAPTER V

INCOME OF OTHER PERSONS, INCLUDED IN TOTAL INCOME OF ASSESSEE

Clause 96: Transfer of income without transfer of assets

96.1 Provision proposed in the Income-Tax Bill, 2025:

All income arising to any person by virtue of transfer,—
(a) whether revocable or not, and whether effected before or after the commencement of this Act; and

(b) where there is no transfer of assets from which such income arises, shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

96.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 60: All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income.

96.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 96 of the Bill seeks to provide that the income which is transferred to any other person without the transfer of the assets from which such income arises shall be clubbed in the income of the transferor. The clause corresponds to section 60 of the Act. Redundant provisions have been removed. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

96.4 Important Views/Suggestions given by Experts/Stakeholders:

96.4.1 Clause 96 of the Bill be substituted as follows (by adding sub-clause 2):
96. (1) All income, arising to any person by virtue of transfer – (a) ..... (b) where there is no transfer of assets from which the income arises, shall be chargeable to income-tax as the income of the transfer and shall be included in his total income.

96.4.2 Irrespective of sub-section 1, dividend ordered to be paid as per Section 123(5) of the Companies Act, 2013 to any registered Non - Profit Organisation shall be income arising only to such Non-Profit Organisation and not as the income of the transferor.

96.5 Examination by the Committee:

96.5.1 In regard to the suggestion that dividend ordered to be paid as per Section 123(5) of the Companies Act, 2013 to any registered non-profit organization shall be treated as income arising solely to such Non-Profit Organization and not as the income of the transferor, where there is no transfer, the Ministry in their written reply has stated that these are anti-abuse provisions. Where there is no transfer of assets (only an arrangement, covenant, agreement), income shall continue to be clubbed in the hands of the transferor. Further during the Sitting of the Committee, representatives of the Ministry deposed as under:

> *"Dividend is given to a non-profit organization. The suggestion is that dividend which is given as per Section of the Companies Act, they should be treated as income arising to the non-profit organization and not to the transferor. These are specific clubbing provisions where share is given to a non-profit organization. That dividend also goes to that non-profit organization. These clubbing provisions operate where there is no transfer of asset but there is transfer of income. We are saying if the asset has not been transferred and only income is being transferred, then income will continue to be clubbed in the hands of the person who is still owning the assets. He cannot transfer that dividend to the non-profit organization."*

96.5.2 On being asked by the Committee whether the dividend would be tax-free if the transferor has gifted the shares themselves to the non-profit organization, the representative of the Ministry responded as follows:

> *"For one year, it will be tax-free because within one year the NPO has to liquidate those shares."*

96.5.3 When the concern was raised by the Committee as to why the Non-Profit Organization is being compelled to liquidate gifted shares, it was stated:

"That is the basic structure we have kept in the NPO that they can invest only in safe modes of investment which are provided in Section 11(5) of the old Act… the problem is not with the gift. The problem is with the voting right which comes along with the shares."

96.6 Observations/Recommendations of the Committee:

The Committee find that the proposed clause corresponds to section 60 of the Act. The Ministry has stated that redundant provisions have been removed; however, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 97:</u> Chargeability of income in transfer of assets

97.1 Provision proposed in the Income-Tax Bill, 2025:

97. (1) All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as income of the transferor and shall be included in his total income.

(2) The provisions of sub-section (1) shall not apply, if such transfer—

(a) is by way of trust which is not revocable during the lifetime of the beneficiary; or

(b) and in case of any other transfer, is not revocable during the lifetime of the transferee, and the transferor does not derive any direct or indirect benefit from such income in cases referred to in clauses (a) and (b).

(3) Irrespective of the provisions of sub-section (2), all income arising to any person by virtue of such transfer shall be chargeable to income-tax as income of the transferor as and when the power to revoke such transfer arises, and shall than be included in his total income.

97.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 61. All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

Section 62. (1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee; or

(ii) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years :

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the

income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

97.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 97 of the Bill seeks to provide for clubbing of income in the hands of transferor and transferee in case where transfer of assets is revocable or where the transfer of assets is irrevocable for a specified period. The clause corresponds to sections 61 and 62 of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

97.4 Important Views/Suggestions given by Experts/Stakeholders:

97.4.1 Clause 97(2)(b): The usage of the words ‘or’ and ‘and’ together makes the language incoherent. The use of the word 'and' in the corresponding provision (Section 62 of ITA 1961) is a result of grammatical construction and does not imply that the conditions are required to be collectively satisfied. Correct the language of the provision by deleting ‘and’ at the beginning of clause (b) in Section 97(2) of ITB 2025 to avoid incoherence.

97.5 Examination by the Committee:

When the Committee pointed out the usage of words ‘or’ and ‘and’ together makes the language incoherent, the Ministry admitted it as an inadvertent drafting error, and stated that the word “or”/”and” is to be omitted in Clause 97(2).

97.6 Observations/Recommendations of the Committee:

The Committee, after examining the clause, recommend that the word 'and' in the beginning of the Clause 97(2)(b) be omitted as use of words 'or' and 'and' together leads to ambiguity and makes the language incoherent. The Committee note that the proposed clause corresponds to Sections 61 and 62 of the existing Act. The provisions of these existing sections have been textually simplified while retaining the same intent in this clause. The Committee, therefore, accept the provisions of the clause, subject to the aforementioned drafting correction.

<u>Clause 98:</u> "Transfer" and "revocable transfer" defined

98.1 Provision proposed in the Income-Tax Bill, 2025:

Clause 98: For the purposes of sections 96 and 97, and this section,— (a) "transfer" includes any settlement, trust, covenant, agreement or arrangement; (b) a transfer shall be considered to be revocable, if— (i) it contains any provision for the direct or indirect re-transfer of the whole or any part of the income or assets to the transferor; or (ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets.

98.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 63. For the purposes of sections 60, 61 and 62 and of this section,—

(a) a transfer shall be deemed to be revocable if—
(i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor, or
(ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets;

(b) "transfer" includes any settlement, trust, covenant, agreement or arrangement.

98.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 98 of the Bill provides for definitions of the expressions "Transfer" and "revocable transfer". The clause corresponds to section 63 of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

98.4 Examination by the Committee:

The Committee pointed out that the term 'transfer' includes any settlement, trust, covenant, agreement, or arrangement, and sought clarification on what safeguards would be implemented to prevent the unintended inclusion of routine commercial transactions under this broad definition of 'arrangement'. They also questioned whether introducing a materiality threshold or a main purpose test would be appropriate to align

with international anti-avoidance standards. In response, the Ministry stated the following in their written reply:

> “98 of the Bill (sec 63 of the Act) define the term "transfer" in the context of clubbing of income. The definition of transfer includes any arrangement. The provisions are anti-abuse in nature to prevent artificial reduction in tax liability by way of transfer of income where there is no transfer of assets/revocable transfer. Any commercial transactions undertaken are to be examined to conclude whether it is falling under the category of arrangement. If on the analysis of the facts it is established that the commercial transaction is an arrangement to reduce tax liability, then only provisions of cl 96 and 97 will apply.”

98.5 Observations/Recommendations of the Committee:

The Committee note that the proposed clause corresponds to section 63 of the existing Act and is a textual simplification of those in the existing Act, retaining the same intent. The Committee, therefore, accept the clause as proposed.

Clause 99: Income of individual to include income of spouse, minor child, etc.

99.1 Provision proposed in the Income-Tax Bill, 2025:

99. (1) The total income of any individual, for a tax year, shall include the income arising directly or indirectly,—

(a) to the spouse,—

(i) by way of salary, commission, fees or any other form of remuneration, whether in cash or kind, from a concern in which such individual has a substantial interest but shall not exclude income solely attributable to the application of technical or professional knowledge, experience and professional qualification of the spouse;

(ii) from assets transferred directly or indirectly to him or her by such individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to the provisions of section 25(a);

(iii) from assets transferred directly or indirectly to any person or association of persons otherwise than for adequate consideration to the extent to which the income from such assets is for the immediate or deferred benefit of the spouse;

(b) to the son's wife,—

(i) from assets transferred directly or indirectly on or after the 1st June, 1973, to her by such individual, otherwise than for adequate consideration; or

(ii) from assets transferred directly or indirectly on or after the 1st June, 1973, to any person or association of persons otherwise than for adequate consideration to the extent to which the income from such assets is for the immediate or deferred benefit of the son's wife;

(c) to the minor child of the individual but shall not include in the total income of the individual where the income arising or accruing to the minor child is from manual work done by such child, or from activities where his skill, talent, specialised knowledge or experience is applied, or where such minor child is suffering from disability of the nature specified in section 154.

(2) If the asset transferred under sub-section (1)(a) or (b) is invested by the spouse or son's wife, in any business or capital contributed as a partner in a firm, or, as the case

may be, for being admitted to the benefits of partnership in a firm, then, the income to be included in the hands of the individual for the tax year shall be as follows:—

A = B × (C D) where,— A = Income to be included in the hands of individual for the tax year; B = Income and interest or both, arising to the spouse or son's wife from the business or the firm, as applicable during the tax year; C = Value of such assets invested, or contributed as capital by the spouse or son's wife as on the first day of the tax year; D = Total investment or total capital contribution, as the case may be, by the spouse or son's wife as on the day for which A is being computed.

(3) Where a property owned by an individual is converted into property belonging to the Hindu undivided family of which he is a member, through–

(a) the act of impressing such separate property with the character of property belonging to the family; or

(b) throwing it into the common stock of the family; or

(c) transfer, directly or indirectly to the family, without adequate consideration,

then, irrespective of any other provision of this Act or any other law in force for computing the total income of such individual,—

(i) the individual shall be deemed to have transferred such property, through the family, to the members of such family for being held jointly, and the income derived from such property or part thereof, shall be deemed to be income of the individual;

(ii) upon partition (whether partial or total) of the family, the income derived from such property as is received by the spouse of the individual on partition, shall be deemed to arise to the spouse from assets transferred indirectly to the spouse and the provisions of sub-section (1)(a) shall apply;

(iii) the income referred to in clauses(i) and (ii) shall, on being included in the total income of the individual, be excluded from the total income of the family or, the spouse.

(4) The provisions of sub-section (3) shall not apply where the property of the individual has been converted into property belonging to the family on or before the 31st December, 1969.

(5) In this section,—

(a) for sub-section (1)(a),—

(i) the income referred to in that clause shall be included in the hands of either of the spouse whose total income before such inclusion is greater; and

(ii) such income, once included in the total income of either spouse, for a tax year, shall not be included in the income of the other spouse for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other spouse an opportunity of being heard;

(iii) “substantial interest in a concern” means,—

(A) in case of a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by the individual or jointly with one or more of his relatives;

(B) in any other case, if such person is entitled, or such person and one or more of his relatives are jointly entitled, to atleast 20% of the profits of such concern at any time during the tax year;

(b) for sub-section (1)(d), income of minor child shall be included—

(i) in the income of that parent whose total income before such inclusion is greater in case where the marriage of his parents subsists; or

(ii) in the income of the parent who maintains such child during the tax year in case where marriage of his parents does not subsist, and such income, once included in the total income of either parent, for a tax year, shall not be included in the income of the other parent for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other parent an opportunity of being heard;

(c) for sub-section (3), “property” includes—

(i) interest in property; or

(ii) movable or immovable property; or

(iii) proceeds of sale of such property and any money, property or investment representing such proceeds; or

(iv) where property is converted into any other property by any method, such other property; (d) for this section, “income” includes loss.

99.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 64. (1) In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(ii) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest :

Provided that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience ;

(iii) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(iv) subject to the provisions of clause (i) of section 27, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;

(v) Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(vi) to the son's wife, of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife by such individual otherwise than for adequate consideration;

(vii) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse; and

(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife.

Explanation 1.—For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.

Explanation 2.—For the purposes of clause (ii), an individual shall be deemed to have a substantial interest in a concern—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives;
(ii) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

Explanation 2A.—[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

Explanation 3.—For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this Explanation referred to as "the transferee") are invested by the transferee,—

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day ;

(ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the

firm as on the said day, shall be included in the total income of the individual in that previous year.

(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child , not being a minor child suffering from any disability of the nature specified in section 80U :
Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

(a) manual work done by him; or

(b) activity involving application of his skill, talent or specialised knowledge and experience.

Explanation.—For the purposes of this sub-section, the income of the minor child shall be included,—

(a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater; or

(b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

(a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;

(b) the income derived from the converted property or any part thereof shall be deemed to arise to the individual and not to the family ;

(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse on partition shall be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and the provisions of sub-section (1) shall, so far as may be, apply accordingly:

Provided that the income referred to in clause (b) or clause (c) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse of the individual.

Explanation 1.—For the purposes of sub-section (2),—

"property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

Explanation 2.—For the purposes of this section, "income" includes loss.

99.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 99 of the Bill provides for clubbing of income. The clause corresponds to section 64 of the Act. Formula has been introduced in clause 99(2) corresponding to Explanation 3 of section 64 of the Act for ease of understanding and certainty in computation. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

99.4 Important Views/Suggestions given by Experts/Stakeholders:

99.4.1 In section 99(1)(a)(i), the phrase “but shall not exclude income” should be substituted with “but shall not include income” The sub-section may be redrafted

as follows - (1) The total income of any individual, for a tax year, shall include the income arising directly or indirectly,— (a) to the spouse,— (i) by way of salary, commission, fees or any other form of remuneration, whether in cash or kind, from a concern in which such individual has a substantial interest but shall not ~~exclude~~ include income solely attributable to the application of technical or professional knowledge, experience and professional qualification of the spouse; Section 99(1)(a)(i) uses the word “exclude” instead of “include”, which conveys the converse meaning.

99.4.2 Clause (b) of section 99(1) may be deleted. The clubbing provisions not to apply in respect of assets transferred to son’s wife, since this provision is very gender-specific and is inconsistent with the other measures of the Government to encourage property ownership by women. Consequent to the suggestion to remove clause (b), clause (c) may be re-numbered as clause (b).

99.4.3 In the opening part of sub-section (2) of 96, reference to “or (b)” and reference to “son’s wife” at all places in sub-section (2) be removed. Sub-section (2) may be reworded as follows – (2) If the asset transferred under subsection (1)(a) ~~or (b)~~ is invested by the spouse ~~or son’s wife~~, in any business or capital contributed as a partner in a firm, or, as the case may be, for being admitted to the benefits of partnership in a firm, then, the income to be included in the hands of the individual for the tax year shall be as follows:— A=B×(C/D) where,— A = Income to be included in the hands of individual for the tax year; B = Income and interest or both, arising to the spouse ~~or son’s wife~~ from the business or the firm, as applicable during the tax year; C = Value of such assets invested, or contributed as capital by the spouse ~~or son’s wife~~ as on the first day of the tax year; D = Total investment or total capital contribution, as the case may be, by the spouse ~~or son’s wife~~ as on the day for which A is being computed.

99.4.4 In formula in explanation of D [clause 99 (2)], in place of ‘as on the day for which A is being computed’ it ought to be ‘as on the first day of the tax year’ to make it same as given in ‘C’.

99.4.5 Sub-section 99(5)(a) may begin with the following reference: “(a) for sub-section (1)(a)(i),—” instead of “(a) for sub-section (1)(a),— Justification: The principles enumerated in sub-section (5)(a) are with reference to the provisions under sub-section (1)(a)(i). A reference only to sub-section (1)(a) would include all clubbing provisions related to transactions between spouses. Thus, instead of a broader reference to sub-section (1)(a), a specific reference to sub-section (1)(a)(i) would avoid any unintended consequences.

99.4.6 Section 99(5)(b) the reference to sub-section (1)(d) should be changed to sub-section (1)(c). Clause (d) is not present in Section 99(1).

99.5 Examination by the Committee:

99.5.1 When the Committee pointed out that in regard to Clause 99(1)(a)(i), the phrase "but shall not exclude income" should be substituted with "but shall not include income", the Ministry accepted it, stating it to be a drafting error.

99.5.2 In regard to suggestion related to exclude clubbing of income in case of transfer of asset to son's wife, the Ministry has stated that the suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The provision is an anti abuse provision to tackle situations where any asset is transferred within the family to lower the tax liability.

99.5.3 Regarding the suggestion that in formula in explanation of D [Clause (2)], in place of 'as on the day for which A is being computed' it ought to be 'as on the first day of the tax year' to make it same as given in 'C', the), the Ministry accepted it, stating it to be a drafting error.

99.5.4 When the Committee pointed out that there is an error in section 99(5), where the reference is incorrectly made to clause (d) instead of clause (c), the Ministry accepted it, stating it to be a drafting error.

99.5.5 In regard to suggestion that in place of 'for sub-section 1(a)', it ought to be 'for sub section 1(a)(i), the Ministry accepted it, stating it to be a drafting error.

99.5.6 When the Committee pointed out that if a person makes a gift to minor children, which is legally permitted and considered as transferred to them, then the income generated from that gift should also belong to the children, and the tax on that income should be payable by them and desired to know as to why is this not allowed in practice and are there any litigations or High Court or Supreme Court judgments related to this issue, the Ministry in their written reply has stated as follows:

> "The clubbing provisions in the Bill/Act are anti-abuse provisions. These provisions prevent artificial reduction in tax liability by way of transfer of income generating asset. The person (owner of the asset) may transfer the asset to spouse or minor children so as to reduce tax liability on any income

from such asset in his hands as he may be liable to tax at a higher rate. By this arrangement, any person may transfer the assets to various other persons and reduce its tax liability.

The constitutional validity of sub-section (1A) of section 64 was upheld by the Hon'ble Madras High Court in K.M. Vijayan vs union of India [1996] 85 TAXMAN 75 (MAD.) and also in Patna High Court in Syed Askari Hadi Ali Augustine Imam v. Union of India [1994] 209 ITR 746.

SIBI JOY v. Income-tax Officer [2023] 150 taxmann.com 524 (Kerala): The court held that the interest income arising in hands of a minor should be added to parent's total income under section 64(1A) for purpose of taxation. Sulochana V Gupta v. Income-tax Officer [2025] 174 taxmann.com 1201 (Gujarat): The court held that where income of minor was clubbed in hands of assessee-mother for previous assessment year, strictly interpreting provision of section 64(1A), income of minor was rightly considered as income (loss) in hands of assessee-mother for relevant assessment year."

99.5.7 The Committee pointed out that gifting is permitted to certain relatives beyond the spouse, and raised the question of why clubbing and gifting should not fall within the same relational category. On being asked by the Committee to provide a note clarifying the application of clubbing provisions under the IT Act, particularly in relation to a spouse and minor children—the Ministry furnished the following information:

"Chapter V of the Income-tax Act, 1961 ('the Act') concerns itself with inclusion of income of other persons in the assessee's total income. There are five sections in this Chapter. Transfer of income where there is no transfer of assets is covered by section 60 of the Act. Cases of revocable transfer of assets come under section 61 of the Act. Transfers which are irrevocable for a specified period are governed by section 62 of the Act. Section 63 of the Act merely defines what is meant by 'transfer' and 'revocable transfer' for the purposes of sections 60, 61 and 62.

2. Then comes section 64 of the Act: 'Income of individual to include income of spouse, minor child, etc.—this is the subject-matter of the provisions of section 64. Seven contingencies are contemplated by section 64 for such inclusion. That section has five Explanations to sub-section (1). Sub-section (2) has a proviso and two Explanations. Then, section 65 of the Act talks of liability of person in respect of income included in the income of another person.

3. Sections 60 to 65 correspond to sections 16(1)(c) and 16(3) of the Indian Income-tax Act, 1922 ('the 1922 Act') and have been included in Clauses 96 to 100 of the Income-Tax Bill 2025. There is a departure from the normal rule of assessing one on one's own income. The intention is to counteract tax

evasion in the garb of transfer of assets/income under specified circumstances. In fact, sections 60 to 63 of the 1961 Act have overriding effect on section 11 of the Act. Section 11(1) which deals with income from property held for charitable or religious trusts, starts by saying, 'subject to the provisions of sections 60 to 63'.

4. Section 16(3) was first inserted in the 1922 Act by the Amending Act No. 4 of 1937, and was further amended from time to time. Section 64 of the 1961 Act was first amended by the Taxation Laws (Amendment) Act, 1975, while the first insertion was by the Taxation Laws (Amendment) Act, 1970. Certain changes were recommended by the Direct Taxes Administration Enquiry Committee. The word 'individual' in section 16(3)(a)(i) and (ii) was interpreted by the Supreme Court in CIT v. Sodra Devi [1957] 32 1TR 615 to mean only the male, and not the female of the species. Hence, an Explanation is added to provide that where the husband and wife were both partners in a firm, the income of the spouse will be added to the income of either of them having higher income, and where the husband and wife are both partners in a firm and where the minor child is admitted to the benefits of partnership, the income of the minor child from such partnership is includible in the hands of the father or mother, whosoever has higher income.

5. The words in section 16(3)(a)(i) of the 1922 Act were 'in a firm of which her husband is a partner', but the words in section 64(1) of the 1961 Act are, 'in a firm carrying on business in which such individual is a partner'. Another point to note is that business is distinct from profession due to definitions in sections 2(73) and 2(36) of the Act. Hence, though under the 1922 Act the income of the husband and wife could be tagged on and assessed if both are partners in a business or vocation, under the 1961 Act, it is not so. In other words, the catch in section 64(1) is only on a firm carrying on a business. The clubbing cannot be done in a firm doing profession with the husband and-wife as partners—CIT v . Dr. K.K. Shah [1982] 135 ITR 146 (Guj.). It is to be noted that the language of section 64(iii) is different from section 64(1)(i) with the result that where a minor is admitted to the benefits of a partnership engaged in a profession with the parents of the child, the minor income is includible in the hands of the individual.

6. Constitutional validity of the provision

The vires of these special provisions has been tested. They have been held intra vires—Balaji v. ITO [1961] 43 ITR 393 (SC), S. Srinivasan v. CIT [1967] 63 ITR 273 (SC), B.M. Amina Umma v. ITO [1954] 26 ITR 137 (Mad.), E.V. Narasa Reddy v . ITO [1960] 39 ITR 629 (AP) and Umedray Worah v. CIT [1965] 56 ITR 702 (Pat.). In G.K. Devarajulu Naidu v. CIT [1963] 48 ITR 756 (Mad.), section 16(3)(a)(iv) of the 1922 Act corresponding to the unamended section 64(1)(i) and (ii) of the 1961 Act was held as not being in contravention of article 14 of the Constitution. So is the decision in Smt. Shreekunwardevi

Daga v. L.G. Trivedi, ITO [1972] 85 ITR 451 (Bom.). No doubt, as section 64 creates, as far as the transferor is concerned, an artificial income, it must be construed strictly—CIT v. Manilal Dhanji [1962] 44 ITR 876 (SC), Col. H.H. Sir Harinder Singh v. CIT [1972] 83 ITR 416 (SC). Unless and until there do exist specific deeming provisions for clubbing income of one entity into the hands of another, it is not possible to do so. That is the decision in Sheo Mahendra Kumar v. State of U.P. [1976] 104 ITR 703 (All.).

7. Relevant parts of some of the decisions are reproduced below:

1961] 42 ITR 1 (SC)[03-01-1961], [1961] 42 ITR 1 (SC), Tulsidas Kilachand v. Commissioner of Income-tax:

“The object of framing section 16 can almost be taken from the observations of Lord Macmillan in Chamberlain v. Inland Revenue Commissioners [1943] 25 Tax Cas. 317, where he stated as follows :
"This legislation . . . . (is) designed to overtake and circumvent a growing tendency on the part of taxpayers to endeavour to avoid or reduce tax liability by means of settlements. Stated quite generally, the method consisted in the disposal by the taxpayer of part of his property in such a way that the income should no longer be receivable by him, while at the same time he retained certain powers over, or interests in, the property or its income. The Legislature's counter was to declare that the income of which the taxpayer had thus sought to disembarrass himself should, notwithstanding, be treated as still his income and taxed in his hands accordingly." (P. 329)
These observations apply also to the section under consideration, and the Indian provision is enacted with the same intent and for the same purpose. Section 16 thus lays down certain exemptions and exclusions in determining the total income of an assessee. Some of the provisions lay down the conditions for inclusion of certain income, while others lay down the conditions for exclusion of other income.”

[1961] 43 ITR 393 (SC), Balaji v. Income-tax officer:

“The short question, therefore, is whether section 10(3)(a)(i) and (ii) is a provision made by the Legislature to prevent evasion of tax. Under the relevant provision of the Income-tax Act, if a firm is registered, the share of each partner, in the profit of the firm would be added to his other income and charged as part of his total income. After 1956, the position is the same except in one regard with which we are not now concerned. This provision was intended for the benefit of partners of a business, for it made them liable only to pay tax on their own income. But it gave an effective handle to evade taxation in another direction. A husband or a father could nominally take his wife or his minor sons in partnership with him so that the tax burden might be lightened, for, if the income was divided between a number of people, the income derived by an individual there from might fall under the limits of

taxable income or under a less onerous slab. This device enables an assessee to secure the entire income of the business but at the same time to evade income-tax which he would have otherwise been liable to pay. The Income-tax Enquiry Commission of 1936 made certain recommendations to prevent evasion of tax in such cases. The Legislature accepted those recommendations and the loopholes were sought to be plugged by enacting the said sub-section. Sub-section (3)(a)(i) and (ii) was, therefore, enacted for preventing evasion of tax and was well within the competence of the Federal Legislature."

"The constitutional validity of the said provision was next questioned on the ground that it violated the doctrine of equality before the law enshrined in article 14 of the Constitution. Under article 14, "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." But decisions of this court permitted classification if there was reasonable basis for the differentiation. It was held that what article 14 prohibited was class legislation and not reasonable classification for the purpose of legislation. Two conditions were laid down for passing the test of permissible classification, namely, (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that the differentia must have a rational relation to the object sought to be achieved by the statute in question. Under the impugned sub-section, an individual is taxed on the income of his wife or his minor children, if he carries on business in partnership with his wife or if he admits his minor sons to the benefits of the partnership, whereas an individual, if he carries on business in partnership with a third party, whether a man or a woman, or even with his major children or if he and his wife or children carry on business separately, will be liable only to pay tax on his share of the partnership income, that is, for the purpose of this sub-section, the former is put in a category different from the latter. It cannot be said that there is no differentia between the two groups; but what is contended is that the said differentia has no rational relation to the object sought to be achieved by the statute in question. It was asked how, from the standpoint of imposition of tax, the difference between an individual and his wife doing business in partnership, and between an individual and his wife doing business separately, and an individual doing business in partnership with his wife and an individual doing business in partnership with a third party, male or female, and between an individual who has admitted his minor children to the partnership business and an individual who is doing business in partnership with his major children or outsiders, would have any reasonable basis. This argument ignores the object of the legislation. We have held that the object of the legislation was to prevent evasion of tax. A similar device would not ordinarily be resorted to by individuals by entering into partnership with persons other than those mentioned in the sub-section, as it would involve a risk of the third party turning round and asserting his own rights. The Legislature, therefore, selected for the purpose of classification only that

group of persons who in fact are used as a cloak to perpetrate fraud on taxation. It was then said that there might be genuine partnerships between an individual and his wife and, therefore, there is no reasonable relation between the classification and the object sought to be achieved, at any rate to the extent of those genuine cases. But there is no classification between genuine and non-genuine cases: the classification is between cases of partnership between husband, wife and/or minor children, whether genuine or not, and partnerships between others. In demarcating, a group, the net was cast a little wider, but it was necessary, as any further sub-classification as genuine and non-genuine partnerships might defeat the purpose of the Act."

99.6 Observations/Recommendations of the Committee:

The Committee note that Clause 99 corresponds to Section 64 of the existing Act. A formula has been introduced in sub-clause (2), aligning with Explanation 3 of Section 64, to enhance clarity and ensure certainty in computation. The substance of the existing provisions has been retained, while the language has been simplified to preserve the original intent and facilitate ease of understanding. The Committee, however, observe that in doing so, certain drafting errors have crept in, which require rectification to avoid ambiguity. Therefore, the Committee recommend the following drafting corrections in provisions of clause:

(i) 99(1)(a)(i): the word 'not exclude' shall be replaced by 'not include' as it has converse meaning.

(ii) **99(2): in place of 'as on the day for which A is being computed' it shall be changed to 'as on the first day of the tax year' to make it same as given in part 'C'.**

(iii) **99(5)(a): shall begin with the following reference: "(a) for sub-section (1)(a)(i),—" instead of "(a) for sub-section (1)(a)" to make it specific and to avoid any ambiguity.**

(iv) 99(5)(b): the reference to sub-section (1)(d) shall be changed to sub-section (1)(c) as there is no (1)d in the proposed clause.

The Committee, with the above-mentioned drafting corrections, accept the clause as proposed.

<u>Clause 100</u>: Liability of person in respect of income included in income of another person

100.1 Provision proposed in the Income-Tax Bill, 2025:

Clause 100: Where, income of a person, other than the assessee, arising from any asset, or income from membership of a firm, is included in the total income of the assessee under this Chapter or under section 25(a), then, irrespective of anything to the contrary contained in any other law in force,— (a) such person, in whose name such asset stands, shall be liable to pay, that portion of the tax levied on the assessee which is attributable to the income so included, upon service of notice of demand by the Assessing Officer in this behalf; (b) where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay such tax; and (c) the provisions of Chapter XIX-D shall apply accordingly.

100.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 65**.** Where, by reason of the provisions contained in this Chapter or in clause (*i*) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the Assessing Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly :Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

100.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 100 of the Bill provides for the tax liability of the person in respect of the income which is included in the income of any other person. The clause corresponds to section 65 of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

100.4 Observations/Recommendations of the Committee:

The Committee note that the proposed clause corresponds to section 65 of the existing Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

CHAPTER VI
AGGREGATION OF INCOME

Clause 101: Total income.

101.1 Provision proposed in the Income-Tax Bill, 2025:

Clause 101: In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter XVIIA-4.

101.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 66**.** In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII.

101.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 101 of the Bill provides that in computing the total income of an assessee, there shall be included all income on which no income-tax is payable under sub part 4 of part A of Chapter XVII. The clause corresponds to section 66 of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

101.4 Observations/Recommendations of the Committee:

After examining the clause, the Committee find that it corresponds to Section 66 of the Act, incorporating textual simplification of the provisions in the existing Act while retaining the same intent, and therefore accept the clause as proposed.

<u>Clause 102</u>: Unexplained credits.

102.1 Provision proposed in the Income-Tax Bill, 2025:

Clause 102. (1) Where any sum is found credited in the books of account maintained by the assessee for any tax year, and—

(a) the assessee offers no explanation about the nature and source of such credit; or

(b) the explanation offered by assessee is not satisfactory in the opinion of the Assessing Officer, then, the sum so credited shall be charged to income-tax as income of the assessee of that tax year.

(2) If the sum so credited consists of loan or borrowing, or any such amount, by whatever name called, the explanation offered by such assessee shall be deemed to be not satisfactory, unless,—

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation, in the opinion of the Assessing Officer referred to in sub-section (1), has been found to be satisfactory.

(3) If the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium, or any such amount, by whatever name called, the explanation offered by such assessee company shall be deemed to be not satisfactory, unless—

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation, in the opinion of the Assessing Officer referred to in sub-section (1), has been found to be satisfactory.

(4) Nothing contained in sub-section (2) or (3) shall apply if the person, in whose name the sum referred to in those sub-sections is recorded, is a venture capital fund or a venture capital company as referred to in Schedule V (Table: Sl. No. 6).

102.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year :

Provided that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless,—

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided also that nothing contained in the first proviso or second proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.

102.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 102 of the Bill provides for the circumstances or conditions in which any sum found credited in the books of account maintained by the assessee shall be considered as unexplained credits and be included in the total income of the assessee. The clause corresponds to section 68 of the Act. In clause 102 of the Bill, the provisions of the section remain the same except that the heading is changed to 'unexplained credits' instead of 'cash credits' used in the existing Act. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

102.4 Important Views/Suggestions given by Experts/Stakeholders:

102.4.1 The Income-tax Act, 1961 has certain provisions which confer discretionary powers, and these provisions are continuing in the Income-tax Bill, 2025. Such provisions conferring vast discretionary powers would lead to protracted litigation and place an undue burden on taxpayers. These provisions should be based on rules/conditions rather than the discretion of the Assessing Officer. Curtailing the discretionary powers would mitigate litigation and reduce hardship to taxpayers.

102.4.2 In sub-clause (1) of clause 102, it is suggested that "shall" be replaced with "may". The provision of this Chapter, being subject to higher tax incidence, should apply to special cases where the assessee is unable to provide satisfactory explanation regarding the credit in the books or investments or other assets. Use of the phrase "may" would leave the discretion to the authorities to consider all the circumstances and decide whether to treat the credit in question as income or not. Using the term "may" in any case, will not dilute the powers of the Assessing Officer to assess the unexplained credit as income of the assessee. However, this rigid language could result in undue hardship, especially where bona fide explanations are available. Retaining the word "may" ensures principles of natural justice and aligns with decades of judicial interpretation under the 1961 Act. The use of "shall" removes the Assessing Officer's discretion to evaluate the facts of each case before deeming such amounts as income. This could lead to automatic additions even in cases where the assessee has a bona fide explanation but lacks perfect documentation. Illustration: An assessee receives a cash deposit of Rs. 2,00,000 as a wedding gift from relatives. Due to the informal nature of the event, documentary evidence is limited. Under Section 68 (with "may"), the AO can assess the credibility of oral evidence or affidavits.

Under the new provision (with “shall”), the amount would be mandatorily treated as unexplained income.

102.4.3 The Legislature may consider including other regulated financial entities such as Banks, NBFCs, FIIs, FPIs, etc. and related entities such as holding company or subsidiary company within the exception list of clause 102 (4). The suggested change would result in ease of doing business and avoid unnecessary scrutiny on investments made by regulated entities/ related entities.

102.4.4 If the sum so credited consists of loan or borrowing, or any such amount, by whatever name called, the explanation offered by such assessee shall be (deemed) presumed to be not satisfactory, unless,— (a) the person in whose name such credit is recorded in the books of such assessee (also offers an explanation about the nature and source of such sum so credited) is issued a notice by the Assessing Officer referred to in sub-section (1), to offer an explanation about the nature and source of such sum so credited and such person furnishes the explanation; and (b) such explanation, in the opinion of the Assessing Officer (referred to in subsection (1),) has been found to be satisfactory. Justification: 1. Sub-section (2) requires the person in whose name credit is made to give explanation about the nature and source of sum credited. There is lack of clarity as to how and by whom such explanation is to be sought for and in what manner such explanation is to be provided. Clarity may be provided by stating that the Assessing Officer may seek explanation from the other person whereby he will have to comply with the same. 2. Further, the deeming fiction may be replaced with a rebuttable presumption. In such case, a discretion would be conferred upon the Assessing Officer where in a given case if he is satisfied with the explanation offered by the assessee, he need not deem such explanation to be unsatisfactory merely because the other person fails to offer an explanation.

102.4.5 If the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium, or any such amount, by whatever name called, the explanation offered by such assessee company shall be deemed presumed to be not satisfactory, unless— (a) the person, being a resident in whose name such credit is recorded in the books of such company (also offers an explanation about the nature and source of such sum so credited) is issued a notice by the Assessing Officer referred to in subsection (1) to offer an explanation about the nature and source of such sum so credited and such person furnishes the explanation; and (b) such explanation, in the opinion of the

Assessing Officer (referred to in subsection (1)), has been found to be satisfactory.

102.4.6 Sub-section (2) of section 102 which is similar to the first proviso to section 68 of the Income-tax Act, 1961 shall be deleted. Justification: It is almost impossible for a borrower to insist on an explanation of source of funds of the lender. On account of availability of information with the Department through their information tools, they already have an alternate remedy to seek information from the Lender and hence any action required should lie against the lender and not against the assessee. In a situation where the assessee has borrowed the amount from a bank or financial institution, it is certainly impossible for the assessee to point out the source from where the bank or the FI has given the loan to the assessee. The burden on the assessee becomes too onerous to fulfil on account of sub-section (2). Sub-section (2) applies in respect loan, borrowing or any such amount. The phrase “any such amount” is wide enough to cover various other receipts like deposits etc. Consider a case where a bank receives deposit from a customer or a case of a company receiving tender deposit from its suppliers. It is virtually impossible for the recipient to establish the source of the deposit made by the other party.

102.4.7 The Committee requested a note on the implications of replacing the word *“*may*”* with *“*shall*”* in the clause on unexplained credits, seeking details on how this change would restrict the Assessing Officer's discretion under the current Act. The Ministry has furnished the following information:

> “The existing Act has used the word "may" in sec 68 of the Act which gives discretionary power to the AO to decide the taxability of any credits as income. The term "may" has been replaced with "shall" to rationalize the provision. Once the AO is satisfied that the assessee has not been able to satisfactorily explain the source and nature of the credits in the books of accounts, there shall be no discretion with the AO but to add such credits as unexplained cash credits u/s 68 of the Act.”

102.5 Examination by the Committee:

102.5.1 In regard to suggestion to replace the word ‘shall’ with ‘may’ to align with the language of sections 68 to 69D of the Income-tax Act, 1961 and preserve the discretionary power of the Assessing Officer the Ministry in their written reply has stated as follows:

"The stakeholder through the suggestions seeks to replace "shall" with "may" in clause 102 of the Bill. The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The existing Act has used the word "may" in sec 68 of the Act which gives discretionary power to the AO to decide the taxability of any credits as income. The term "may" has been replaced with "shall" to rationalize the provision. Once the AO is satisfied that the assessee has not been able to satisfactorily explain the source and nature of the credits in the books of accounts, there shall be no discretion with the AO but to add such credits as unexplained cash credits u/s 68 of the Act."

102.5.2 Further, on the topic, during the Sitting of the Committee, the representative of the Ministry deposed before the Committee as under:

"If you look at the clause, the clause says - where a sum is found credited in the books and it says assessee offers no explanation or the explanation which is not satisfactory. Once these two stages are over, then the Assessing Officer shall add it to the income and do it. So, the discretion available with the Assessing Officer is at 'a' and 'b'. That is, he listens to the explanation, may find it satisfactory. What is being sought is that even after these two stages, let Assessing Officer have a 'may' jurisdiction. That means, let us say a situation which is explained here is actually taken care of in 'a' and 'b' itself. What is 'a' saying? If you do not offer an explanation. And 'b' saying, if you do not offer an explanation which is satisfactory. Suppose, the Assessing Officer feels the explanation is satisfactory, he will say it is satisfactory. Only once the two are over, then he has no discretion but to act. Now, they are saying that even after these two stages keep it as 'may'. Frankly, we are now talking about reducing. Once these two stages are over, why should Assessing Officer have further discretion?"…. What I am saying is that in which case, actually you are telling him to accept. So, the problem which they tell me because this is a little operationalist, the Assessing Officer typically will not play this risk. If he has found the explanation not satisfactory, he will always apply. The Appellate Tribunals is where 'may' and 'shall' get interpreted. So, that is what they want to close.

102.5.3 In response to the Committee's concerns regarding the implications of replacing 'may' with 'shall,' particularly in light of various court rulings, the representative of the Ministry stated as under:

"The discretion which is available with the Assessing Officer whether to take an explanation as satisfactory or not is enough. Once he concludes, then he has no choice but to do it should take care of the court's thing of all those human factors."

102.5.4 It was further added:

> *"This is one of the most litigated sections of the Act. So many decisions of the apex court are available. They have decided the issues on the basis of three criteria – genuineness of transaction, creditworthiness of the assessee, and identity of the creditor. We have many guidelines already available. So, more or less, things are settled."*

102.5.5 Regarding suggestion to replace "deemed" with "presumed" in Clause 102(2) where explanation regarding cash credit is deemed to be not satisfactory, the Ministry in their written reply has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The term "deemed" cannot be changed with "presumed" as deeming denotes a deeming fiction which is recognised in law as a final inference of something being deemed as defined. The suggestion also seeks that assessee should not be burdened with proving the nature and source of income in books of the person who has given the loan. The requirement of satisfying the nature and source of sum credited in books of assessee is first on assessee and thereafter on the creditor. The AO seeks separate explanation from the creditor without casting undue burden on assessee. The suggestion is not accepted."

102.5.6 When the Committee raised this issue of replacing "deemed" with "presumed" during the Sitting of the Committee, the representative of the Ministry deposed as under:

> *"Where the assessee is not able to offer explanation. Then we have used the words 'deemed to be'. The explanation shall be deemed to be not satisfactory unless the person is identified; the person offers an explanation about the nature and source. So, the suggestion is that 'deemed' should be replaced with 'presumed'. It is because we are deeming a certain thing that upon satisfaction of these conditions, the explanation shall be deemed to be not satisfactory in these conditions. Deeming, we often use in the Act to give certainty to certain provisions that, yes, in these cases it shall be deemed."*

102.5.7 When the Committee inquired whether a clear checklist exists outlining the conditions to be satisfied, or if the determination is left to the discretion of the Assessing Officer, the representatives of the Ministry responded as follows:

> *"No, it is there. It is listed 'a' and 'b'. The person in whose name 'a' condition is there and in 'b' may there is some discretion with the*

Assessing Officer. Such explanation in the opinion of AO has been found to be satisfactory because there is a 'unless' word -- Unless these things are satisfied, it shall be deemed."

102.5.8 However, regarding the suggestion concerning ambiguity in the phrase 'referred to in subsection (1)' in Clause 102(2)(b), the Ministry has stated that any drafting ambiguity in this regard shall be addressed.

102.5.9 When clarification was sought by the Committee regarding the issue of source of source of funds, the representative of the Ministry explained as follows:

"Originally, this was not there. We had a couple of decisions where the assessee company had given just a list of shareholders with the names and addresses and that was found by the court as sufficient compliance to the identity and genuineness of the payer. This was felt by the Department and the Ministry at that point of time that this was somewhat hoodwinking the whole provision and some creditworthiness of actual person in whose name the booked amount was recorded needs to be verified. That is why the source of source is required."

102.5.10 It was further explained as:

"If you see the clause, the clause starts with saying unexplained credit under 102, Section 1 says, if an amount has been found where he offers no explanation or offers an explanation which is not satisfactory, then Clause 2 says, to satisfy himself, the satisfaction in case it is a loan or borrowing, then the satisfaction of assessing officer will only be, when the person who has lent also should be able to give an explanation for where he has got the money from. There is only one layer."

102.5.11 When the Committee pointed out that there are instances where the Department asks the assessee, not only to name the source and his PAN number, but to furnish his income tax return which is supposed to be confidential, the representative of the Ministry stated as follows:

"In old times, (it) was used to happen. I am talking about 10 years back, when there was no computerization, no mechanisms to verify. Assessee was certainly being asked to produce copies of incomes or returns of other persons because different jurisdictions were there. Nowadays, we have the insight portal on our ITBA login only."

102.5.12 It was further clarified:

"It looks more administrative. What they are saying is there is a system by which the officer can directly access that data. It is a common system… So, we will administratively have to ensure that they use it rather than troubling the assessee."

102.5.13 In regard to suggestion to consider including other regulated financial entities such as Banks, NBFCs, FIIs, FPIs, etc. and related entities such as holding company or subsidiary company within the exception list of clause 102 (4), the Ministry in their written reply has stated as under:

"The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act The provision is invoked only where there is doubt about the creditworthiness or identity of the creditor. The suggestion would only increase redundancy in the Bill. The suggestion is not feasible. The AO has to verify facts of each case and then accordingly decide on applicability of the provisions of the section."

102.5.14 However, when the Committee raised this topic during their Sitting and sought clarification on the issue, the representative of the Ministry has stated as follows:

"Venture capital fund, because of the way in which they work, those have been excluded. The banks, FIs, NBFCs are not excluded. I can see the rationale of what you are proposing, but the regulated NBFCs, banks, etc. are excluded. It is a policy issue, but we would not mind if we can review it in the list of suggestions that we receive."

102.5.15 Regarding the suggestion of the stakeholder to remove sub-clause (2) of clause 102 or to remove the reference of "any such amount" which could be any amount other than loan or borrowing, the Ministry in their written reply has submitted as follows:

"The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The said Proviso was brought in Finance Act 2013 which clarified the intent of Section 68 w.r.t. the sum credited being loan or borrowing or any such amount. The phrase "any such amount" ensures that the said section is applicable even when assessee introduces unexplained money by changing its nature."

102.6 Observations/Recommendations of the Committee:

The Committee note that the proposed clause corresponds to Section 68 of the existing Act. In Clause 102 of the Bill, the substance of the provision remains unchanged, except that the heading has been revised from Cash Credits to Unexplained Credits. The language of the existing section has been simplified for clarity, while retaining its original intent. The Committee, therefore, accept the clause as proposed.

Clause103. Unexplained investment.

103.1 Provision proposed in the Income-Tax Bill, 2025:

103. Where in any tax year, any investment has been made by the assessee which is not recorded in the books of account, if any, maintained by such assessee, or, the Assessing Officer finds that the amount of such investment exceeds the amount recorded in such books of account where the investment is found recorded, and the assessee—

(a) offers no explanation about the nature and source of such investment, or such excess amount, as the case may be; or

(b) the explanation offered by the assessee, is not satisfactory in the opinion of the Assessing Officer, then, the value of such investment, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of that tax year.

103.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

Section: 69B. Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

103.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 103 of the Bill provides for unexplained investment. It also seeks to provide the circumstances or conditions in which any investment made by the assessee shall be

deemed as unexplained investment and be included in the total income of the assessee. The clause corresponds to section 69 and 69B of the Act. Section 69B has been split into two parts and the relevant part has been merged with sec 69 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

103.4 Important Views/Suggestions given by Experts/Stakeholders:

103.4.1 The Income-tax Act, 1961 has certain provisions which confer discretionary powers, and these provisions are continuing in the Income-tax Bill, 2025. Such provisions conferring vast discretionary powers would lead to protracted litigation and place an undue burden on taxpayers. These provisions should be based on rules/conditions rather than the discretion of the Assessing Officer. Curtailing the discretionary powers would mitigate litigation and reduce hardship to taxpayers.

103.4.2 In the opening part the phrase (Clause-103) “where the investment is found recorded” may be deleted.

103.4.3 Consolidation of sections related to deemed income - undisclosed investment/ asset/expenditure in one clause to minimize litigation Sections 103, 104 and 105 containing the provisions pertaining to undisclosed investment, asset and expenditure, can be consolidated in a single section which can read as under - (i) Where in any tax year, which is not recorded in the books of account, if any, maintained by such assessee, or, the Assessing Officer finds that the amount of such investment or asset, exceeds the amount recorded in such books of account where the investment, or asset is found recorded, and the assessee : a. offers no explanation about the nature and source of such investment, or acquisition of asset, or such excess amount, as the case may be; or b. offers no explanation about the nature and source of such expenditure of part thereof or c. the explanation offered by the assessee, is not satisfactory in the opinion of the Assessing Officer, then, the value of such investment or asset, or such excess amount, or the amount covered by such expenditure or part thereof, as the case may be, shall may be deemed to be the income of the assessee for that tax year; (ii) Irrespective of any other provision of this Act, the amount of expenditure deemed as income in sub-section (1) shall not be allowed as a deduction under this Act. (iii) For the purposes of this section, “Asset” includes means money, bullion, jewellery, virtual digital asset or other valuable article. Such consolidation in a single section will help avoid unnecessary litigation as to which category the amount not recorded in the books of account falls. Cash credits

recorded in books of account and amount borrowed or repaid on Hundi can continue to be retained as a separate sections. (a) any investment has been made by the assessee, (b) any asset has been found to be owned by or belonging to the assessee (c) any expenditure has been incurred by the assessee.

103.4.4 The provision does not deal with a case where assessee is able to offer an explanation as to the nature and source of a portion of investment. To the extent of such portion no addition is called for. Hence, appropriate provision is suggested to exclude such explained portion of investment. The said provision is to be made discretionary and not mandatory.

103.5 Examination by the Committee:

103.5.1 Regarding suggestion to consolidate clause 103-105 of the Bill, the Ministry has stated that consolidation and presentation in a single clause may lead to rise in unintended litigation. The suggestion is not feasible.

103.6 Observations/Recommendations of the Committee:

The Committee note the clause 103 corresponds to section 69 and 69B of the Act. Section 69B has been split into two parts and the relevant part has been merged with sec 69 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause104.</u> Unexplained asset.

104.1 Provision proposed in the Income-Tax Bill, 2025:

104. (1) Where in any tax year, any asset has been found to be owned by or belonging to the assesse which is not recorded in the books of account, if any, maintained by such assessee, or the Assessing Officer finds that the amount of such asset exceeds the amount recorded in such books of account where the asset is found recorded, and the assesse—–

(a) offers no explanation about the nature and source of acquisition of such asset, or such excess amount, as the case may be; or

(b) the explanation offered by the assessee, is not satisfactory in the opinion of the Assessing Officer, then, the value of such asset, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of the tax year in which such asset has been found to be owned by, or belonging to, the assessee.

(2) In this section, “asset” includes money, bullion, jewellery, virtual digital asset or other valuable article.

104.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 69A**.** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.

Section: 69B**.** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory,

the excess amount may be deemed to be the income of the assessee for such financial year.

104.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 104 of the Bill provides for the circumstances or conditions in which any asset owned by or belonging to the assessee shall be deemed as unexplained asset and be included in the total income of the assessee. The clause corresponds to sections 69A and 69B of the Act. Section 69B has been split into two parts and the relevant part has been merged with sec 69A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

104.4 Important Views/Suggestions given by Experts/Stakeholders:

104.4.1 The Income-tax Act, 1961 has certain provisions which confer discretionary powers, and these provisions are continuing in the Income-tax Bill, 2025. Such provisions conferring vast discretionary powers would lead to protracted litigation and place an undue burden on taxpayers. These provisions should be based on rules/conditions rather than the discretion of the Assessing Officer. Curtailing the discretionary powers would mitigate litigation and reduce hardship to taxpayers.

104.4.2 These related provisions (clauses 103-105) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

104.4.3 In Sub-section (1), replace "shall" with "may". This amendment allows flexibility in deeming unexplained assets as income rather than imposing a strict rule. It enables fair assessment based on circumstances.

104.4.4 In Sub-section (1), delete the phrase "where the asset is found recorded". Removing this phrase simplifies the provision and eliminates redundancy. It ensures clarity in determining assets that are not recorded in the assessee’s books.

104.4.5 In Sub-section (1), delete the phrase "or belonging to”. Section 69A treats unexplained money and assets owned by the assessee as deemed income, while Section 104 expands this to include “or belonging to”. The phrase "or

belonging to" creates ambiguity and may lead to litigation. Deleting it clarifies ownership and prevents discretionary powers being exercised unnecessarily by the Assessing Officer.

104.4.6 Rewording of Sub-section (1): Sub-section (1) should be reworded as follows: (1) Where in any tax year, any asset has been found to be owned by the assessee which is not recorded in the books of account, if any, maintained by such assessee, or the Assessing Officer finds that the amount of such asset exceeds the amount recorded in such books of account, and the assessee - (a) offers no explanation about the nature and source of acquisition of such asset, or such excess amount, as the case may be; or (b) the explanation offered by the assessee is not satisfactory in the opinion of the Assessing Officer, then, the value of such asset, or such excess amount, as the case may be, may be deemed to be the income of the assessee of the tax year in which such asset has been found to be owned by the assessee. This rewording ensures clarity and precision while eliminating unnecessary phrases that could lead to misinterpretation.5. Replacement of "includes" with "means" in the definition of "asset"In Section (2), replace "includes" with "means". Justification: Using "means" provides a clear and exhaustive definition of “asset” rather than an open-ended list, preventing broad discretionary interpretation.

104.4.7 The wordings of the provision need to be restored to earlier provision. The new provision has apparently expanded the provision from ‘unexplained money’ to ‘unexplained asset’. The terms ‘any other valuable asset or thing’ was interpreted by Supreme Court in D.N. Singh vs CIT, Central [2023] to have the same meaning as money, bullion or jewelry, relying on principle of ejusdem generis. Therefore, now, with the usage of the words ‘asset’, the scope appears to be expanded. Further, the use of the words ‘belonging to’ along with ‘owned’ may create ambiguities, as even if assessee is in possession of any asset or Department treats the asset as pertaining to assessee in any form, then the applicability of such provisions will trigger.

104.5 Examination by the Committee:

104.5.1 In regard to stakeholder’s suggestion to omit the words "or belonging to" from clause 104 of the Bill, the Ministry has replied as follows:

“The words "or belonging to" has been added to cover scenarios where the legal owner of the asset is some third person but the asset is actually

enjoyed by the assessee. If the phrase is not used, it will result in avoidance of taxes."

104.5.2 When the Committee during their Sitting, sought the clarification on the issue, the representative of the Ministry elaborated the matter as follows:

> *"The definition that is used, wherein any tax here, any asset that has been found to be owned or belonging to. So, the suggestion is that, 'or belonging to', we have used in the phrase, that should be omitted. So, 'or belonging to' was not there in the Act. It has been added in the Bill. It has been added to cover those cases where the legal owner is some other person. That means on paper, somebody else is holding, but somebody else is enjoying the asset. On paper, the asset is with somebody else. So, the person who is enjoying the asset, he is not the legal owner. So, to cover those situations, we have just expanded this phrase to where asset has been found to be owned by or belonging to that person. So, that is our rationale for including this phrase in the Bill."*

104.5.3 In regard to stakeholder's suggestion to define the term "asset" in clause 104 of the Bill in restrictive manner, it was stated by the Ministry that the term asset has been defined in inclusive manner to ensure that the meaning of asset is not restricted to specified items.

104.5.4 However, in regard to suggestion to omit the words "where the asset is found recorded", the Ministry has stated that the drafting modification suggested by the stakeholder has been noted.

104.6 Observations/Recommendations of the Committee:

The Committee, after examining the provisions of the clause, recommend that in Clause 104(1), the phrase 'where the asset is found recorded' be deleted, as its removal would eliminate redundancy and improve clarity. Apart from this change, the Committee accept the clause as proposed as the provisions of the existing sections have been textually simplified and retained with their original intent.

Clause 105. Unexplained expenditure.

105.1 Provision proposed in the Income-Tax Bill, 2025:

105. (1) Where any expenditure has been incurred by the assessee in any tax year, and—

(a) the assessee offers no explanation about the source of such expenditure or part thereof; or

(b) the explanation offered by the assessee is not satisfactory in the opinion of the Assessing Officer, then, the amount covered by such expenditure or part thereof, shall be deemed to be the income of the assessee for that tax year.

(2) Irrespective of any other provision of this Act, the amount deemed as income in sub-section (1) shall not be allowed as a deduction under this Act.

105.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 69C**.** Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

105.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 105 of the Bill provides for the circumstances or conditions in which any expenditure incurred by the assessee shall be deemed to be unexplained expenditure and be included in the total income of the assessee. The clause corresponds to section 69C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

105.4 Important Views/Suggestions given by Experts/Stakeholders:

105.4.1 The Income-tax Act, 1961 has certain provisions which confer discretionary powers, and these provisions are continuing in the Income-tax Bill, 2025. Such provisions conferring vast discretionary powers would lead to protracted litigation and place an undue burden on taxpayers. These provisions should be based on rules/conditions rather than the discretion of the Assessing Officer. Curtailing the discretionary powers would mitigate litigation and reduce hardship to taxpayers.

105.4.2 These related provisions (clauses 103-105) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

105.4.3 Further sub-clause be added as follows: (3) If payment is made through a bank account disclosed to Income Tax Department and/or the same is reflected in the books of accounts of the assesse, such expenditure be treated as explained. Justification: Many assessing officers do not scrutinize the actual payments. If the assesse is unable to justify the allowability of expenditure, the expenditure is always being disallowed. However, such expenditure cannot be considered as unexplained expenditure as assesse has accepted incurring the expenditure, and the same is incurred from his known/disclosed sources of receipts.

105.4.4 Where any expenditure has been incurred by the assessee in any tax year, and— (a) the assessee offers no explanation about the source of such expenditure or part thereof; or (b) the explanation offered by the assessee is not satisfactory in the opinion of the Assessing Officer, then, the amount covered by such expenditure or part thereof, (shall) may be deemed to be the income of the assessee for that tax year. It is suggested that the term “shall” be replaced with “may”. Retaining the word “may” ensures principles of natural justice and aligns with decades of judicial interpretation under the 1961 Act. The use of “shall” removes the Assessing Officer’s discretion to evaluate the facts of each case.

105.5 Examination by the Committee:

105.5.1 Regarding, the stakeholder suggestion that the bank account if disclosed to the Department, any payment made through it shall not be treated as unexplained expenditure under clause 105, the Ministry in their written reply has submitted as follows:

> “The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Clause 105 operates only when the assessee is not

able to explain the source of expenditure. In case where any payment has been made through bank account and assessee has explained the source of the credit in the bank account, the addition cannot be made under clause 105 of the Bill. If the AO is not satisfied with the creditworthiness of the source from whom amount has been credited into its bank account, then AO may make addition under clasue 102 as unexplained cash credits."

105.5.2 In regard to suggestion of a stakeholder to limit the provisions of clause 105 of the Bill to unexplained expenditure which are not recorded in the books of accounts, the Ministry in their written reply has stated as follows:

"The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act Clause 105 operates only when the assessee is not able to explain the source of expenditure. In case where any payment has been made through bank account and assessee has explained the source of the credit in the bank account, the addition cannot be made under clause 105 of the Bill. If the AO is not satisfied with the creditworthiness of the source from whom amount has been credited into its bank account, then AO may make addition under clause 102 as unexplained cash credits."

105.5.3 Further explaining the matter, the representative of the Ministry during the Sitting of the Committed deposed as under:

"They are saying that unexplained expenditure should be which are not recorded in the books of accounts. We are saying that when the taxpayer is not able to explain that this is an expenditure or the source of the expenditure, even though it may be recorded in the books, so the expenditure may flow from the books or maybe even outside the books. So, both can be covered as unexplained expenditure."

105.5.4 It was added:

"I would say it is virtually infructuous because if it is recorded in the books of account, then the assessing officer will see the source which has been recorded in the books of account. If that source is found to be unexplained, he will add unexplained cash credit. He will not explain the expenditure. So, this is just an apprehension being expressed. The assessing officer will go for the source. The source is recorded in the books. That source is not explained. It will be added under Section 68. Section 69A will not be invoked in that case."

105.6 Observations/Recommendations of the Committee:

After examining and deliberation upon the proposed clause, the Committee find that it corresponds to Section 69C of the Act, and that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 106.</u> Amount borrowed or repaid through negotiable instrument, hundi, etc.

106.1 Provision proposed in the Income-Tax Bill, 2025:

106. (1) Where any amount (including interest thereof) is borrowed or repaid through a negotiable instrument or a hundi, other than an account payee cheque, or through any mode as specified by the Board in this behalf, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying, as the case maybe, for the tax year in which the amount was borrowed or repaid.

(2) Where the amount borrowed under sub-section (1) has been deemed to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under that sub-section on repayment of such amount.

106.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 69D. Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be :
Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.

106.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 106 of the Bill seeks to provide for taxability of any amount borrowed or repaid through negotiable instrument, hundi etc. The clause corresponds to section 69D of the Act. In order to rationalize the provisions, besides hundi, the clause 106 of the Bill covers other negotiable instruments as well. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

106.4 Important Views/Suggestions given by Experts/Stakeholders:

106.4.1 *"Where any amount (including interest thereof) is borrowed or repaid (including interest on the amount borrowed) through a negotiable instrument or a hundi, other than an account payee cheque, or through any mode as specified by the Board in this behalf, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying, as the case maybe, for the tax year in which the amount was borrowed or repaid."* The language is inelegantly drafted. The bracketed words are indicating as though interest is also borrowed which is never the case nor is intended as is clear from section 69D of the IT Act. The only intention is to treat interest as part of the principal amount for the purpose of repayment.

106.4.2 Replace the word "shall" with "may" to align with the language of sections 68 to 69D of the Income-tax Act, 1961 and preserve the discretionary power of the Assessing Officer. Justification: The shift from "may" to "shall" removes the discretion of the Assessing Officer to consider facts and circumstances before treating unexplained amounts as income. This rigid language could result in undue hardship, especially where bona fide explanations are available. Retaining the word "may" ensures principles of natural justice and aligns with decades of judicial interpretation under the 1961 Act. The use of "shall" removes the Assessing Officer's discretion to evaluate the facts of each case before deeming such amounts as income. This could lead to automatic additions even in cases where the assessee has a bona fide explanation but lacks perfect documentation. Illustration: An assessee receives a cash deposit of Rs. 2,00,000 as a wedding gift from relatives. Due to the informal nature of the event, documentary evidence is limited. Under Section 68 (with "may"), the AO can assess the credibility of oral evidence or affidavits. Under the new provision (with "shall"), the amount would be mandatorily treated as unexplained income.

106.4.3 It could be clarified that in case of overlap between the provision of this clause and provisions under Chapter XII of the Income-tax Bill (Corresponding to Section 269SS / 269T) the provisions of Chapter XII shall not apply. Justification: 1. There is a Penalty of 100% (Section 450 onwards) for transactions covered in Chapter XII on loans or deposit accepted or repaid by the assessee. It is proposed to include negotiable instruments within the scope of Clause 106. 2. This proposed inclusion would result in scenarios wherein a loan or a deposit transaction is covered by both the provisions.

106.5 Examination by the Committee:

106.5.1 When the Committee brought it to the notice of the Ministry, the drafting error related to provision “Where any amount (including interest thereof) is borrowed or repaid” as the bracketed words are indicating as though interest is also borrowed which is never the case nor is intended as is clear from section 69D of the IT Act, the Ministry has accepted it stating it to be an inadvertent drafting error. It has been further stated that the clause is to be redrafted for better clarity. The words "including interest thereof” has to be placed differently in the clause 106.

106.5.2 In regard to suggestion to issues clarification in case of overlap between the provision of this clause and provisions under Chapter XII, the Ministry in their written reply has stated as follows:

> “106 (sec 69D of the Act) is a deeming section wherein any amount borrowed or repaid on hundi or negotiable instrument (other than an account payee cheque, or through any specified mode) is deemed as income of the assessee. Whereas sec 269SS/269T are penalty provisions which provide for levy of penalty on account of violation of certain conditions. These are two different provisions which clearly operate without any ambiguity between them.”

106.6 Observations/Recommendations of the Committee:

After examining the clause and considering the views of the stakeholders, the Committee recommend to delete the bracketed phrase '(including interest thereof)' as it does not convey the intended meaning, and recommend redrafting the provision accordingly for clarity.

The Committee also note that Clause 106 of the Bill corresponds to Section 69D of the existing Act and seeks to provide for the taxability of any amount borrowed or repaid through instruments such as *hundis*. To rationalize the provision, the scope has been expanded beyond *hundis* to include other negotiable instruments. While the substantive intent remains unchanged, the language has been simplified. The Committee, therefore, accept the clause as proposed, subject to their suggested drafting correction.

Clause 107. Charge of tax

107.1 Provision proposed in the Income-Tax Bill, 2025:

107. Income referred to in sections 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of section 195.

107.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

New provision in the Bill, therefore, no corresponding Section in the Act

107.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 107 of the Bill seeks to provide that income referred to in clauses 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of clause 195. Clause 107 of the Bill has no corresponding section in the Act**.** In order to reduce disputes on rate of taxation and to provide certainty, the reference of the section specifying the rates of taxation has been provided in this Chapter itself. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

107.4 Important Views/Suggestions given by Experts/Stakeholders:

107.4.1 Section 195 to be amended to reduce the rate of tax to 30%. 195. Tax on income referred to in section 102 or 103 or 104 or 105 (1) Where the total income of an assessee— (a) includes any income referred to in section 102 or 103 or 104 or 105 or 106 and reflected in the return of income furnished under section 263; or (b) determined by the Assessing Officer includes any income referred to in any of the said sections, if such income is not covered under clause (a), the income tax payable shall be the aggregate of— (i) income-tax calculated on the income referred to in clauses (a) and (b), at the rate of 60% 30%; and (ii) income-tax with which the assessee would have been chargeable had his total income been reduced by income referred to in clause (i). (2) Irrespective of anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in sub-section (1)(a) and (b). Justification: Post demonetisation on 8th November, 2016, vide the Taxation Laws (Second Amendment) Act, 2016, which came into force on 15th December, 2016, section 115BBE of the Income-tax Act, 1961 was substituted w.e.f. A.Y.

2017-18, increasing the amount of tax on income referred to in section 68/69/69A/69B/69D to 60% plus surcharge@25% on such tax and cess@4% on tax and surcharge. The effective rate of tax is 78%. Further, penalty@10% on such tax computed is leviable u/s 271AAC, if the income is not included by the assessee in the return. This provision which was introduced 7 years back post demonetisation, needs to be relooked, considering that section 68 to 69D can be invoked if the explanation given by the assessee is not satisfactory in the opinion of Assessing Officer. It is suggested that the rate of tax u/s 195 of the Income-tax Bill, 2025 be rationalized. It may be kept @ 30%. Penalty under section 443 of the Income-tax Bill@10% of tax payable under section 195(1)(i) may continue.

107.4.2 It is suggested that the said provision (clause 107 of the Bill) may be omitted. The said provision serves no purpose other than making a reference to section 195. Omission would help in reducing needless redundancy and surplusage which is one of the objects behind the proposed Income-Tax Bill, 2025.

107.4.3 Replace the word “shall” with “may” in Clauses 102 to 107 to align with the language of sections 68 to 69D of the Income-tax Act, 1961 and preserve the discretionary power of the Assessing Officer. Justification: The shift from “may” to “shall” removes the discretion of the Assessing Officer to consider facts and circumstances before treating unexplained amounts as income. This rigid language could result in undue hardship, especially where bona fide explanations are available. Retaining the word “may” ensures principles of natural justice and aligns with decades of judicial interpretation under the 1961 Act. The use of “shall” removes the Assessing Officer’s discretion to evaluate the facts of each case before deeming such amounts as income. This could lead to automatic additions even in cases where the assessee has a bona fide explanation but lacks perfect documentation. Illustration: An assessee receives a cash deposit of Rs. 2,00,000 as a wedding gift from relatives. Due to the informal nature of the event, documentary evidence is limited. Under Section 68 (with “may”), the AO can assess the credibility of oral evidence or affidavits. Under the new provision (with “shall”), the amount would be mandatorily treated as unexplained income.

107.5 Examination by the Committee:

107.5.1 In regard to suggestion to amend Section 195 to reduce the rate of tax to 30%, the Ministry has submitted that the suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in the provisions of

the Bill vis a vis Act. The suggestion is not acceptable because tax rate of 60% on income referred to in section 68/69/69A/69B/69C/69D was introduced as a deterrence measure and to discourage the conversion of unaccounted money to accounted money.

107.5.2 In regard to suggestion for the omission of clause 107 of the Bill, the Ministry has stated that the it is not acceptable as the clause 107 in the Bill clarifies the chargeability of tax and provides certainty about tax rate for sec 102 to 106.

107.6 Observations/Recommendations of the Committee:

The Committee note that Clause 107 of the Bill seeks to provide that income referred to in clauses 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of clause 195. They further note that Clause 107 of the Bill has no corresponding section in the Act. The Committee have been apprised that in order to reduce disputes on rate of taxation and to provide certainty, the reference of the section specifying the rates of taxation has been provided in this Chapter itself. Also, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

CHAPTER VII

SET OFF, OR CARRY FORWARD AND SET OFF OF LOSSES

<u>Clause 108.</u> Set off of losses under the same head of income.

108.1 Provision proposed in the Income-Tax Bill, 2025:

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

(2) Any loss, as a result of computation made under sections 72 to 90, for any tax year, arising from transfer of a capital asset as arrived at under a similar computation made for the tax year in respect of any other capital asset being,—

(a) a long-term capital asset, shall be set off only against gains, if any, from transfer of another long-term capital asset; and

(b) a short-term capital asset, shall be set off against gains, if any, from transfer of any capital asset.

108.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section: 70**.** (1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income, other than "Capital gains", is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

(2) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(3) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.

108.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 108 of the Bill provides for set off of losses under the same head of income. The clause corresponds to section 70 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

108.4 Important Views/Suggestions given by Experts/Stakeholders:

108.4.1 The provisions of the Income-tax Act, 1961 and the corresponding sections of the Income-tax Bill, 2025 contain several restrictions for setoff, like business loss is not permitted to be set-off against salary income, capital losses are not permitted to be set off against income under any other head, loss from house property can be set-off against income under any other head only to the extent of Rs.2 lakh and so on. In effect, due to such restrictions, the taxpayer is put to hardship since he has to pay the taxes even though he has incurred losses. In order to address this concern, it is suggested that inter-head set-off of losses be permitted without restriction, with the exception in cases of certain losses, like losses from speculation business or losses from the activity of owning and maintaining race horses or online gaming, which may be spelt out as exceptions. This would be in line with the principle of taxation of real income after set-off of losses and would relieve the burden of the taxpayers. This would also simplify the complex set-off provisions spread across many clauses of the Bill. In case of capital losses, however, long-term capital loss would have to be first set-off against long-term capital gains, then, against short term capital gains and the balance against other income; short-term capital loss would have to be first set-off against short-term capital gains, then, against long-term capital gains and the balance against other income.

Accordingly, the new section combining the provisions of sections 108 to 112 of the Income-tax Bill, 2025 may be as given below –

"108. Set-off and carry forward of losses

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

(2) Subject to the provisions of this Chapter, for any tax year, if income computed under any head of income is a loss, such loss may be set off against income of the assessee under any other head, subject to the following conditions:—

(i) Loss under the head “capital gains” arising from transfer of a long-term capital asset shall be first set-off against capital gains, if any, from transfer of any other long-term capital asset during the tax year;

(ii) Loss under the head “capital gains” arising from transfer of a short-term capital asset shall be first set-off against capital gains, if any, from transfer of any other short-term capital asset during the tax year;

(iii) Loss, if any, under the head “capital gains” after set-off as per (i) and (ii) above shall be set-off against capital gains from transfer of any capital asset; and

(iv) Loss, if any, under the head “capital gains” after set-off as per (i), (ii) and (iii) above may be set-off against income under any other head.

(3) The unabsorbed loss under any head for any tax year shall be carried forward to the subsequent tax year, and shall be set-off against income under the same head, if any, computed for such subsequent tax year, and so on.

(4) The unabsorbed loss referred to in (3) above shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(5) Notwithstanding anything contained in preceding sub-sections –

(a) Any loss computed from a speculation business referred to in section 113 carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of another speculation business for the said tax year.

(b) Any loss computed from a specified business referred to in section 114 carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of any other specified business for the said tax year.

(c) Any loss incurred by the assessee in the specified activity referred to in section 115 during any tax year, shall not be set off against the income, if any, from any source other than specified activity for the said tax year.

(d) The carry forward of unabsorbed losses of speculation business, specified business and specified activity shall be governed b y the provisions of sections 113, 114 and 115, respectively.

(e) No loss can be set off against income chargeable under section 194 [Sr. No. 1, Sr. No. 4 and Sr. No. 5 of the Table thereunder].

(f) Only the loss which has been determined in pursuance of return filed in accordance with the provisions of Section 263 shall be carried forward to subsequent years subject to fulfilment of conditions laid down in this section and the provisions of this Chapter."

108.4.2 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

108.5 Examination by the Committee:

108.5.1 Regarding the suggestion of the stakeholder to permit inter-head set-off of losses without restriction, with the exception in cases of certain losses, the Ministry in their written reply has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Income under different heads of income are taxed at different rate. Restrictions have been placed on set off of losses under one head with income from other head to prevent the abuse of the provisions of the Act."

108.5.2 in regard to suggestion to consolidate related provisions (clauses 108-115) presenting in a single clause using a table, thereby reducing the overall number of clauses in the bill, the Ministry has stated that The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

108.5.3 In regard to the suggestion to merge clauses 108 to 112 into a single clause, the proposed provisions have been introduced for the purpose of simplification,

reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

108.6 Observations/Recommendations of the Committee:

The Committee find that the clause 108 corresponds to section 70 of the Act. The Committee have been apprised that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 109.</u> Set off of losses under any other head of income.

109.1 Provision proposed in the Income-Tax Bill, 2025:

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

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

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

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

109.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

71. (1) Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(2) Where in respect of any assessment year, the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head "Capital gains" (whether relating to short-term capital assets or any other capital assets).

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.

(3) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any

other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.

(3A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.

(4) Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections (1) and (2) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.

109.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 109 of the Bill provides for set off of losses under any other head of income in the manner provided therein. The clause corresponds to section 71 of the Act. Redundant provision has been removed. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

109.4 Important Views/Suggestions given by Experts/Stakeholders:

109.4.1 It is suggested that inter-head set-off of losses be permitted without restriction, with the exception in cases of certain losses, like losses from speculation business or losses from the activity of owning and maintaining race horses or online gaming, which may be spelt out as exceptions. This would be in line with the principle of taxation of real income after set-off of losses and would relieve the burden of the taxpayers. This would also simplify the complex set-off provisions spread across many clauses of the Bill.

109.4.2 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

109.4.3 Clauses 108 to 112 may be combined into a single clause, as suggested in reference to Clause 108.

109.5 Examination by the Committee:

109.5.1 Regarding the suggestion of the stakeholder to permit inter-head set-off of losses without restriction, with the exception in cases of certain losses, the Ministry in their written reply has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Income under different heads of income are taxed at different rate. Restrictions have been placed on set off of losses under one head with income from other head to prevent the abuse of the provisions of the Act."

109.5.2 in regard to suggestion to consolidate related provisions (clauses 108-115) presenting in a single clause using a table, thereby reducing the overall number of clauses in the bill, the Ministry has stated that The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

109.5.3 In regard to the suggestion to merge clauses 108 to 112 into a single clause, the proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

109.6 Observations/Recommendations of the Committee:

The Committee find that Clause 109 of the Bill provides for set off of losses under any other head of income in the manner provided therein. The clause corresponds to section 71 of the Act. Further, redundant provision has been removed. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 110.</u> Carry forward and set off of loss from house property.

110.1 Provision proposed in the Income-Tax Bill, 2025:

110. (1) The unabsorbed loss from house property for any tax year shall be carried forward to the subsequent tax year, and shall be set off only against income from house property, if any, computed for such subsequent tax year, and so on.

(2) The unabsorbed loss from house property referred to in sub-section (1) shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(3) In this section, “unabsorbed loss from house property” means, loss computed under the head “Income from house property” for the tax year, which has not been, or is not wholly, set off against income from any other head, under section 107, for the said tax year.

110.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

71B. Where for any assessment year the net result of computation under the head "Income from house property" is a loss to the assessee and such loss cannot be or is not wholly set off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(i) be set off against the income from house property assessable for that assessment year; and

(ii) the loss, if any, which has not been set off wholly, the amount of loss not so set off, shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

110.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 110 of the Bill provides for carry forward and set off of loss against income from house property. It defines the expression “unabsorbed loss from house property”. The

clause corresponds to section 71B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

110.4 Important Views/Suggestions given by Experts/Stakeholders:

110.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

110.4.2 Clauses 108 to 112 may be combined into a single clause, as suggested in reference to Clause 108.

110.4. 3 Reference to section 107 in sub-section (3) to be rectified to “Section 109”. Section 107 does not deal with Set off and carry forward of losses.

110.5 Examination by the Committee:

110.5.1 In regard to suggestion to consolidate related provisions (clauses 108-115) presenting in a single clause using a table, thereby reducing the overall number of clauses in the bill, the Ministry has stated that The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

110.5.2 In regard to the suggestion to merge clauses 108 to 112 into a single clause, the Ministry has stated that proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

110.5.3 When the Committee pointed out that the reference to Section 107 in Sub-section (3) should be corrected to 'Section 109,' as Section 107 does not deal with the set-off and carry-forward of losses, the Ministry acknowledged this as an inadvertent drafting error.

110.6 Observations/Recommendations of the Committee:

After examining the clause and considering the suggestions of the stakeholder, the Committee recommend that the reference to clause 107 in clause 110(3) to be rectified to clause 109 as clause 107 does not deal with set off and carry forward of losses. Apart from this drafting correction, the Committee accept the clause as proposed, as it constitutes a textual simplification of the provisions in the existing Act while retaining the same intent.

<u>Clause 111</u>: Carry forward and set off of loss from Capital gains.

111.1 Provision proposed in the Income-Tax Bill, 2025:

111. (1) The unabsorbed capital loss for any tax year shall be carried forward to the subsequent tax year and shall be set off in the manner provided in sub-section (2).

(2) The unabsorbed capital loss arising from transfer of capital asset, being—

(a) a long-term capital asset, may be set off only against capital gains, if any, from transfer of any other long-term capital asset during the subsequent tax year and so on; and

(b) a short-term capital asset, shall be set off against capital gains, if any, from transfer of any other capital asset during the subsequent tax year and so on.

(3) The unabsorbed capital loss referred to in sub-section (1), shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(4) In this section, “unabsorbed capital loss” means loss computed under the head “Capital gains” for any tax year, which has not been, or is not wholly, set off under section 108 for the said tax year.

111.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

74. (1) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss to the assessee, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(a) in so far as such loss relates to a short-term capital asset, it shall be set off against income, if any, under the head "Capital gains" assessable for that assessment year in respect of any other capital asset;

(b) in so far as such loss relates to a long-term capital asset, it shall be set off against income, if any, under the head "Capital gains" assessable for that assessment year in respect of any other capital asset not being a short-term capital asset;

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

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

111.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 111 of the Bill provides for carry forward and set off of loss from capital gains. The said clause further defines “unabsorbed capital loss” for this purpose. The clause corresponds to section 74 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

111.4 Important Views/Suggestions given by Experts/Stakeholders:

111.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

111.4.2 Clauses 108 to 112 may be combined into a single clause, as suggested in reference to Clause 108.

111.5 Examination by the Committee:

111.5.1 In regard to suggestion to consolidate related provisions (clauses 108-115) presenting in a single clause using a table, thereby reducing the overall number of clauses in the bill, the Ministry has stated that The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

111.5.2 In regard to the suggestion to merge clauses 108 to 112 into a single clause, the Ministry has stated that proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits

111.6 Observations/Recommendations of the Committee:

The Committee note that the clause corresponds to section 74 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 112.</u> Carry forward and set off of business loss.

112.1 Provision proposed in the Income-Tax Bill, 2025:

112. (1) The unabsorbed business loss (other than loss from speculation business) for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of business or profession, carried on by him and assessable for that tax year, if any, computed for such subsequent tax year, and so on.

(2) The unabsorbed business loss referred to in sub-section (1), shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(3) The unabsorbed business loss referred to in sub-section (1) shall first be allowed to be set off before allowing set off of any carried forward allowance under section 33(11) or 45(7).

(4) In this section, “unabsorbed business loss” means, loss computed under the head “Profits and gains of business or profession” (other than loss from speculation business) for the tax year, which has not been, or is not wholly, set off against income from any other head, under section 109 for the said tax year.

112.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961): ‘

72. (1) Where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

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

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

Provided that where the whole or any part of such loss is sustained in any such business as is referred to in section 33B which is discontinued in the circumstances

specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—

(a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding.

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section.

(3) No loss (other than the loss referred to in the proviso to sub-section (1) of this section) shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

112.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 112 of the Bill provides for carry forward and set off of business loss. It further defines the expression “unabsorbed business loss”. The clause corresponds to section 72 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

112.4 Important Views/Suggestions given by Experts/Stakeholders:

112.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

112.4.2 Clauses 108 to 112 may be combined into a single clause, as suggested in reference to Clause 108.

112.4.3 Clause 112. (1): The phrase “(other than loss from speculation business)” needs to be deleted as in sub-section (4) while defining the term ‘unabsorbed business’, it excludes loss from speculation business.

112.5 Examination by the Committee:

112.5.1 In regard to suggestion to consolidate related provisions (clauses 108-115) presenting in a single clause using a table, thereby reducing the overall number of clauses in the bill, the Ministry has stated that The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

112.5.2 In regard to the suggestion to merge clauses 108 to 112 into a single clause, the Ministry has stated that proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits

112.5.3 Regarding the suggestion to delete the phrase '(other than loss from speculation business),' the Ministry has accepted it, stating that it was an inadvertent drafting error, as the phrase is repeated twice in Clause 112 of the Bill.

112.6 Observations/Recommendations of the Committee:

The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that the phrase "(other than loss from speculation business)" in clause 112(1) shall be deleted, as clause 112(4) already excludes speculation losses from the definition of 'unabsorbed business loss'. Apart from this drafting correction, the Committee accept the proposed clause, as it is a textual simplification of the existing provisions with the same intent.

<u>Clause 113.</u> Set off and carry forward of losses from speculation business.

113.1 Provision proposed in the Income-Tax Bill, 2025:

113. (1) Any loss computed from a speculation business carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of another speculation business for the said tax year.

(2) The unabsorbed speculation business loss for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of speculation business, if any, computed for such subsequent tax year, and so on.

(3) The unabsorbed speculation business loss referred to in sub-section (2) shall not be carried forward for more than four tax years immediately succeeding the tax year in which such loss was first computed.

(4) The unabsorbed speculation business loss referred to in sub-section (2) shall first be allowed to be set off before allowing set off of any carried forward allowance under section 33(11) or 45(7).

(5) In this section,—–

(a) where any part of the business of the assessee (being a company) consist of purchase and sale of shares of other companies, then the assessee shall be deemed to be carrying on a speculation business, to the extent to which its business consists of purchase and sale of such shares;

(b) “unabsorbed speculation business loss” means any loss computed in respect of a speculation business carried on by the assessee during the tax year, which has not been, or is not wholly, set off against profits and gains, if any, of another speculation business under sub-section (1) for the said tax year.

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

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

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

113.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

73. (1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.
(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year; and

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

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

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

Explanation.—Where any part of the business of a company (other than a company whose gross total income consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources", or a company the principal business of which is the business of trading in shares or banking] or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.

113.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 113 of the Bill provides for set off and carry forward of losses from speculation business. It also defines the expression “unabsorbed speculation business loss”. The

clause corresponds to section 73 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

113.4 Important Views/Suggestions given by Experts/Stakeholders:

113.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

113.4.2 Clause 113(1): For ‘computed from’, it would be more appropriate to use ‘computed of’.

113.5 Examination by the Committee:

113.5.1 Regarding the suggestion to merge related provisions (clause 108-115), the Ministry has stated that the proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

113.5.2 Regarding the suggestion to replace the phrase 'computed from,' the Ministry has accepted it, stating that 'computed from' may be replaced with 'computed in respect of' for clarity in Clause 113 of the Bill (set-off and carry-forward of losses from speculation business).

113.6 Observations/Recommendations of the Committee:

The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend to replace the phrase "computed from" with "computed in respect of" in clause 113(1) for greater precision and consistency. This aligns the language with sub-clause (5)(b), which already uses the phrase "computed in respect of" to define unabsorbed speculation business loss, thereby ensuring uniformity and avoiding interpretational ambiguity. Apart from this drafting correction, the Committee accept the clause as proposed, as it is a textual simplification of the existing provisions with the same intent.

<u>Clause 114.</u> Set off and carry forward of losses from specified business.

114.1 Provision proposed in the Income-Tax Bill, 2025:

114. (1) Any loss computed from a specified business carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of any other specified business for the said tax year.

(2) The unabsorbed loss from the specified business for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of any specified business, if any, computed for such subsequent tax year, and so on.

(3) In this section,— (a) "specified business" means any specified business referred to in section 46; (b) "unabsorbed loss from the specified business" means, any loss computed in respect of a specified business carried on by the assessee during the tax year, which has not been, or is not wholly, set off against profits and gains, if any, of another specified business under sub-section (1) for the said tax year.

114.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

73A. (1) Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

(2) Where for any assessment year any loss computed in respect of the specified business referred to in sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

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

114.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 114 of the Bill provides for set off and carry forward of losses from specified business. The said clause also defines the expressions “specified business” and “unabsorbed loss from the specified business”. The clause corresponds to section 73A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

114.4 Important Views/Suggestions given by Experts/Stakeholders:

114.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

114.4.2 Clause 114(1): For ‘computed from’, it would be more appropriate to use ‘computed of’

114.5 Examination by the Committee:

114.5.1 Regarding the suggestion to replace the phrase 'computed from,' the Ministry has accepted it, stating that 'computed from' may be replaced with 'computed in respect of' for clarity in Clause 114 of the Bill.

114.5.2 Regarding the suggestion to merge related provisions (clause 108-115), the Ministry has stated that the proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

114.6 Observations/Recommendations of the Committee:

The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that the phrase "computed from" in clause 114(1) be replaced with "computed in respect of". This change will ensure consistency with clause 114(3)(b), which already uses the phrase "computed in respect of" while defining "unabsorbed loss from the specified business." Apart from this drafting correction, the Committee accept the clause as proposed, as it is a textual simplification of the existing provisions with the same intent.

Clause 115. Set off and carry forward of losses from specified activity.

115.1 Provision proposed in the Income-Tax Bill, 2025:

115. (1) Any loss incurred by the assessee in the specified activity during any tax year, shall not be set off against the income, if any, from any source other than specified activity for the said tax year. (2) The unabsorbed loss from the specified activity for any tax year shall be carried forward to the subsequent tax year and shall be set off,— (a) only against the income from specified activity, if any, computed for such subsequent tax year, and so on; and (b) only when the specified activity is carried on by the assessee in that tax year. (3) The unabsorbed loss from the specified activity referred to in sub-section (2) shall not be carried forward for more than four tax years immediately succeeding the tax year in which such loss was first computed. (4) In this section,— (a) "income by way of stake money" means the gross amount of prize money received by the owner of race horses participating in horse races on their winning a particular position in such race; (b) "loss incurred by the assessee in the specified activity" means the amount by which the income by way of stake money, if any, falls short of the expenditure, not being capital expenditure, incurred wholly and exclusively for maintaining race horses; (c) "race horse" means a horse upon which wagering or betting may be lawfully made in a horse race; (d) "specified activity" means the activity of owning and maintaining race horses; (e) "unabsorbed loss from the specified activity" means any loss computed in respect of the specified activity carried on by the assessee during the tax year, which has not been, or is not wholly, set off against income, if any, of the specified activity under sub-section (1) for the said tax year.

115.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

74A. (1) [* * *]

(2) [* * *]

(3) In the case of an assessee, being the owner of horses maintained by him for running in horse races (such horses being hereafter in this sub-section referred to as race horses), the amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any assessment year shall not be set off against income, if any, from any source other than the activity of owning and maintaining race horses in that year and] shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(a) it shall be set off against the income, if any, from the activity of owning and maintaining race horses assessable for that assessment year :

Provided that the activity of owning and maintaining race horses is carried on by him in the previous year relevant for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on; so, however, that no portion of the loss shall be carried forward for more than four assessment years immediately succeeding the assessment year for which the loss was first computed.

Explanation.—For the purposes of this sub-section—

(a) "amount of loss incurred by the assessee in the activity of owning and maintaining race horses" means—

(i) in a case where the assessee has no income by way of stake money, the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses;

(ii) in a case where the assessee has income by way of stake money, the amount by which such income falls short of the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by the assessee wholly and exclusively for the purposes of maintaining race horses;

(b) "horse race" means a horse race upon which wagering or betting may be lawfully made;

(c) "income by way of stake money" means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning or being placed second or in any lower position in horse races.

115.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 115 of the Bill seeks to provide for set off and carry forward of losses from specified activity. The said clause defines ‘Specified activity’ as the activity of owning and maintaining race horses. The clause corresponds to section 74A of the Act. However, for better clarity, definition of ‘race horse’ has been provided in the clause.

The provisions of the existing section have been simplified and retained with the same intent in this clause.

115.4 Important Views/Suggestions given by Experts/Stakeholders:

115.4.1 These related provisions (clause 108-115) can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill.

115.5 Examination by the Committee:

115.5.1 Regarding the suggestion to merge related provisions (clause 108-115), the Ministry has stated that the proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income Tax Provisions. The nature of transactions provided in these sections are materially different from each other, therefore they may not be clubbed in one single section or in a tabular format. Thus, suggestion has no merits.

115.6 Observations/Recommendations of the Committee:

The Committee note that Clause 115 of the Bill seeks to provide for set off and carry forward of losses from specified activity. Also, the clause defines 'Specified activity' as the activity of owning and maintaining race horses. The clause corresponds to section 74A of the Act. However, for better clarity, definition of 'race horse' has been provided in the clause. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 116.</u> Treatment of accumulated losses and unabsorbed depreciation in amalgamation or demerger, etc.

116.1 Provision proposed in the Income-Tax Bill, 2025:

116. (1) Where there has been an amalgamation of,—

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

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

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

(d) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five years from the end of the tax year in which the restriction on amalgamation in the share purchase agreement ends, then, irrespective of anything in any other provision of this Act, the accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, allowance for unabsorbed depreciation of the amalgamated company for the tax year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in sub-section (1)(d), which is deemed to be the loss or, as the case may be, the unabsorbed depreciation of the amalgamated company, shall not exceed the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which it ceases to be a public sector company due to such strategic disinvestment.

(3) For sub-section 1(d),—

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

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

(c) “strategic disinvestment” means sale of shareholding by the Central Government or State Government or a public sector company, in a public sector company or in a company, which results in— (i) reduction of its shareholding to below 51%; and (ii) transfer of control to the buyer;

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

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

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

(a) the amalgamating company— (i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years; (ii) has held continuously as on the date of the amalgamation, at least three-fourths of the book value of fixed assets held by it two years preceding the date of amalgamation;

(b) the amalgamated company—

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

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

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

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

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

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

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

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

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

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

(10) If there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in section 70(1)(ze), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

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

(12) For any amalgamation referred to in sub-section (1) or reorganisation of business referred to in sub-section (8) or (10) effected on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being— (i) the amalgamating company; or (ii) the firm or proprietary concern; or (iii) the private company or unlisted public company, as the case may be, which is deemed to be the loss of the successor entity, being—(a) the amalgamated company; or (b) the successor company; or (c) the successor limited liability partnership, as the case may be, shall be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity.

(13) In this section,—

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

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

(i) the manufacture or processing of goods; or

(ii) the manufacture of computer software; or

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

(iv) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or

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

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

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

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

116.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

72A. (1) Where there has been an amalgamation of—

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

(b) a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank; or

(c) one or more public sector company or companies with one or more public sector company or companies; or

(d) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five years from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation

was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Provided that the accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in clause (d), which is deemed to be the loss or, as the case may be, the allowance for un-absorbed depreciation of the amalgamated company, shall not be more than the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which the public sector company ceases to be a public sector company as a result of strategic disinvestment.

Explanation.—For the purposes of clause (d),—

(i) "control" shall have the same meaning as assigned to in clause (27) of section 2 of the Companies Act, 2013 (18 of 2013);

(ii) "erstwhile public sector company" means a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the Government;

(iii) "strategic disinvestment" means sale of shareholding by the Central Government or any State Government or a public sector company, in a public sector company or in a company, which results in—

(a) reduction of its shareholding to below fifty-one per cent; and

(b) transfer of control to the buyer:

Provided that the condition laid down in sub-clause (a) shall apply only in a case where shareholding of the Central Government or the State Government or the public sector company was above fifty-one per cent before such sale of shareholding:

Provided further that requirement of transfer of control referred to in sub-clause (b) may be carried out by the Central Government or the State Government or the public sector company or any two of them or all of them.]

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

(a) the amalgamating company—

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

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

(b) the amalgamated company—

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

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

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

(3) In a case where any of the conditions laid down in sub-section (2) are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

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

(a) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(b) where such loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same

proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as the case may be.

(5) The Central Government may, for the purposes of this Act, by notification in the Official Gazette, specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

(6) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the purpose of previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(6A) Where there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the purpose of the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :

Provided that if any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor limited liability

partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which such conditions are not complied with.

Following sub-section (6B) shall be inserted after sub-section (6A) of section 72A by the Finance Act, 2025, w.e.f. 1-4-2026:

(6B) Where any amalgamation or business reorganisation, as the case may be, is effected on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity under sub-section (1), (6) or (6A), being—

(a) the amalgamating company; or

(b) the firm or proprietary concern; or

(c) the private company or unlisted public company, as the case may be, which is deemed to be the loss of the successor entity, being—

(i) the amalgamated company; or

(ii) the successor company; or

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

(7) For the purposes of this section,—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or conversion or amalgamation or demerger had not taken place;

(aa) "industrial undertaking" means any undertaking which is engaged in—

(i) the manufacture or processing of goods; or

(ii) the manufacture of computer software; or

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

(iiia) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or

(iv) mining; or

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

Following clause (ab) shall be inserted after clause (aa) of sub-section (7) of section 72A by the Finance Act, 2025, w.e.f. 1-4-2026:

(ab) "original predecessor entity" means predecessor entity in respect of the first amalgamation under sub-section (1) or first business reorganisation under sub-section (6) or (6A);

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or conversion or amalgamation or demerger had not taken place;

(c) "specified bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and

Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

116.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 116 of the Bill seeks to provide for carry forward and set off of losses and unabsorbed depreciation in case of specified business amalgamation. The clause corresponds to section 72A of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. This is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause.

116.4 Important Views/Suggestions given by Experts/Stakeholders:

116.4.1 To realign the provisions of IT Bill with that of Income-tax Act, 1961 and allow the carry forward of business losses for fresh period of 8 years as given under old law. Justification: The intent to bring this amendment was capping the carry-forward period for business losses at eight years from the original computation date, these changes aim to curb tax arbitrage through sequential M&A transactions. Hence, with GAAR in place, only assessee' s who violate the condition or use sequential M&A transaction should be penalised and no fresh life for carry forward of losses should be invoked.

116.4.2 There is no enabling provision for carry forward of losses in case of merger/ demerger of two LLPs. It is recommended that benefits of section 72A be extended to merger and demerger undertaken between LLPs

116.4.3 Section 72A was originally intended for capital-intensive industries that relied on heavy physical assets. However, today's economy is increasingly driven by digital and service-based sectors like ITES, e-commerce, and startups and may not meet the definition of 'industrial undertaking' under the law As a result, they are unable to avail the benefits of carrying forward losses and unabsorbed depreciation, even though they play a significant role in India's modern economy. Since these industries play a big part in the growth of the Indian economy, growth of these industries would ultimately lead to the growth of the economy To

help companies grow faster, and to attract more foreign investment in India's service sectors, the government may extend the benefit of Clause 116 to these industries.

116.4.4 The condition provided puts an undue restriction to high technology driven businesses including Telecom companies which are required to regularly upgrade their network infrastructure by investing into newer technology The condition to hold 3/4th of book value of old fixed assets for a period of 5 years restricts the amalgamated company to dispose off old equipment resulting in carrying outdated and inefficient equipment. It is suggested to lower the requirement of keeping 3/4th of the book value of fixed assets to only 1/4th Further, the timeline to hold assets should be for a maximum of 2 to 3 years instead of 5 years The relaxation of this condition would also facilitate environment supporting digital India initiative of Government.

116.4.5 The provisions were originally designed for a capital-intensive economy; however, many companies are now adopting capital-light models. Certain other key sectors such as service, real estate, infrastructure, and organized retail are generally ineligible for the said benefit. Services sector contributed 55% of GDP (FY24), attracted 16% of FDI, and accounted for 44% of exports. It provides 32% of total employment (ILO, 2019). Increased competition and the economic uncertainty (including those resulting from US tariffs) necessitate resource consolidation among small companies to survive. International Practices: Countries like the US, UK, and China allow loss transitions across sectors, emphasizing business continuity and ownership without arbitrary distinctions. Finance Act 2025 has restricted transition of business loss in amalgamation to unexpired period of such losses instead of fresh lease of 8 years as per earlier provisions. Since the benefit is now restricted, it can be expanded to all sectors of the economy. Recommendation: Extend the carry forward and set-off of accumulated business losses and unabsorbed depreciation under S. 72A [Cl. 116 of ITB 2025] to service, real estate, infrastructure, and organized retail/ trading companies. If necessary, the following illustrative safeguards may be built in to prevent abuse: Amalgamating Companies: Engaged in relevant business for 3+ years, holds 75% of book value of fixed assets, maintains average employee headcount (100-500) or payroll (₹5 Cr-₹10 Cr) for 2 years pre-merger. Amalgamated Companies: Continue business for 5 years and also retain 75% of book value of fixed assets for same period. Also limit employee headcount/payroll reduction (max 75%) for 3 years.

116.4.6 It is recommended that the scope of clause 116 of the Bill should be widened to include other emerging sectors such as e-commerce, fintech, Media/Broadcasting and Entertainment, real estate/ infrastructure/ Telecom Infrastructure Service Provider and Direct to Home operators. Alternative 2- It is recommended that the benefit under clause 116 of the Bill to carry forward of loss and depreciation on amalgamation should be extended to companies across all industries.

116.5 Examination by the Committee:

116.5.1 Regarding the suggestion for alignment of provisions in Income-Tax Bill, 2025 with that of Income-Tax Act, 1961 by allowing carry forward of business losses for fresh period of 8 years, the Ministry has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. In order to prevent evergreening of carry forward and set off of losses by way of multiple or successive amalgamation, vide Finance Act 2025, restriction of the period of 8 years from the original amalgamation period has been brought."

116.5.2 Regarding the suggestion seeking benefits of clause 116 to be extended to merger and demerger undertaken between LLPs, the Ministry has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The provisions of clause 116 were brought for revival of sick industrial companies wherein even after amalgamation losses can be carried forward to 8 more years. Merger and demerger between LLPs exclusive for business purposes is different from merger or demerger of sick industrial companies."

116.5.3 Regarding the suggestion seeking extension of benefit of amalgamation, demerger (clause 116) to digital and service service-based sectors, the Ministry in a written reply has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The benefit is very restricted in the Act as well as Bill so that the provisions are not abused for trading of losses."

116.6 Observations/Recommendations of the Committee:

The Committee find that the clause corresponds to section 72A of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. The Committee have been apprised that this is a provision which was part of the Finance Act, 2025. Further, the provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the proposed clause.

<u>Clause 117.</u> Treatment of accumulated losses and unabsorbed depreciation in scheme of amalgamation in certain cases

117.1 Provision proposed in the Income-Tax Bill, 2025:

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

(a) one or more banking company with—

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

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

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

(c) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972, the accumulated loss and unabsorbed depreciation of such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies, shall be deemed to be the loss or, allowance for depreciation of the banking institution or company or amalgamated corresponding new bank or amalgamated Government company for the tax year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

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

(i) the banking company or companies;

(ii) the amalgamating corresponding new bank or banks; or (iii) the amalgamating Government company or companies, as the case may be, which is deemed to be the loss of the successor entity, being—

(a) the banking institution or company; or

(b) the amalgamated corresponding new bank or banks; or

(c) the amalgamated Government company or companies, as the case may be, shall be carried forward in the hands of the successor entity for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for original predecessor entity.

(3) In this section,—

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

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

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

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

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

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

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

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

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

117.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

72AA. Notwithstanding anything contained in sub-clauses (i) to (iii) of clause (1B) of section 2 or section 72A, where there has been an amalgamation of—

73[(i) one or more banking company with—

(a) any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949); or

(b) any other banking institution or a company subsequent to a strategic disinvestment, wherein the amalgamation is carried out within a period of five years from the end of the previous year during which such strategic disinvestment is carried out; or]

(ii) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) or both, as the case may be; or

(iii) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), the accumulated loss and the unabsorbed depreciation of such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government

company or companies shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution or 74[company or] amalgamated corresponding new bank or amalgamated Government company for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

Following proviso shall be inserted in section 72AA by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided that where any scheme of such amalgamation is brought into force on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

(a) the banking company or companies; or

(b) the amalgamating corresponding new bank or banks; or

(c) the amalgamating Government company or companies,

as the case may be, which is deemed to be the loss of the successor entity, being—

(i) the banking institution or company; or

(ii) the amalgamated corresponding new bank or banks; or

(iii) the amalgamated Government company or companies,

as the case may be, shall be carried forward in the hands of the successor entity for not more than eight assessment years immediately succeeding the assessment year for which such loss was first computed for original predecessor entity.

Explanation.—For the purposes of this section,—

(i) "accumulated loss" means so much of the loss of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies,

would have been entitled to carry forward and set off under the provisions of section 72, if the amalgamation had not taken place;

(ii) "banking company" shall have the meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(iii) "banking institution" shall have the meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);

(iv) "corresponding new bank" shall have the meaning assigned to it in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or, as the case may be, clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(v) "general insurance business" shall have the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(vi) "Government company" means a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), which is engaged in the general insurance business and which has come into existence by operation of section 4 or section 5 or section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

75[(via) "strategic disinvestment" shall have the meaning assigned to it in clause (iii) of the Explanation to clause (d) of sub-section (1) of section 72A;]

(vii) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies which remains to be allowed and which would have been allowed to such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies, if the amalgamation had not taken place.

Following clause (viii) shall be inserted after clause (vii) of the Explanation to section 72AA by the Finance Act, 2025, w.e.f. 1-4-2026:

(viii) "original predecessor entity" means predecessor entity in respect of the first amalgamation.

117.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 117 of the Bill provides that in a case of amalgamation the accumulated loss and depreciation of amalgamating entity shall be deemed to be loss and depreciation of amalgamated entity specified therein. The clause corresponds to section 72AA of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. This is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause.

117.4 Observations/Recommendations of the Committee:

The Committee note that the clause 117 corresponds to section 72AA of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. It has been stated by the Ministry that this is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 118.</u> Carry forward and set off of losses and unabsorbed depreciation in business reorganisation of co-operative banks.

118.1 Provision proposed in the Income-Tax Bill, 2025:

118. (1) In a case of a co-operative bank, where amalgamation takes place during the tax year, the accumulated business loss and unabsorbed depreciation, if any, of the predecessor co-operative bank, shall be allowed to be set off against the income of the assessee, being a successor co-operative bank for that tax year, as if the business reorganisation had not taken place and all other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation, shall apply accordingly.

(2) In case of a co-operative bank where demerger takes place during the tax year, and where the accumulated loss or unabsorbed depreciation—

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

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

(3) The accumulated loss shall be carried forward only up to eight tax years immediately succeeding the tax year in which such loss was first computed in the hands of the predecessor-in-business.

(4) The provisions of this section shall apply, if—

(a) the predecessor co-operative bank—

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

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

(b) the successor co-operative bank,—

(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum five years immediately succeeding the date of business reorganisation;

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

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

(5) The Central Government may, by notification, specify such other conditions as it may consider necessary, other than the condition referred to in sub-section (4)(b)(iii), for the purposes of ensuring that the specified business reorganisation is for genuine business purposes.

(6) In a case where any of the conditions referred to in sub-section (4) or (5) are not complied with, the set off of accumulated business loss or unabsorbed depreciation made in any tax year in the hands of the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which such conditions are not complied with.

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

(8) In this section,—

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

(b) “amalgamated co-operative bank”, “amalgamating co-operative bank”, “amalgamation”, “business reorganisation”, “demerged co-operative bank”, “demerger”, “predecessor co-operative bank”, “successor co-operative bank” and

"resulting co-operative bank" shall have the meanings respectively assigned to them in section 65;

(c) "unabsorbed depreciation" means so much of the allowance for depreciation in the hands of amalgamating co-operative bank or demerged co-operative bank, which remains to be allowed and which would have been allowed to such banks, if the business reorganisation had not taken place.

118.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

72AB. (1) The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the previous year, be allowed to set off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor co-operative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The provisions of this section shall apply if—

(a) the predecessor co-operative bank—

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

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

(b) the successor co-operative bank—

(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum period of five years immediately succeeding the date of business reorganisation;

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

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

(3) The amount of set-off of the accumulated loss and unabsorbed depreciation, if any, allowable to the assessee being a resulting co-operative bank shall be,—

(i) the accumulated loss or unabsorbed depreciation of the demerged co-operative bank if the whole of the amount of such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting co-operative bank; or

(ii) the amount which bears the same proportion to the accumulated loss or unabsorbed depreciation of the demerged co-operative bank as the assets of the undertaking transferred to the resulting co-operative bank bears to the assets of the demerged co-operative bank if such accumulated loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting co-operative bank.

(4) The Central Government may, for the purposes of this section, by notification in the Official Gazette, specify such other conditions as it considers necessary, other than those prescribed under sub-clause (iii) of clause (b) of sub-section (2), to ensure that the business reorganisation is for genuine business purposes.

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

(6) In a case where the conditions specified in sub-section (2) or notified under sub-section (4) are not complied with, the set off of accumulated loss or unabsorbed depreciation allowed in any previous year to the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which the conditions are not complied with.

(7) For the purposes of this section,—

(a) "accumulated loss" means so much of loss of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, under

the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating co-operative bank or the demerged co-operative bank, would have been entitled to carry forward and set-off under the provisions of section 72 as if the business reorganisation had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, which remains to be allowed and which would have been allowed to such bank as if the business reorganisation had not taken place;

(c) the expressions "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "co-operative bank", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 44DB.

118.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 118 of the Bill seeks to provide for carry forward and set off of losses and unabsorbed depreciation in business reorganisation of co-operative banks. The clause corresponds to section 72AB of the Act. The clause also clarifies that accumulated loss can be carried forward only up to eight tax years immediately succeeding the tax year in which such loss was first computed in the hands of the predecessor-in-business. This is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause.

118.4 Important Views/Suggestions given by Experts/Stakeholders:

118.4.1 **‘**to’ after ‘before’ be deleted and should read as under: “(ii) has held at least three-fourth of the book value of fixed assets as on the date of the business reorganisation, continuously for two years before to the date of business reorganisation.

118.5 Examination by the Committee:

118.5.1 Regarding the suggestion to delete ‘to’ after ‘before’ [Clause 118(4)(ii)], the Ministry has accepted the mistake stating it to be an inadvertent drafting error.

118.6 Observations/Recommendations of the Committee:

The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that in Clause 118(4)(ii), the word 'to' following 'before' be deleted.

The Committee also observe that the clause corresponds to section 72AB of the Act. The clause also clarifies that accumulated loss can be carried forward only up to eight tax years immediately succeeding the tax year in which such loss was first computed in the hands of the predecessor-in-business. This is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, except the above-mentioned drafting correction, accept the clause as proposed.

<u>Clause 119.</u> Carry forward and set off of losses not permissible in certain cases.

119.1 Provision proposed in the Income-Tax Bill, 2025:

119. (1) In case of change in constitution of a firm during a tax year, such firm shall not be entitled to carry forward and set off so much of the loss proportionate to the share of retired or deceased partner as reduced by his share of profit, if any, from the firm for that tax year.

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

(3) In case of change in shareholding of a company, not being a company in which public are substantially interested, during any tax year, loss brought forward from any preceding tax year shall not be allowed to be set off against the income of the said tax year and subsequent tax years unless the following conditions are satisfied:—

(a) if the beneficial owners of shares of the company carrying at least 51% of voting power, as on the last day of tax year in which loss was incurred, shall continue to be the beneficial owner of shares carrying at least 51% of voting power, as on the last day of the tax year in which such change in shareholding takes place; or

(b) even if conditions referred to in clause (a) are not satisfied in case of a company, being an eligible start-up referred to in section 140,—

(i) all shareholders of the company holding shares carrying voting power, as on the last day of tax year in which loss was incurred, continue to hold those shares as on the last day of the tax year in which such change in shareholding takes place; and

(ii) such loss was incurred during the first ten years beginning from the year of incorporation of the company.

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

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

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

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

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

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

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

(e) to a company to the extent that a change in the shareholding has taken place during the tax year on account of relocation referred to in section 70(2); or

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

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

(6) In this section,—

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

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

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

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

119.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

78. (1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.

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

119.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 119 of the Bill provides for carry forward and set off of losses in case of certain situation and also in case of certain companies. The clause corresponds to section 78 and 79 of the Act. The provisions of the existing section 78 and 79 have been simplified and merged with the same intent in this clause.

119.4 Important Views/Suggestions given by Experts/Stakeholders:

119.4.1 Currently, on transfer of shares of an SPV (not being a company in which the public are substantially interested) by the Sponsor to the BT (Business Trust) (of more than 49%), brought forward losses of the SPVs get lapsed pursuant to the provisions of section 79 of the Act (corresponding relevant section 119 of the

Bill) Further, for an Indian company / LLP to qualify as an SPV under the SEBI REIT (Real Estate Investment Trust) and InvIT (Infrastructure Investment Trust) regulations, the BT is required to hold at least 51% of the equity stake / interest in such company / LLP. Thus, practically, the Sponsor will always transfer at least 51% stake in the SPV to the BT, with the result that the losses of the SPV will always lapse on account of such transfer. Relaxation from the above provision should be provided in case of transfer of SPVs shares to the BT to encourage investors and sponsors to set up BT in India. Justification: To provide a specific tax exemption in section 79 of the Act (corresponding relevant section 119 of the Bill) on migration of SPVs into the BT (i.e.in case of transfer of shares of the SPVs by a Sponsor / Investor to a BT).

119.4.2 119(3) (a) "if the beneficial owners of shares of the company carrying at least 51% of voting power, as on the last day of tax year in which loss was incurred, shall continue to be the beneficial owner of shares carrying at least 51% of voting power, as on the last day of the tax year in which such change in shareholding takes place; or". If' needs to be deleted.

119.4.3 It appears that if there is a change in shareholding between the two dates (loss year and change in shareholding) even if for once, then the loss would not be allowed to be carried forward and set-off. It is suggested that in case the shareholding is later restored in subsequent years and the criteria of 51% is met in subsequent years, then the loss shall be allowable. Justification: There is no reason to disallow loss in later years despite shareholding being restored as the shareholder would be liable to pay tax in respect of higher income.

119.4.4 Definition of beneficial owner may be inserted under clause 119 of ITB 25, based on the Policy objective sought to be achieved. Rationale: Reduce tax litigation thereby providing certainty Justification: Term 'beneficially held' in ITA 61 has been replaced by 'beneficial owner' in ITB 25. However, term beneficial owner has not been defined in Clause 119. Clause 67(8) of ITB dealing with capital gain provides that beneficial owner shall have the same meanings as per section 2(1)(a) of the Depositories Act, 1996. Section 2(1)(a) of Depositories Act, 1996 defines beneficial owner as a person whose name is recorded as such with a depository. This indicates legal owner of share would qualify as beneficial owner. Under clause 263 of ITB 25 dealing with filing of return of income and processing, beneficial owner has been defined as under: "beneficial owner", in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person. Above definition indicates even an indirect

beneficiary of a share could qualify as beneficial owner. International commentaries in the context of double tax treaties have defined beneficial owner as the person who has the right to use and enjoy the income, rather than merely acting as an intermediary, agent, or nominee. They clarify that beneficial owner must have the power to determine how the income is used, rather than being obligated to transfer it elsewhere. Under ITA 61, courts have expressed divergent views on whether term 'beneficially held' would apply to a legal owner or beneficial owner. Based on the policy intent (whether to cover change in legal owner of shares or beneficial owner of shares), appropriate definition of beneficial owner may be inserted in Clause 119 of ITB.

119.4.5 If the policy intent is consistent with the objectives stated in the Mathai Commission report, Clause 119 of ITB may be amended to provide for disentitlement of losses based on shareholding in the year of set off of losses rather than year of change in shareholding Amendment of ITB 25 for loss disentitlement based on continuity of business rather than shareholding may be considered. Rationale: Reduce tax litigation thereby providing certainty. Make tax law lucid and clear. Justification: Section 79 of ITA 61 had been introduced as an anti-abuse provision pursuant to recommendations of the report of the Taxation Inquiry Commission (Mathai Commission), 1953–54. The Mathai Commission noticed that it was possible for a few persons to acquire the shares of companies which have sustained losses in earlier years and then start to engage in profitable business, thereby reducing tax liabilities by securing set-off of losses of earlier years when the shares of the company were held by different shareholders. The Mathai Commission suggested introducing an anti-abuse provision by which attempts at transferring losses in this manner could be curbed. Having regard to intent of introduction of section 79 of ITA, Courts have held that eligibility to carry forward and set off of loss under section 79 should be tested in the year of set off of losses. Therefore, even if there is change of more than 51% in shareholding in intermediary years, if the shareholding is restored in the year of set off of losses, provisions of section 79 would not apply. However, Clause 119 of ITB provides for disentitlement of losses even if shareholding is restored in the year of set off of losses. If there is no change in the policy intent of disentitlement of losses only based on shareholding in the year of set off of losses, amendment may be made in clause 119 of ITB 25 Further, internationally accepted practice is loss carry forward based on continuity of business rather than continuity of shareholding. This approach may be considered for incorporation in ITB 25.

119.4.6 Institution of the LLP would result in the lapse of losses proportionate to the share of the retired or deceased partner under Section 79 of old Act. It is recommended to extend the relaxation/ benefit for carry forward and set off of losses to startups incorporated as LLPs, to make it at par with an eligible start up incorporated as a company.

119.4.7 There are rulings which have held section 79 ought not to apply in case ultimate parent remained the same. There are contrary rulings as well. The provision affects stressed industries preventing them from using past losses to offset future profits during recovery. Clause 119 should not apply to intra group reorganization where the ultimate holding company of the Assessee (i.e., private limited company) remains same. It is recommended to clarify who would be considered to beneficially hold the shares It is recommended to allow an exception under Clause 119 for struggling industries so they can carry forward losses despite ownership changes This will support revival, attract investment, and encourage long-term recovery Further, the term 'stressed industry' may be defined.

119.4.8 As per the provisions of section 79 of the Act/ clause 119 of the Bill, brought forward losses of a closely held company are not allowed to be carried forward and set off if there is a change of beneficial shareholding of more than 49%. There is litigation in cases of intra group reorganization. There are rulings which have held section 79 ought not to apply in case ultimate parent remained the same. There are contrary rulings as well. It is recommended that the provision of clause 119 of the Bill is made ineffective. The business is separate from the person conducting the business. Business should have the option to carry forward and claim tax loss it generates, irrespective of change in ownership. Alternatively, it can be made applicable subject to certain exception – (i) section not to apply to MSMEs where a restructuring is on account of financial hardship of the Assessee (ii) section not to apply in case of intra-group restructuring where ultimate shareholder is the same entity and (iii) section not to apply in case of family reorganisation.

119.5 Examination by the Committee:

119.5.1 Regarding the suggestion to delete the word 'If' in Clause 119(3)(a), the Ministry has accepted the same stating it to be an inadvertent drafting error.

119.5.2 Regarding suggestion seeks to relax the condition of holding 51% of shares to avail carry forward and set off of losses in the cases of Business Trusts (BTs), the Ministry has stated as follows:

> "The suggestion of the stakeholder is in the nature of policy change and beyond the scope of IT Bill, 2025. The provisions of the Act are same vis a vis Bill. Condition of 51% is an anti-abuse provision. Dispensing with it will result in trading of losses. The suggestion is not feasible."

119.5.3 When the Committee pointed out that there is no reason to disallow loss in later years despite shareholding being restored as the shareholder would be liable to pay tax in respect of higher income as provided in Clause 119(3)(a), the Ministry in written reply has submitted as follows:

> "It is an inadvertent drafting error. The clause 119(3)(a) which is related to restricting the set off of brought forward losses on violation of certain conditions is to be redrafted to align it with sec 79 of the Act so as to remove any ambiguity."

119.5.4 Regarding the matter that the term 'beneficially held' in ITA 61 has been replaced by 'beneficial owner' in the Income-Tax Bill, 2025, and 'beneficial owner' is not defined in Clause 119, the Ministry has submitted the following:

> "It is an inadvertent drafting error. The clause 119(3)(a) of the Bill has used the term "beneficial owner" which was not there in sec 79 of the Act. The drafting of clause 119(3) is to be aligned with sec 79 of the Act to remove any ambiguity."

119.5.5 Regarding the suggestion seeking to extend benefits of sec 79 of the Act with regard to start up incorporated as a company to a start up incorporated as LLP, the Ministry has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. Treatment of losses is differently provided for companies and firms because of their different constitution. There is no rationale to disturb the treatment."

119.5.6 Regarding the suggestion seeking that Clause 119 should not apply to intra group reorganization where the ultimate holding company of the Assessee (i.e.,

private limited company) remains same, and to allow an exception under Clause 119 for struggling industries so they can carry forward losses despite ownership changes, the Ministry has stated as follows:

> "The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. It is an anti abuse provision which was introduce to prevent set off of losses and subsequent reduction in tax liability by way of change in shareholding."

119.5.7 The Committee pointed out that many countries allow loss carry forward based on continuity of business rather than strict shareholding continuity. They also stated that this approach reduces litigation and supports business restructuring, and asked whether the Ministry would consider amending Clause 119 to allow loss carry forward for startups, LLPs, intra-group reorganizations, and stressed industries where the ultimate holding company remains unchanged, to foster long-term recovery and investment in these sectors. In response, the Ministry in their written reply has submitted as follows:

> "Clause 119 is anti-abuse provisions and any relaxation in existing conditions may lead to abuse of the provisions to manipulate the profit of the intra group entities by arranging the set off of losses in such a way that no taxes are paid."

119.6 Observations/Recommendations of the Committee:

The Committee after examining the clause and considering the views/ suggestions of the experts/ stakeholders, recommend the following:

(i) The word "if" at the beginning of clause 119(3)(a), shall be deleted as it is syntactically redundant in light of the conditional structure already established in the main clause.

(ii) The provision shall be suitably amended to allow carry forward and set-off of losses where the shareholding pattern, though altered temporarily, is restored in subsequent years and the 51% continuity requirement is met thereafter. This would preserve the legislative intent of preventing misuse while ensuring fair treatment for companies whose shareholders remain ultimately liable to tax.

(iii) The drafting of clause 119(3) shall be aligned with Section 79 of the Act to remove any ambiguity regarding the newly used term "beneficial owner" as the same is not defined in the clause.

Apart from the above recommended drafting corrections, the Committee accept the clause as proposed, as it constitutes a textual simplification and merger of Sections 78 and 79 of the Act while retaining the same intent.

<u>Clause 120.</u> No set off of losses against undisclosed income consequent to search, requisition and survey.

120.1 Provision proposed in the Income-Tax Bill, 2025:

120. (1) Irrespective of anything to the contrary contained in any other provision of this Act, any loss, whether brought forward or otherwise or unabsorbed depreciation, shall not be allowed to be set off against any undisclosed income which is included in the total income of any tax year, consequent to a search conducted under section 247 or a requisition under section 248 or a survey conducted under section 253, not being a survey under section 253(4). (2) In this section, the expression “undisclosed income” for any tax year shall have the meaning assigned to it in section 301.

120.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

79. (1) Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred:

Provided that even if the said condition is not satisfied in case of an eligible start-up as referred to in section 80-IAC, the loss incurred in any year prior to the previous year shall be allowed to be carried forward and set off against the income of the previous year if all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of 76[ten] years beginning from the year in which such company is incorporated.

(2) Nothing contained in sub-section (1) shall apply,—

(a) to a case where a change in the said voting power and shareholding takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift;

(b) to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company;

(c) to a company where a change in the shareholding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner;

(d) to a company, and its subsidiary and the subsidiary of such subsidiary, where,—

(i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 (18 of 2013), has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government, under section 242 of the said Act; and

(ii) a change in shareholding of such company, and its subsidiary and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 (18 of 2013) after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner;

(e) to a company to the extent that a change in the shareholding has taken place during the previous year on account of relocation referred to in the Explanation to clauses (viiac) and (viiad) of section 47;

(f) to an erstwhile public sector company subject to the condition that the ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty-one per cent of the voting power of such company in aggregate.

(3) Notwithstanding anything contained in sub-section (2), if the condition specified in clause (f) of the said sub-section is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.

Explanation.—For the purposes of this section,—

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

(ia) "erstwhile public sector company" shall have the same meaning as assigned to it in clause (ii) of the Explanation to clause (d) of sub-section (1) of section 72A;

(ib) "strategic disinvestment" shall have the same meaning as assigned to it in clause (iii) of the Explanation to clause (d) of sub-section (1) of section 72A;

(ii) "Tribunal" shall have the meaning assigned to it in clause (90) of section 2 of the Companies Act, 2013 (18 of 2013).

120.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 120 of the Bill seeks to provide that no set off of loss or unabsorbed depreciation shall be allowed against undisclosed income, consequent to search, requisition and survey. The clause corresponds to section 79A of the Act. To remove ambiguity and ensure clarity with respect to the definition of undisclosed income, reference is now made to the meaning assigned to it in clause 301 of the Bill. The provisions of the existing section have been simplified and retained with the same intent in this clause.

120.4 Observations/Recommendations of the Committee:

The Committee, after examining the clause, find that clause 120 of the Bill seeks to provide that no set off of loss or unabsorbed depreciation shall be allowed against undisclosed income, consequent to search, requisition and survey. The clause corresponds to section 79A of the Act. The Committee have been given to understand that to remove ambiguity and ensure clarity with respect to the definition of undisclosed income, reference is now made to the meaning assigned to it in clause 301 of the Bill. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.

<u>Clause 121.</u> Submission of return for losses.

121.1 Provision proposed in the Income-Tax Bill, 2025:

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

121.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

79A. Notwithstanding anything contained in this Act, where consequent to a search under section 132 or a requisition under section 132A or a survey under section 133A other than under sub-section (2A) of that section, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32, shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.

Explanation.—For the purposes of this section, the expression "undisclosed income" means,—

(i) any income of the previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132 or a requisition under section 132A or a survey under section 133A other than under sub-section (2A) of that section, which has,—

(A) not been recorded on or before the date of search or requisition or survey, as the case may be, in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) not been disclosed to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner before the date of search or requisition or survey, as the case may be; or

(ii) any income of the previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the previous year which is found to be false and which would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made.

121.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 121 of the Bill provides that no loss shall be carried forward and set off which has not been determined in pursuance of a return filed. The clause corresponds to section 80 of the Act. The provisions of the existing section have been simplified and retained with the same intent in this clause.

121.4 Observations/Recommendations of the Committee:

The Committee find that Clause 121 corresponds to Section 80 of the existing Act. The provisions have been simplified for clarity while retaining their original intent. The Committee, therefore, accept the clause as proposed.

CHAPTER VIII

DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

Clause122 - Deductions to be made in computing total income.

122.1 Provisions proposed in the Income-Tax Bill, 2025:

A.—General

122. (1) In computing the total income of an assessee, the deductions specified in this Chapter shall be allowed from his gross total income, as per and subject to the provisions of this Chapter.

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee.

(3) If the deduction under section 133 or 135 or 137 or 138 or 141 or 142 or 143 is admissible in computing the total income of an association of persons or a body of individuals, no deduction under the same provision shall be made in relation to the share of income of a member of such association of persons or body of individuals while computing the total income of such member.

(4) Irrespective of anything to the contrary contained in any of the provisions of this Chapter under the heading “Deductions in respect of certain incomes”, where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under those provisions for any tax year,—

(a) deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provision of this Act for such tax year; and

(b) shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business.

(5) Deduction under the provisions of Part C of this Chapter shall not be allowed to an assessee, who fails to—

(a) furnish a return of income on or before the due date specified under section 263(1); or

(b) make a claim of deduction in return furnished under section 263(1).

(6) For the purposes of any deduction under this Chapter, irrespective of anything to the contrary contained in Part C of this Chapter, if any goods or services held for the purposes of—

(a) the undertaking, unit, enterprise or eligible business carried on by the assessee are transferred to any other business carried on by the assessee; or

(b) any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business of the assessee; and

(c) the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of transfer, the profits and gains of such undertaking or unit or enterprise or eligible business carried on by the assessee, shall be computed as if the transfer in clause (a) or (b), had been made at the market value of such goods or services as on that date.

(7) For the purposes of sub-section (6), “market value”,—

(a) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch, if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(b) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any; and

(c) in relation to any goods or services sold, supplied or acquired means the arms length price of such goods or services as defined in section 173(a), if it is a specified domestic transaction referred to in section 164.

(8) Where a deduction under Part C of this Chapter, is claimed and allowed in respect of profits of a specified business as referred to in section 46(11)(d) for any tax year, no deduction shall be allowed for such specified business under section 46 for the same or any other tax year.

(9) Where any deduction is required to be made or allowed under Part C of this Chapter, in respect of any income of the nature specified in that section and included in the gross total income of the assessee, then, irrespective of anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed under the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that

nature which is derived or received by the assessee and which is included in his gross total income.

(10) In this Chapter, “gross total income” means the total income computed as per the provisions of this Act, before making deduction under this Chapter.

122.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Existing provisions of the Section 80A under Chapter VI A are as under:-

“**80A.** (1) In computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of this Chapter, the deductions specified in sections 80C to 80U.

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee.

(3) Where, in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80GGA or section 80GGC or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA or section 80-IB or section 80-IC or section 80-ID or section 80-IE or section 80J or section 80JJ, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association of persons or body of individuals.

(4) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading *"C.—Deductions in respect of certain incomes*", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading *"C.—Deductions in respect of certain incomes",* no deduction shall be allowed to him thereunder.

(6) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading *"C.—Deductions in respect of certain incomes",* where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the

purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

Explanation.—For the purposes of this sub-section, the expression "market value",—

(*i*) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(*ii*) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any;

(*iii*) in relation to any goods or services sold, supplied or acquired means the arm's length price as defined in clause (*ii*) of section 92F of such goods or services, if it is a specified domestic transaction referred to in section 92BA.

(7) Where a deduction under any provision of this Chapter under the heading *"C.—Deductions in respect of certain incomes"* is claimed and allowed in respect of profits of any of the specified business referred to in clause (*c*) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year."

122.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 122 of the Bill provides for the statutory compliance requirements, time limits and overall limits for claiming the deductions enumerated in Chapter VIII of the bill to eligible taxpayers. This clause corresponds to section 80A, section 80AB and section

80AC of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

122.4 Important Views/Suggestions given by Experts/Stakeholders:

Pointing out a typographical error, one of the Stakeholders submitted as under:-

> Section No. "121" be substituted by "122". 122 (1) In computing the total income of an assesse, the deductions specified in this Chapter shall be allowed from his gross total income, as per and subject to the provisions of this Chapter.

122.5 Examination by the Committee:

Responding to the suggestion of the stakeholder, the Ministry of Finance in their written response, replied as reproduced below:-

> "This is in the nature of drafting suggestion. The clause 121 may be renamed as 122. The suggestion is acceptable. The proposed provisions are similar to the provisions in Income-tax Act, 1961 apart from this drafting error."

122.5.2 To a query of the Committee as to how Clause 122 of the IT Bill 2025 deviates from Sec. 80A of the IT Act 1961 in terms of evolution in Tax policy to address contemporary challenges in Tax deductions which were not taken into account till date in IT Act, 1961, the Ministry in their written replies have submitted as under:-

> "Clause 122 incorporates the provisions of Section 80A, 80AB, 80B and 80AC, i.e all the provisions of Chapter VI-A - Part. A Provisions under new bill have similar concept but the language is simplified for clarity by breaking into sub clauses".

122.6 Observations/Recommendations of the Committee:

The thorough examination of the proposed Clause 122 of the IT Bill 2025, pertaining to the deductions to be made in computing total income vis-à-vis Section 80 A under Chapter VI A of IT Act, 1961 reveals that barring the typographical error in naming the corresponding Section in the proposed IT Bill, 2025 as Clause 121, instead of Clause 122, the soul and intent of the comparable sections are same without any deviation. The proposed Clause 122 of the IT Bill,

2025 sticks to the laid down Statement of Object and Reasons of the Bill and provides more clarity and simplification to the language of the Bill. Thus, the Committee, while also considering the justification provided by the Ministry of Finance for the proposed Clause, accept the proposed Clause 122 in its entirety and recommend the Ministry to rectify the Sl. No. as 122 instead of 121.

Clause 123- Deduction for life insurance premia, deferred annuity, contributions to provident fund, etc.

123.1 Provisions proposed in the Income-Tax Bill, 2025:

B.—Deductions in respect of certain payments

123. An individual or a Hindu undivided family, shall be allowed a deduction of the whole of the amount paid or deposited in the tax year, being the aggregate of the sums enumerated in Schedule XV, but not exceeding one lakh fifty thousand rupees, while computing the total income for that year, subject to the conditions specified in that Schedule.

123.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

B.—Deductions in respect of certain payments

Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.

80C. (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the whole of the amount paid or deposited in the previous year, being the aggregate of the sums referred to in sub-section (2), as does not exceed one hundred and fifty thousand rupees.

(2) The sums referred to in sub-section (1) shall be any sums paid or deposited in the previous year by the assessee—

(*i*) to effect or to keep in force an insurance on the life of persons specified in sub-section (4);

(*ii*) to effect or to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (*xii*), on the life of persons specified in sub-section (4):

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;

(*iii*) by way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making

provision for his spouse or children, in so far as the sum so deducted does not exceed one-fifth of the salary;

(*iv*) as a contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(*v*) as a contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of any person specified in sub-section (4);

(*vi*) as a contribution by an employee to a recognised provident fund;

(*vii*) as a contribution by an employee to an approved superannuation fund;

(*viii*) as subscription, in the name of any person specified in sub-section (4), to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf;

(*ix*) as subscription to any such savings certificate as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*x*) as a contribution, in the name of any person specified in sub-section (4), for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*xi*) as a contribution in the name of any person specified in sub-section (4) for participation in any such unit-linked insurance plan of the LIC Mutual Fund referred to in clause (*23D*) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*xii*) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette, specify;

(*xiii*) as subscription to any units of any Mutual Fund referred to in clause (*23D*) of section 10 or from the Administrator or the specified company under any plan formulated in accordance with such scheme as the Central Government may,

by notification in the Official Gazette, specify in this behalf;

(*xiv*) as a contribution by an individual to any pension fund set up by any Mutual Fund referred to in clause (*23D*) of section 10 or by the Administrator or the

specified company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*xv*) as subscription to any such deposit scheme of, or as a contribution to any such pension fund set up by, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987) (hereafter in this section referred to as the National Housing Bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*xvi*) as subscription to any such deposit scheme of—

(*a*) a public sector company which is engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(*b*) any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*xvii*) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(*a*) to any university, college, school or other educational institution situated within India;

(*b*) for the purpose of full-time education of any of the persons specified in sub-section (4);

(*xviii*) for the purposes of purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the assessee's own residence, have been chargeable to tax under that head), where such

payments are made towards or by way of—

(*a*) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(*b*) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(*c*) repayment of the amount borrowed by the assessee from—

(*1*) the Central Government or any State Government, or

(*2*) any bank, including a co-operative bank, or

(*3*) the Life Insurance Corporation, or

(*4*) the National Housing Bank, or

(*5*) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36, or

(*6*) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

(*7*) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or

(*8*) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or

(*d*) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee,

but shall not include any payment towards or by way of—

(*A*) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(*B*) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion

certificate in respect of the house property by the authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(*C*) any expenditure in respect of which deduction is allowable under the provisions of section 24;

(*xix*) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.

Explanation.—For the purposes of this clause,—

(*i*) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA;

(*ii*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

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

(*xx*) as subscription to any units of any mutual fund referred to in clause (*23D*) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form:

Provided that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation.—For the purposes of this clause "eligible issue of capital" means an issue referred to in clause (*i*) of the *Explanation* to clause (*xix*) of sub-section (2);

(*xxi*) as term deposit—

(*a*) for a fixed period of not less than five years with a scheduled bank; and

(*b*) which is in accordance with a scheme framed and notified, by the Central Government, in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*xxii*) as subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*xxiii*) in an account under the Senior Citizens Savings Scheme Rules, 2004;

(*xxiv*) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981;

(*xxv*) being an employee of the Central Government, as a contribution to a specified account of the pension scheme referred to in section 80CCD—

(*a*) for a fixed period of not less than three years; and

(*b*) which is in accordance with the scheme as may be notified by the Central Government in the Official Gazette for the purposes of this

clause.

Explanation.—For the purposes of this clause, "specified account" means an additional account referred to in sub-section (3) of section 20 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).

(3) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, issued on or before the 31st day of March, 2012, as is not in excess of twenty per cent of the actual capital sum assured.

Explanation.—In calculating any such actual capital sum assured, no account shall be taken—

(*i*) of the value of any premiums agreed to be returned, or

(*ii*) of any benefit by way of bonus or otherwise over and above the sum

actually assured, which is to be or may be received under the policy by any person.

(3A) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, issued on or after the 1st day of April, 2012 as is not in excess of ten per cent of the actual capital sum assured :

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

(*a*) a person with disability or a person with severe disability as referred to in section 80U, or

(*b*) suffering from disease or ailment as specified in the rules made under section 80DDB,

the provisions of this sub-section shall have effect as if for the words "ten per cent", the words "fifteen per cent" had been substituted.

Explanation.—For the purposes of this sub-section, "actual capital sum assured" in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account—

(*i*) the value of any premium agreed to be returned; or

(*ii*) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(4) The persons referred to in sub-section (2) shall be the following, namely:—

(*a*) for the purposes of clauses (*i*), (*v*), (*x*) and (*xi*) of that sub-section,—

(*i*) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(*ii*) in the case of a Hindu undivided family, any member thereof;

(*b*) for the purposes of clause (*ii*) of that sub-section, in the case of an individual, the individual, the wife or husband and any child of such individual;

(*ba*) for the purposes of clause (*viii*) of that sub-section, in the case of an individual, the individual or any girl child of that individual, or any girl child for whom such person is the legal guardian, if the scheme so specifies;

(*c*) for the purposes of clause (*xvii*) of that sub-section, in the case of an individual, any two children of such individual.

(5) Where, in any previous year, an assessee—

(*i*) terminates his contract of insurance referred to in clause (*i*) of sub-section (2), by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,—

(*a*) in case of any single premium policy, within two years after the date of commencement of insurance; or

(*b*) in any other case, before premiums have been paid for two years; or

(*ii*) terminates his participation in any unit-linked insurance plan referred to in clause (*x*) or clause (*xi*) of sub-section (2), by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years; or

(*iii*) transfers the house property referred to in clause (*xviii*) of sub-section (2)

before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any sum specified in that clause,

then,—

(*a*) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, referred to in clauses (*i*), (*x*), (*xi*) and (*xviii*) of sub-section (2), paid in such previous year; and

(*b*) the aggregate amount of the deductions of income so allowed in respect of the previous year or years preceding such previous year, shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(6) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Explanation.—A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

(6A) If any amount, including interest accrued thereon, is withdrawn by the assessee from his account referred to in clause (*xxiii*) or clause (*xxiv*) of sub-section (2), before the expiry of the period of five years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year:

Provided that the amount liable to tax shall not include the following amounts, namely:—

(*i*) any amount of interest, relating to deposits referred to in clause (*xxiii*) or clause (*xxiv*) of sub-section (2), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and

(*ii*) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year.

(7) [77][***]

(8) In this section,—

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

(*ii*) "contribution" to any fund shall not include any sums in repayment of loan;

(*iii*) "insurance" shall include—

(*a*) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(*b*) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(*iv*) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(*v*) "public company" shall have the same meaning as in section 3 of the Companies Act, 1956 (1 of 1956);

(*vi*) "security" means a Government security as defined in clause (*2*) of section 2 of the Public Debt Act, 1944 (18 of 1944);

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

(*viii*) "transfer" shall be deemed to include also the transactions referred to in clause (*f*) of section 269UA.

123.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 123 of the Bill provides for deduction to an assessee being an individual or Hindu undivided family in respect of payments made on account of insurance premia, deferred annuity, contribution to provident fund etc. specified in Schedule XV of the Bill. This clause corresponds to Section 80C of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

123.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion received from a stakeholder regarding the proposed Clause 123 is as under:-

> Separate & exclusive deduction may be considered for life insurance premium, irrespective of the tax regime opted by the assessee. Also, this limit may be inflation linked. To achieve objective of 'Insurance for All' & social security, the encouragement towards voluntary insurance may need to be incentivized for achieving higher level of insurance penetration which has been quite low for sometime.

123.5 Examination by the Committee:

The Ministry in their in their written replies to the suggestion have submitted as mentioned below:-

> "It is suggested that a separate deduction may be considered for life insurance premia irrespective of the tax regime. It is the stated policy of the government to reduce tax rates and at the same time do away with exemptions and deductions. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed

provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025."

123.5.2 Further, the representatives, Ministry of Finance, during the course of examination of the bill, in a sitting, on the proposed Clause 123, deposed before the Committee, as under:-

"As explained by my JS, there are two regimes – old tax regime and new tax regime – for individuals and HUF. So, in the old tax regime, all these deductions are still available. They have not been taken away. The only thing is that the slab rate and tax rate are different. In the new tax regime, a conscious call was taken that we will liberalise the tax rate; we will increase the slabs; we will reduce the taxation; and we will do away with the exemptions. So, in the new tax regime, no new exemptions are being given. They are not considered. But in the old tax regime, it continues."

123.5.3 Elaborating further on the same Clause, the Secretary, Ministry of Finance (Department of Revenue) submitted before the Committee as under:-

"Sir, there is no specific sunset date. But so far, the performance in the new tax regime has been quite good. Sir, 74 per cent people have moved into the new regime. The idea here was to create various types of incentives -- whether it is for insurance and whether it is for other types of small savings and all. The more you make it complicated, the more it results in interpretation and disputes. So, a very conscious call was to have a very simplified new regime with no deductions permitted but with much liberal slabs and rates. However, to prevent people from having a problem of transition, old regime continues. So, if for somebody that works out better with insurance, he can opt for that and continue with that".

123.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 123 of the Income-Tax Bill, 2025 provides for deduction for life insurance premia, deferred annuity, contributions to provident fund, etc and corresponds to Section 80C of the Income-Tax Act, 1961. It is the major repository of benefits to the taxpayers in terms of investment avenues. The

provision not only encourages savings but also promotes financial security. It is also noteworthy to mention here that there is a seamless migration of the contents from the erstwhile Section 80C to the Clause 123 of IT Bill, 2025 in terms of scope and deduction limits. The major difference lies only in the aspect that the conditions for claiming deductions have been outlined in Schedule XV instead of the body of the Section, as earlier. The justification given by the Ministry is also found to be satisfactory. Therefore, keeping in view the preservation of the soul of the Section 80C in the proposed Clause 123, the Committee accept Clause 123 as proposed by the Ministry and recommend no change.

Clause - 124- Deduction in respect of employer contribution to pension scheme of Central Government.

124.1 Provisions proposed in the Income-Tax Bill, 2025:

124. (1) Where in the case of an assessee, being an individual employed by any employer, if an employer makes any contribution in his account under a pension scheme notified by the Central Government, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by such employer as does not exceed— (a) 14%, where such contribution is made by the employer being the Central Government or the State Government; and (b) 10%, where such contribution is made by an employer other than an employer referred to in clause (a), of his salary in the tax year.

(2) Where the total income of the assessee is chargeable to tax under section 202(1), the provisions of sub-section (1) shall have effect as if for "10%" referred to in clause (b) of that sub-section, "14%" had been substituted.

(3) An assessee referred to in sub-section (1), or any other assessee, being an individual, shall be allowed a deduction in computation of his total income of the whole of the amount paid or deposited in the tax year in his account under a pension scheme notified or as notified by the Central Government, which shall not exceed fifty thousand rupees.

(4) The deduction under sub-section (3) shall also be allowed where any payment or deposit is made to the account of a minor under the said pension scheme, by the assessee, being the guardian of such minor, subject to the condition that the aggregate amount of deduction under sub-section (3) and this sub-section shall not exceed fifty thousand rupees.

(5) No deduction under sub-section (3) shall be allowed in respect of the amount on which a deduction has been claimed and allowed under section 123.

(6) Any amount standing to the credit of the assessee or a minor, in his account or the account of a minor, as the case may be, referred to in sub-sections (1), (3) and (4), in respect of which a deduction has been allowed together with the amount accrued thereon, received by the assessee or his nominee, in whole or in part, in any tax year,— (a) on account of closure or his opting out of the pension scheme referred to in sub-sections (1) and (3); or (b) as pension received from the annuity plan purchased or taken on such closure or opting out, the whole of the amount referred to in clause (a) or (b) shall be deemed to be the income of the individual or his nominee, in the tax year in

which such amount is received, and shall accordingly be charged to tax as income of that tax year.

(7) The amount received by the nominee, on the death of the assessee, under the circumstances referred to in sub-section (6)(a), shall not be deemed to be the income of the nominee.

(8) The amount received by a person, being the guardian or nominee of a minor on account of closure of the pension scheme due to the death of the minor referred to in sub-section (4), shall not be deemed to be the income of such person.

(9) For the purposes of this section, the assessee shall not be deemed to have received any amount in the tax year, if such amount is used for purchasing an annuity plan in the same tax year.

(10) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (3), no deduction with reference to such amount shall be allowed as deduction under section 123 for that tax year.

(11) For the purposes of this section, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

124.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of contribution to pension scheme of Central Government.

80CCD. (1) Where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004 or, being an individual employed by any other employer, or any other assessee, being an individual has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited as does not exceed,—

(a) in the case of an employee, ten per cent of his salary in the previous year; and

(b) in any other case, twenty per cent of his gross total income in the previous year.

(1A) [***]

(1B) An assessee referred to in sub-section (1), shall be allowed a deduction in computation of his total income, whether or not any deductions is allowed under sub-section (1), of the whole of the amount paid or deposited in the previous year in his

account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees:

Provided that no deduction under this sub-section shall be allowed in respect of the amount on which a deduction has been claimed and allowed under sub-section (1).

Following second proviso shall be inserted after the proviso to sub-section (1B) of section 80CCD by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided further that the deduction under this sub-section shall also be allowed, where any payment or deposit is made to the account of a minor under the pension scheme referred to in the said sub-section, by the assessee, being the parent or guardian of such minor, subject to the condition that the aggregate amount of deduction under this sub-section shall not exceed fifty thousand rupees.

(2) Where, in the case of an assessee referred to in sub-section (1), the Central Government or the State Government or any other employer makes any contribution to his account referred to in that sub-section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government or the State Government or any other employer as does not exceed—

(a) fourteen per cent, where such contribution is made by the Central Government or the State Government;

(b) ten per cent, where such contribution is made by any other employer,

of his salary in the previous year:

[80][**Provided** that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, the provisions of sub-section (2) shall have effect as if for the words "ten per cent" referred to in clause (b), the words "fourteen per cent" had been substituted.]

(3) Where any amount standing to the credit of the assessee [81]**[**in his account**]** referred to in sub-section (1) or sub-section (1B), in respect of which a deduction has been allowed under those sub-sections or sub-section (2), together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any previous year,—

(a) on account of closure or his opting out of the pension scheme referred to in sub-section (1) or sub-section (1B); or

(b) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such amount is received, and shall accordingly be charged to tax as income of that previous year:

Provided that the amount received by the nominee, on the death of the assessee, under the circumstances referred to in clause (a), shall not be deemed to be the income of the nominee.

Following second proviso shall be inserted after the proviso to sub-section (3) of section 80CCD by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided further that the amount received by a person, being the parent or guardian or nominee of a minor, on account of closure of the pension scheme referred to in sub-section (1B) due to the death of the minor, shall not be deemed to be the income of such person.

(4) Where any amount paid or deposited by the assessee [82][in his account or the account of a minor] has been allowed as a deduction under sub-section (1) or sub-section (1B)],—

(a) [83][***]

(b) no deduction with reference to such amount shall be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.

(5) For the purposes of this section, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

Explanation.—For the purposes of this section, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

124.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 124 of the Bill seeks to provide for deduction in respect of employer contribution to pension sch eme of Central Government. The clause corresponds to Section 80CCD of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this Clause”.

124.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

The Suggestion pertaining to Deduction in respect of Employer contribution to pension scheme of Central Government is produced as under:-

(i) Sub-section (3) may be reworded as below to reflect the correct intent - (3) An assessee referred to in sub-section (1), or any other assessee, being an individual, shall be allowed a deduction in computation of his total income of the whole of the amount paid or deposited by such individual in the tax year in his account under a pension scheme notified or as notified by the Central Government, which shall not exceed fifty thousand rupees. The addition of the words “by such individual” in sub-section (3) would clarify that the limit of Rs.50,000 is only in respect of own contribution to pension fund.

(ii) Further, the heading of this section is “Deduction in respect of Employer’s contribution to pension scheme of Central Government”. Sub-section (1) of section 124 provides deduction in respect of employer contribution to pension scheme of Central Government. Sub-section (3) and (4) provide deduction for assessee’s contribution to pension scheme of Central Government in his account and minor’s account, respectively. Therefore, the heading of this section should be suitably modified. Also, sub-section (3) intends to restrict assessee’s contribution to Rs.50,000. However, the language is not clear and may be interpreted to mean both assessee’s and employer’s contribution.

124.5 <u>Examination by the Committee:</u>

Responding to the suggestion of the stakeholder, the Ministry, in their written reply have submitted as reproduced below:-

(i) “The deductions available u/s 80CCD(1B) [Clause 124(3)] are limited to Rs. 50,000 and this is irrespective of the deduction claimed u/s 80CCD(1). The provisions of 124(4) clarify that the total deductions u/s 124(3) - either for the individual's account or the minor's account shall be Rs. 50,000/-. The limit is only for the contribution u/s 124(3) and not for the other clauses. The phrase "by such individual" can be added to provide clarity. This is acceptable. (ii) The heading of the clause may be suitably modified in line with the one in the IT Act, 1961. This is acceptable”.

(ii) “The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error”.

124.6 <u>Observations/Recommendations of the Committee:</u>

The Committee scrutinized the proposed Clause 124, pertaining to deduction in respect of employer contribution to pension scheme of Central Government and find that there is a transportation of the contents from Section 80 CCD of the IT Act, 1961 to the present Bill without any obvious attempt to deviate from the intent of the Section, as also cited by the justification provided by the Ministry. However, the absence of the phrase "by such individual" in sub section (3) creates an ambiguity which could lead to interpretational issues at later stages. Hence, the Committee recommend for the addition of the phrase "by such individual" in the proposed Clause, sub section (3), which may now be read as under:-

> (3) An assessee referred to in sub-section (1), or any other assessee, being an individual, shall be allowed a deduction in computation of his total income of the whole of the amount paid or deposited by such individual in the tax year in his account under a pension scheme notified or as notified by the Central Government, which shall not exceed fifty thousand rupees.

The Committee further recommend to modify the heading of the proposed Clause suitably to incorporate the employee contribution also in an appropriate manner as brought about by the amendment cited by the Committee to the proposed Clause. The Committee further accept the remaining provisions of the Clause 124 as proposed.

Clause - 125- Deduction in respect of contribution to Agnipath Scheme.

125.1 Provisions proposed in the Income-Tax Bill, 2025:

125. (1) An assessee, being an individual who has enrolled in the Agnipath Scheme and subscribes to the Agniveer Corpus Fund on or after the 1st November, 2022, shall be allowed a deduction in the computation of his total income, of the whole of the amount paid or deposited in his account in the said Fund during the tax year.

(2) Where the Central Government makes any contribution to the account of an assessee in the Fund referred to in sub-section (1), the assessee shall be allowed a deduction in the computation of his total income of the whole of the amount so contributed.

(3) In this section,— (a) “Agnipath Scheme” means the scheme for enrolment in the Indian Armed Forces introduced vide letter No. 1(23)2022/D(Pay/Services), dated the 29th December, 2022, of the Government of India in the Ministry of Defence; (b) “Agniveer Corpus Fund” means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

125.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of contribution to *Agnipath* Scheme.

80CCH. (1) Where an assessee, being an individual enrolled in the *Agnipath* Scheme and subscribing to the *Agniveer* Corpus Fund on or after the 1st day of November, 2022, has in the previous year paid or deposited any amount in his account in the said Fund, he shall be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited.

(2) Where the Central Government makes any contribution to the account of an assessee in the *Agniveer* Corpus Fund referred to in sub-section (1), the assessee shall be allowed a deduction in the computation of his total income of the whole of the amount so contributed.

Explanation.—For the purposes of this section,—

(*a*) "*Agnipath* Scheme" means the scheme for enrolment in Indian Armed Forces introduced *vide* letter No. 1(23)2022/D(Pay/Services), dated the 29th December, 2022 of the Government of India in the Ministry of Defence;

(*b*) "*Agniveer* Corpus Fund" means a fund in which consolidated contributions of all the *Agniveers* and matching contributions of the Central Government along

with interest on both these contributions are held.]

125.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 125 of the Bill seeks to provide for deduction in respect of contribution to Agnipath Scheme. The clause corresponds to Section 80CCH of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

125.4 <u>Examination by the Committee:</u>

In view of the proposed Clause, the Committee posed specific queries to the Ministry on the ways the Ministry envisage to utilize the Agniveer Corpus fund for the Agnipath scheme and the modalities for the individuals who do not enroll in the Agnipath scheme. The Ministry in their written replies have stated as under:-

> *"The Agniveer Corpus Fund is established as a part of the Agnipath recruitment scheme for the Armed Forces. This Fund is established by the Ministry of Defence and the utilization of the same is not under the purview of CBDT. Section 80CCH specifically provides a deduction for deposits made by Agniveers in the Agnipath scheme for their contribution and also includes deduction for the matching government contribution. Individuals who are not part of the Agnipath scheme are not eligible for this deduction. There is no alternative or analogous benefit under Section 80CCH for general taxpayers. Other tax-saving investments and schemes continue to remain available to non-Agniveers under sections such as 80C, 80CCD, etc."*

125.5 <u>Observations/Recommendations of the Committee:</u>

The Committee, after going through the provision regarding Agnipath Scheme, note that the proposed Clause 125 does not alter the content and intent introduced vide Section 80 CCH of the Income-Tax Act, 1961 while carrying forward to the Income-Tax Bill, 2025. Further, the Committee also went through the replies of the Ministry and the

justification provided by them for the proposed Clause. Having found the submissions of the Ministry satisfactory in nature, the Committee accept the proposed Clause 125 of the Income-Tax Bill, 2025 in entirety.

Clause - 126- Deduction in respect of health insurance premia.

126.1 Provisions proposed in the Income-Tax Bill, 2025:

126. (1) An assessee, being an individual or a Hindu undivided family, shall be allowed a deduction of a sum as specified in sub-sections (2) to (8), payment of which is made by any mode as specified in sub-section (9), out of his income chargeable to tax in the tax year.

(2) In the case of an assessee, being individual, the sum referred to in sub-section (1), shall be the aggregate of the whole of the amount paid— (a) to effect or keep in force an insurance on the health (herein referred to as health insurance) of the assessee or his family, or any contributions made to the Central Government Health Scheme or such other scheme, as notified by the Central Government in this behalf, or any payment made for preventive health check-up of the assessee or his family, up to twenty-five thousand rupees in aggregate; (b) to effect or to keep in force the health insurance, or any payment made for preventive health check-up, for the parent or parents of the assessee, up to twenty-five thousand rupees in aggregate; (c) on account of medical expenditure incurred on the health of the assessee or any member of his family, up to fifty thousand rupees in aggregate; and (d) on account of medical expenditure incurred on the health of any parent of the assessee, up to fifty thousand rupees in aggregate.

(3) The deduction in respect of amounts referred to in sub-section (2)(a) or (2)(b), which are paid on account of preventive health check-up, shall be allowed up to five thousand rupees in aggregate.

(4) The amount of sum referred to in sub-section (2) shall not exceed fifty thousand rupees in aggregate of the sum specified under sub-sections 2(a) and 2(c) or aggregate of the sum specified under sub-sections 2(b) and 2(d).

(5) In the case of assessee, being Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the whole of the amount paid— Deduction in respect of contribution to Agnipath Scheme. Deduction in respect of health insurance premia.Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability. (a) to effect or keep in force an insurance on the health of any member of that family, up to twenty-five thousand rupees in the aggregate; and (b) on account of medical expenditure incurred on the health of any member of that family, up to fifty thousand rupees in the aggregate.

(6) The amount of sum under sub-section (5) shall not exceed fifty thousand rupees in the aggregate of the sum specified under sub-section (5)(a) and (b); or

(7) For the purposes of this section, where the amount is paid on account of medical expenditure incurred on the health of senior citizen under sub-section (2)(c) or (d) or (5)(b), deduction shall be allowed, if no amount has been paid to effect or to keep in force the health insurance of such person.

(8) Where the sum specified in sub-section (2)(a) or (b) or (5)(a) is paid to effect or keep in force the health insurance of any person specified therein, and— (a) such person is a senior citizen, the amount of sum as provided in such clauses, shall be substituted with fifty thousand rupees for twenty-five thousand rupees; and (b) such sum is paid in lump sum in the tax year for more than a year, a deduction shall be allowed for each of the relevant tax year equal to the appropriate fraction of such amount.

(9) For the purposes of deduction under section (1), the payment shall be made by any mode,— (a) including cash, in respect of any sum paid on account of preventive health check-up; or (b) other than cash in all other cases not falling under clause (a).

(10) In this section,— (a) “appropriate fraction” means the fraction where the numerator is one, and the denominator is the total number of relevant tax year; (b) “family” includes the spouse and dependant children of the assesse; and (c) “relevant tax year” means the tax year beginning with the tax year in which such lump sum amount is paid and the subsequent tax year or years during which the health insurance remains in force.

(11) The health insurance referred to in this section shall be as per the scheme made in this behalf by— (a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or (b) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999

126.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of health insurance premia.

80D. (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode as specified in sub-section (2B), in the previous year out of his income chargeable to tax.

(2) *Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—*

(*a*) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central

Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee or his family as does not exceed in the aggregate twenty-five thousand rupees; and

(*b*) the whole of the amount paid to effect or to keep in force an insurance on

the health of the parent or parents of the assessee or any payment made on account of preventive health check-up of the parent or parents of the assessee as does not exceed in the aggregate twenty-five thousand rupees;

(*c*) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate fifty thousand rupees; and

(*d*) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate fifty thousand rupees:

Provided that the amount referred to in clause (*c*) or clause (*d*) is paid in respect of a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (*a*) and clause (*c*) or the aggregate of the sum specified under clause (*b*) and clause (*d*) shall not exceed fifty thousand rupees.

Explanation.—For the purposes of clause (*a*), "family" means the spouse and dependant children of the assessee.

(2A) Where the amounts referred to in clauses (*a*) and (*b*) of sub-section (2) are paid on account of preventive health check-up, the deduction for such amounts shall be allowed to the extent it does not exceed in the aggregate five thousand rupees.

(2B) For the purposes of deduction under sub-section (1), the payment shall be made by—

(*i*) any mode, including cash, in respect of any sum paid on account of preventive health check-up;

(*ii*) any mode other than cash in all other cases not falling under clause (*i*).

(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the following, namely:—

(*a*) whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate twenty-five thousand rupees; and

(*b*) the whole of the amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family as does not exceed in the aggregate fifty thousand rupees:

Provided that the amount referred to in clause (*b*) is paid in respect of a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (*a*) and clause (*b*) shall not exceed fifty thousand rupees.

(4) Where the sum specified in clause (*a*) or clause (*b*) of sub-section (2) or clause (*a*) of sub-section (3) is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen, the provisions of this section shall have effect as if for the words "twenty-five thousand rupees", the words "fifty thousand rupees" had been substituted.

Explanation.—[***]

(4A) Where the amount specified in clause (*a*) or clause (*b*) of sub-section (2) or clause (*a*) of sub-section (3) is paid in lump sum in the previous year to effect or to keep in force an insurance on the health of any person specified therein for more than a year, then, subject to the provisions of this section, there shall be allowed for each of the relevant previous year, a deduction equal to the appropriate fraction of the amount.

Explanation.—For the purposes of this sub-section,—

(*i*) "appropriate fraction" means the fraction, the numerator of which is one and the denominator of which is the total number of relevant previous years;

(*ii*) "relevant previous year" means the previous year beginning with the previous year in which such amount is paid and the subsequent previous year or years during which the insurance shall have effect or be in force.

(5) The insurance referred to in this section shall be in accordance with a scheme made in this behalf by—

(*a*) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and

approved by the Central Government in this behalf; or

(*b*) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

Explanation.—For the purposes of this section,—

(*i*) "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;

(*ii*) [***]

126.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 126 of the Bill seeks to provide for deduction in respect of health insurance premia. The clause corresponds to Section 80D of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

126.4 <u>Observations/Recommendations of the Committee:</u>

The Committee examined the provisions proposed through Clause 126 of the Income-Tax Bill, 2025 regarding the deductions allowed for health insurance premia and found that the Ministry have not tinkered with the erstwhile Section 80D of the IT Act, 1961, but have brought forward the provisions with textual simplification. Hence, the Committee, keeping in view the justification provided by the Ministry accept the Clause as proposed.

<u>Clause - 127</u> - Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

127.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

127. (1) An assessee being an individual or a Hindu undivided family, who is a resident in India, shall be allowed a deduction up to seventy-five thousand rupees from his gross total income of a tax year, subject to the provisions of this section, if during that year he has— (a) incurred expenditure for the medical treatment (including nursing), training, or rehabilitation of a dependant, being a person with disability; or (b) paid or deposited any amount, under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator, or the specified company, for the maintenance of a dependant, being a person with disability, subject to the conditions specified in sub-section (2) and approved by the Board in this behalf.

(2) The deduction under sub-section (1)(b) shall be allowed only if the following conditions are fulfilled:— (a) the scheme referred to in sub-section (1)(b) provides for payment of an annuity or lump sum amount for the benefit of a dependant, being a person with disability— (i) on the death of the individual or the member of the Hindu undivided family, in whose name the scheme was subscribed; or (ii) on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued; (b) the assessee nominates the dependant, being a person with disability or another person or a trust to receive the payments on behalf and for the benefit of such dependant.

(3) If the dependant as referred to in sub-section (1) is a person with severe disability, the amount of deduction as referred to in sub-section (1) shall be substituted with one lakh and twenty-five thousand rupees for seventy-five thousand rupees.

(4) In the event of death of the dependant, being a person with disability before the individual or member of the Hindu undivided family mentioned in sub-section (2), the amount paid or deposited under sub-section (1)(b) shall be deemed to be the income of the assessee of the tax year in which it is received and shall accordingly be chargeable to tax.

(5) The provisions of sub-section (4) shall not apply to the amount received by the dependant, being a person with disability, before his death, as an annuity or lump sum, by application of the condition referred to in sub-section (2)(a)(ii).

(6) The assessee claiming deduction under this section, shall furnish a copy of the medical certificate issued by the medical authority in such form and manner as prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(7) If the certificate referred to in sub-section (6), specifies that the condition of disability requires reassessment of its extent after a period stipulated in it, the deduction under this section shall not be allowed for any tax year succeeding the tax year in which the said certificate expires, unless a new certificate is obtained from the medical authority in such form and manner, as prescribed, and a copy thereof is submitted along with the return of income under section 263.

(8) The dependant mentioned in this section shall not include a person who has claimed deduction under section 154 in computing his total income for the tax year.

(9) In this sections,— (a) “Administrator” means the Administrator as referred to in section 2(a) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; (b) “dependant” means— (i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them; 164 Deduction in respect of medical treatment, etc. (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance; (c) “disability” shall have the same meaning as assigned to it in section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and includes “autism”, “cerebral palsy” and “multiple disability” respectively referred to in section 2(a), (c) and (h) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; (d) “Life Insurance Corporation” means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956; (e) “medical authority” means the medical authority as referred to in section 2(p) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or such other medical authority as may, by notification, be specified by the Central Government for certifying “autism”, “cerebral palsy”, “multiple disabilities”, “person with disability” and “severe disability” respectively referred to in section 2(a), (c), (h), (j) and (o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; (f) “person with disability” means a person as referred to in section 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or section 2(j) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; (g) “person with severe disability” means— (i) a person with 80% or more of one or more disabilities, as referred to in section 56(4) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or (ii) a person with severe disability referred to in section 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; (h) “specified company” shall have the same meaning as assigned to it in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

127.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

80DD. (1) Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—

(*a*) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or

(*b*) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability,

The assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of seventy-five thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "seventy-five thousand rupees", the words "one hundred and twenty-five thousand rupees" had been substituted.

(2) The deduction under clause (*b*) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(*a*) the scheme referred to in clause (*b*) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability,—

(*i*) in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; or

(*ii*) on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued;

(*b*) The assessee nominates either the dependant, being a person with disability,

or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

(3) If the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (*b*) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(3A) The provisions of sub-section (3) shall not apply to the amount received by the dependant, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in sub-clause (*ii*) of clause (*a*) of sub-section (2).

(4) The assessee, claiming a deduction under this section, shall furnish a copy of the certificate issued by the medical authority in the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

Explanation.—For the purposes of this section,—

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

(*b*) "dependant" means—

(*i*) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

(*ii*) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any

deduction under section 80U in computing his total income for the assessment year relating to the previous year;

(*c*) "disability" shall have the meaning assigned to it in clause (*i*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) and includes "autism", "cerebral palsy" and "multiple disability" referred to in clauses (*a*), (*c*) and (*h*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*d*) "Life Insurance Corporation" shall have the same meaning as in clause (*iii*) of sub-section (8) of section 88;

(*e*) "medical authority" means the medical authority as referred to in clause (*p*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (*a*), (*c*), (*h*), (*j*) and (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*f*) "person with disability" means a person as referred to in clause (*t*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) or clause (*j*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*g*) "person with severe disability" means—

(*i*) a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); or

(*ii*) a person with severe disability referred to in clause (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

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

2002).

127.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 127 of the Bill seeks to provide for deduction in respect of maintenance including medical treatment of a dependent who is a person with disability. The clause corresponds to Section 80DD of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this

clause".

127.4 Important Views/Suggestions given by Experts/Stakeholders:

127.4.1 An important suggestion of the stakeholder regarding the clause is reproduced below:-

(i) Flat deduction of Rs.75,000 under section 127 be allowed by removing the word "upto" in section 127. Alternatively, sub-section (1) be reworded as follows and sub-section (1A) be inserted - 127. (1) An assessee being an individual or a Hindu undivided family, who is a resident in India, shall be allowed a deduction of upto seventy-five thousand from his gross total income of a tax year, subject to the provisionsof this section, if during that year he has — (a) incurred expenditure for the medical treatment (including nursing), training, or rehabilitation of a dependent, being a person with disability; or (b) paid or deposited any amount, under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator, or the specified company, for the maintenance of a dependant, being a person with disability, subject to the conditions specified in subsection (2) and approved by the Board in this behalf.
(1A) The deduction under sub-section (1) would be the aggregate of the amount of expenditure incurred in (a) and the amount paid or deposited in (b), subject to a maximum of Rs.75,000.

(ii) Section 80DD provided for a flat deduction of Rs.75,000 where an assessee, being an individual or a HUF, who is a resident in India, has, during the previous year incurred expenditure for medical treatment etc. specified in (a) or paid or deposited any amount under a scheme framed by LIC etc. in (b). Section 127 of the Bill, however, allows a deduction of upto Rs.75,000. If the intent is to restrict the deduction to the expenditure incurred in (a) or amount deposited in (b) or both, then, the language should indicate lower of Rs.75,000 and the expenditure incurred in (a) and the amount deposited in (b).

127.5 <u>Examination by the Committee:</u>

The Ministry in their response to the above suggestion of the stakeholder, in their written replies, have stated as under:-

> "It is suggested that there should be a flat deduction of Rs 75,000 under section 80DD/Clause 127 instead of the deduction as per expenditure claimed to a maximum of Rs 75,000. The meaning and the intent is the same in the Bill and in the Act. The deduction cannot be in excess of the expenditure actually incurred, otherwise it will be misused. This has been clarified in the Bill. Therefore, it may not be feasible to carry out this suggestion.
>
> The proposed provisions are similar to the provisions in Income-tax Act, 1961.So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

127.5.2 On the issue of deduction for medical expenses on maintenance of dependent, the representative of the Ministry of Finance, during a Sitting of the Committee, stated as below:-

> "Sir, there is a deduction for medical expenditure for a dependent, being a person with disability. In the old regime, there was a deduction up to Rs. 75,000. That means, if the expenditure is Rs.40,000, the deduction would be limited to Rs. 40,000. So, the request is that instead of up to Rs.75,000, a flat deduction of Rs. 75,000 should be provided. So, Sir, we have not changed the provisions in the Bill from the Act and if the expenditure itself is limited, suppose, Rs. 20,000 then we cannot be allowing deduction beyond that expenditure. So, that is why if somebody incurs Rs. 75,000, he will get Rs. 75,000".

127.5.3 Adding on the issue on further prodding, the Secretary, Ministry of Finance (Department of Revenue) submitted as below:-

> "Sir, I will just give a small information because I am just going through the language carefully, there could be a scope for little change while redrafting".

127.6 Observations/Recommendations of the Committee:

The Committee take into account the details of the Clause 127 pertaining to the deduction in respect of maintenance including medical treatment of a dependant who is a person with disability vis-à-vis Section 80DD of IT Act, 1961 and find no substantial change in the contents. The Committee are satisfied with rest of the contents and the justification provided by the Ministry for the proposed Clause and recommend no further change in the Clause 127 of the IT Bill, 2025.

Clause - 128 - Deduction in respect of medical treatment, etc..

128.1 Provisions proposed in the Income-Tax Bill, 2025:

128. (1) An assessee who is resident in India, shall be allowed a deduction of the amount actually paid during the tax year or a sum of forty thousand rupees, whichever is less, from income chargeable to tax of that tax year, for the medical treatment of such disease or ailment as prescribed— (a) for himself or a dependant, in case the assessee is an individual; or (b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family.

(2) A deduction shall be allowed under this section only if the assessee obtains the prescription for the medical treatment from a neurologist, oncologist, urologist, haematologist, immunologist, or any other specialist, as prescribed.

(3) The deduction under this section shall be reduced by any amount received under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person as referred to in sub-section (1)(a) or (b).

(4) If the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is senior citizen, the amount of deduction as referred to in sub-section (1) shall be substituted with one lakh rupees for forty thousand rupees. (5) In this section,— (a) “dependant” shall have the meaning as provided in section 127; (b) “insurer” shall have the meaning assigned to it in section 2(9) of the Insurance Act, 1938.

128.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of medical treatment, etc.

80DDB. Where an assessee who is resident in India has, during the previous year, actually paid any amount for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board—

(*a*) for himself or a dependant, in case the assessee is an individual; or

(*b*) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

The assessee shall be allowed a deduction of the amount actually paid or a sum of forty thousand rupees, whichever is less, in respect of that previous year in which such amount was actually paid :

Provided that no such deduction shall be allowed unless the assessee obtains the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed:

Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to in clause (*a*) or clause (*b*) :

Provided also that where the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "one hundred thousand rupees" had been substituted :

Explanation.—For the purposes of this section,—

(*i*) "dependant" means—

(*a*) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them,

(*b*) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;

(*ii*) [***]

(*iii*) "insurer" shall have the meaning assigned to it in clause (*9*) of section 2 of the Insurance Act, 1938 (4 of 1938);

(*iv*) "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;

(*v*) [***]

128.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 128 of the Bill seeks to provide for deduction in respect of medical treatment, etc. The clause corresponds to Section 80DDB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

128.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Views /Suggestions of Stakeholders are summarized as under:-

(i) Add mental health, stress management and substance abuse rehabilitation as deductible treatment expenses. 62% of rural entrepreneurs face mental health challenges. Recognition of tax laws will encourage treatment and resilience among micro-entrepreneurs.

(ii) Ministry of MSME supports the retention of this clause with a request to also include mental health, stress management and substance abuse rehabilitation. Allowing this expenditure to the assessees will be immensely helpful to Individual and HUFs, including the Micro Enterprises (Udyam registered), which are in the category of Proprietorship and HUF and comprises more than 80% of the Total Micro Enterprises.

128.5 <u>Examination by the Committee:</u>

The Ministry in their response to the suggestions of the stakeholders have responded as under:-

(i) "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. Moreover, this is a matter of Rules as the ailments are prescribed as given in the Clause. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

128.5.2 During the course of examination, the Committee sought clarification from the Ministry of Finance on the rationale behind quoting a numeric value of the amount in the body of Act/Bill itself, when it could be conveniently allowed to be fixed/revised as per the rules made from time to time and which can be executively notified, the views for making an upward revision of the ceiling of Rs 40,000/- considering the escalating cost of medical treatment during the existing times and whether the term used 'or any other specialist and as prescribed' for claiming deduction on the treatment allows the assessee to claim for treatment prescribed other than from a neurologist, oncologist, urologist, haematologist and if such treatment includes mental health, stress management and substance abuse among other. Responding to the queries, the Ministry in their written replies have submitted as below:-

"The prescription of specialists is provided in Rule 11DD of the IT Rules, 1962. The list of specialists is mentioned exhaustively and there are no specialists mentioned therein apart from neurologist, oncologist, urologist

and haematologist. The specialists are prescribed according to the illnesses prescribed in Rule 11DD(1). As on date, mental health, stress management and substance abuse have not been notified by the Board for the purposes of this clause. This is a matter of Income Tax Rules and will be examined in discussion with the Ministry of Health".

128.5.3 The representatives of the Ministry of Micro, Small and Medium Enterprises during their presentation before the Committee, on Clause 128, submitted as under:-

> "In Section 128, there is a mention that an assessee shall be allowed a deduction of the amount actually paid during the tax year or a sum of Rs. 40,000, whichever is less for treatment of certain ailments. Now, here, there is a list of ailments which are given. Our request is that mental health, stress management, and substance abuse can also be included in that list of ailments. This Section actually pertains to the individual assessees. If we see our database of Micro, Small and Medium Enterprises, we see that 83 per cent of the enterprises will actually benefit if just that part -- mental health, stress management, and substance abuse rehabilitation -- is included. Then, the taxable income reduces. So, these are our suggestions".

128.5.4 On the aspect of inclusion of Mental Health among others for claiming deduction, the representatives of the Ministry of Finance, during the sitting of the Committee, deposed before the Committee as under:-

> "Sir, there is a deduction under old tax regime 80DDB. That deduction is available for expenditure on certain specified diseases. So, the stakeholder is requesting for addition of mental health, stress management and substance abuse rehabilitation. The expenses made for these items may also be given same treatment and may be included in the 80DDB…… Sir, this is something we will examine as part of rules…. Sir, 80DDB gives deduction and then, coming to ailments, we prescribe by way of rules…. : Sir, we will examine it".

128.6 <u>Observations/Recommendations of the Committee:</u>

The Committee examined the provisions pertaining to the deductions in respect of Medical treatment under the erstwhile Section 80DDB proposed through

Clause 128 of the Income-Tax Bill, 2025 and find it to be parallel in nature without any change in the substance of the earlier Section. The Committee, therefore, keeping in view the justification provided by the Ministry, accept the provisions of the Clause as proposed in entirety without any amendment.

Clause - 129 - Deduction in respect of interest on loan taken for higher education.

129.1 Provisions proposed in the Income-Tax Bill, 2025:

129. (1) An assessee, being an individual, shall be allowed a deduction of amount paid as interest during a tax year, subject to the provisions of this section, on a loan taken by him from any financial institution or any approved charitable institution, if the— (a) loan taken is for the purpose of pursuing higher education of himself or his relative; and (b) payment is made out of his income chargeable to tax.

(2) The deduction referred to in sub-section (1) shall be allowed in computing the total income in respect of the initial tax year and seven tax years immediately succeeding the initial tax year, or until the interest on the loan is fully paid by the assessee, whichever is earlier.

(3) In this section,— (a) “approved charitable institution” means a registered non-profit organisation where it was approved earlier under the provisions of section 10(23C) of the Income-tax Act, 1961, or an institution referred to in section 80G(2)(a) of the said Act; (b) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) or any other financial institution which the Central Government may, by notification, specify; (c) “higher education” means any course of study pursued after passing the Senior Secondary Examination or its equivalent from a school, board, or University recognised by the Central Government or State Government, local authority, or by any authority authorised by the Central Government or State Government or local authority to do so; (d) “initial tax year” means the tax year in which the assessee starts paying the interest on the loan; and (e) “relative”, in relation to an individual, means the spouse and children of that individual, or the student for whom the individual is the legal guardian.

129.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of interest on loan taken for higher education.

80E. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education or for the purpose of higher education of his relative.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the interest referred to in sub-section (1) is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section,—

(*a*) "approved charitable institution" means an institution specified in, or, as the case may be, an institution established for charitable purposes and approved by the prescribed authority under clause (*23C*) of section 10 or an institution referred to in clause (*a*) of sub-section (2) of section 80G;

(*b*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*c*) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so;

(*d*) "initial assessment year" means the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan;

(*e*) "relative", in relation to an individual, means the spouse and children of that individual or the student for whom the individual is the legal guardian.

129.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 129 of the Bill seeks to provide for deduction in respect of interest on loan taken for higher education. The clause corresponds to Section 80E of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

129.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

An important suggestion of a stakeholder is summarized as under:-

(i) Sub-section (2A) may be inserted after sub-section (2) of section 129.
(2A)If the assessee has claimed deduction under section 80E of the Income-Tax Act, 1961 for any assessment year or years, he would be eligible to claim deduction under section 129 of the Income-Tax Bill, 2025 for the balance tax years remaining out of the seven years.If an assessee has already taken a loan in P.Y. 2025-26 or any earlier
previous year and has started claiming deduction under section 80E of the Income-tax Act, 1961, he would be eligible for deduction u/s 129 of the Income-Tax Bill, 2025 only for the balance tax years out of the seven assessment/tax years.

129.5 <u>Examination by the Committee:</u>

The Ministry in their written replies have responded to the suggestion as under:-

"Suggestion seeks reference of IT Act for incentives allowed under IT Act and continued in Bill. This is covered in the Repeal and Savings clause in 536(2), the provisions of which are:*536. (1) The Income-tax Act, 1961 is hereby repealed.(2) Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (3)—(a) nothing shall affect the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or(b) nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;* Therefore, this suggestion is already addressed. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

129.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, while examining the provision proposed under Clause 129 of the Income-Tax Bill, 2025 pertaining to the deduction in respect of interest on loan taken for higher education find that the contents of the said Clause are similar to Section 80E of the Income-Tax Act, 1961. The Committee also take cognizance of

the apprehension raised by the Stakeholder, regarding the eligibility for deduction u/s 129 of the Income-Tax Bill, 2025 only for the balance tax years out of the seven assessment/tax years and note that the same has already been taken care of in view of the Savings Clause 536 of the IT Bill, 2025. However, the Committee find the mention of the "provisions of section 10(23C) of the Income-tax Act, 1961, or an institution referred to in section 80G(2)(a) of the said Act" in Clause 129(3) a deviation from the clean break aimed at, by making a cross reference of old Act, 1961 in the body of the new Bill. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 129 without any further change.

Clause - 130 - Deduction in respect of interest on loan taken for residential house property.

130.1 Provisions proposed in the Income-Tax Bill, 2025:

130. (1) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property as per the provisions of this section.

(2) The deduction under sub-section (1) shall not exceed fifty thousand rupees and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2016 and subsequent tax years.

(3) The deduction under sub-section (1) shall be subject to the following conditions:— (a) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2016 and ending on the 31st March, 2017; (b) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees; (c) the value of residential house property does not exceed fifty lakh rupees; and (d) the assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) In this section,— (a) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in section 51 of that Act or a housing finance company; and (b) “housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

130.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of interest on loan taken for residential house property.

80EE. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential property.

(2) The deduction under sub-section (1) shall not exceed fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2017 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(*i*) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2016 and ending on the 31st day of March, 2017;

(*ii*) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;

(*iii*) the value of residential house property does not exceed fifty lakh rupees;

(*iv*) The assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(*a*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies, or any bank or banking institution referred to in section 51 of that Act or a housing finance company;

(*b*) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

130.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 130 of the Bill seeks to provide for deduction in respect of interest on loan taken for certain house property where the loan of not more than thirty-five lakh rupees has been sanctioned for said property of not more than fifty lakh rupees by certain financial institutions during the period between 1st April, 2016 and 31st March, 2017, subject to certain conditions. The clause corresponds to Section 80EE of the Act. The

provision of the existing section has been textually simplified and retained with the same intent in this clause".

130.4 <u>Examination by the Committee:</u>

During the Course of examination of the Bill, the Committee were desirous of knowing the views of the Ministry on the mechanism to keep on promoting affordable housing through deduction in respect of interest on loans when the period of loan is a narrow one i.e. 01st April 2016 to 31st March, 2017 and whether there was any proposal for the furtherance of such provision. In their reply, the Ministry have submitted as mentioned below:-

> "This clause has been sunset under the provisions of the IT Act, 1961 and has been reproduced faithfully in the Bill. The Bill provides for lower tax rate for individuals and companies. In line with the Government's stated policy of removing exemption/deductions, these reduced rates are applicable for only those which do not avail exemptions/deductions. The focus of the Govt is to provide direct subsidy rather than through deductions".

130.5 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the proposed Clause 130 of the Income-Tax Bill, 2025 pertaining to the deduction in respect of interest on loan taken for residential house property is similar to the Section 80 EE of the Income-Tax Act, 1961 in terms of the content and no deviation is to be noticed. Thus, the Committee, in view of the justification provided by the Ministry for bringing the proposed Clause, accept the Clause 130 as proposed and recommend no amendment.

Clause - 131 - Deduction in respect of interest on loan taken for certain house property.

131.1 Provisions proposed in the Income-Tax Bill, 2025:

131. (1) An assessee, being an individual not eligible to claim deduction under section 130, shall be allowed a deduction on interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property, subject to a maximum limit of one lakh and fifty thousand rupees in a tax year and on fulfilment of conditions specified in sub-section (2), for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(2) The deduction under sub-section (1) shall be subject to the following conditions:— (a) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending with the 31st March, 2022; (b) the stamp duty value of residential house property does not exceed forty-five lakh rupees; and (c) the assessee does not own any residential house property on the date of sanction of loan.

(3) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(4) In this section, “financial institution” shall have the meaning assigned to it in section 130(5)(a).

131.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of interest on loan taken for certain house property.

80EEA. (1) In computing the total income of an assessee, being an individual not eligible to claim deduction under section 80EE, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.

(2) The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(*i*) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2022;

(*ii*) the stamp duty value of residential house property does not exceed forty-five lakh rupees;

(*iii*) The assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(*a*) the expression "financial institution" shall have the meaning assigned to it in clause (*a*) of sub-section (5) of section 80EE;

(*b*) the expression "stamp duty value" means value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.

131.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 131 of the Bill provides for deduction in respect of interest on loan taken for certain house property in case of an individual to whom clause 130 is not applicable. The clause corresponds to Section 80EEA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

131.4 <u>Examination by the Committee:</u>

During the Course of examination of the Bill, the Committee were desirous of knowing the views of the Ministry on the mechanism to keep on promoting affordable housing through deduction in respect of interest on loans when the period of loan is a narrow one i.e. 01st April, 2019 to 31st March, 2022 and whether there was any proposal for the furtherance of such provision. In their reply, the Ministry have submitted as mentioned below:-

> "This clause has been sunset under the provisions of the IT Act, 1961 and has been reproduced faithfully in the Bill. The Bill provides for lower tax rate for individuals and companies. In line with the Government's stated policy of removing exemption/deductions, these reduced rates are applicable for only

those which do not avail exemptions/deductions. The focus of the Govt is to provide direct subsidy rather than through deductions".

131.5 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that the proposed Clause 131 of the Income-Tax Bill, 2025 provides for deduction in respect of interest on loan taken for certain house property in case of an individual to whom clause 130 is not applicable. The text of the Clause is similar to the Section 80 EEA of the Income-Tax Act, 1961 in terms of the content and there is no deviation from the soul of the Section. Thus, the Committee, in view of the justification provided by the Ministry, accept Clause 131 as proposed and recommend no amendment.

Clause - 132 - Deduction in respect of purchase of electric vehicle.

132.1 Provisions proposed in the Income-Tax Bill, 2025:

132. (1) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle, as per the provisions of this section.

(2) The deduction under sub-section (1) shall be subject to the condition that the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending with the 31st March, 2023.

(3) The deduction under sub-section (1) shall not exceed one lakh fifty thousand rupees and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) In this section,— (a) “electric vehicle” means a vehicle powered exclusively by an electric motor, whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy; and (b) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in section 51 of that Act and includes a non-banking financial company.

132.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of purchase of electric vehicle.

80EEB. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle.

(2) The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the condition that the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2023.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(*a*) "electric vehicle" means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy;

(*b*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies, or any bank or banking institution referred to in section 51 of that Act and includes any deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company as defined in clauses (*e)* and (*g*) of *Explanation 4* to section 43B.

132.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 132 of the Bill seeks to provide for deduction in respect of purchase of electric vehicle. The clause corresponds to Section 80EEB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

132.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

On the proposed clause, the suggestion of the stakeholder is summarized as under:-

> It is proposed that the period of sanctioning of loan taken from any financial institution to purchase an electric vehicle may be extended till 31st March, 2028.This will help to reduce the carbon footprint and move towards clean energy initiatives of the Government.

132.5 <u>Examination by the Committee:</u>

Responding to the suggestion, the Ministry have submitted as under:-

"The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

132.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the proposed Clause 132 corresponds to the Section 80 EEB of the Act, wherein deduction on interest payable on loan taken from any financial institution for the purpose of purchase of an electric vehicle has been provisioned. However, the loan needs to be sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2023. The Committee find that the provision under Section 80 EEB has been migrated to the proposed Bill without any alteration. Thus, the Committee, satisfied with the justification provide by the Ministry, accept the proposed Clause in entirety without amendment.

<u>Clause - 133</u> - Deduction in respect of donations to certain funds, charitable institutions, etc.

133.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

133. (1) In computing the total income of an assessee, there shall be deducted, as per and subject to the provisions of this section,— (a) the whole of the aggregate of the sum or the sums paid by the assessee, in the tax year as donations to— (i) the National Defence Fund set up by the Central Government; or (ii) the Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); or (iii) the Prime Minister's Armenia Earthquake Relief Fund; or (iv) the Africa (Public Contributions-India) Fund; or (v) the National Children's Fund; or (vi) the National Foundation for Communal Harmony; or (vii) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or (viii) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or (ix) any ZilaSakshartaSamiti constituted in any district under the chairmanship of the Collector of that district for improving primary education in villages and towns (having a population up to one lakh) according to the last published census of which figures are available before the first day of the relevant tax year), in such district and for literacy and post-literacy activities; or (x) the National Blood Transfusion Council or any State Blood Transfusion Council, which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks; or (xi) any fund set up by a State Government to provide medical relief to the poor; or Deduction in respect of donations to certain funds, charitable institutions, etc. (xii) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or (xiii) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or (xiv) the National Illness Assistance Fund; or (xv) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, if the fund meets all the following conditions:— (A) it is the only fund of its kind established in the State or the Union territory; (B) it is under the overall control of the Chief Secretary or the Department of Finance of the respective State or the Union territory; (C) it is administered in a manner specified by the State Government or the Lieutenant Governor; or (xvi) the National Sports Development Fund to be set up by the Central Government; or (xvii) the National Cultural Fund set up by the Central Government; or (xviii) the Fund for Technology Development and Application set up by the Central Government; or (xix) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under section 3(1) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; or (xx) the Swachh Bharat Kosh, set up

by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section

135(5) of the Companies Act, 2013; or (xxi) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section 135(5) of the Companies Act, 2013; or (xxii) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985; or (xxiii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning; or (xxiv) the Indian Olympic Association or any other association or institution established in India, as the Central Government may, having regard to the prescribed guidelines, by notification specify in this behalf for— (A) the development of infrastructure for sports and games in India; or (B) the sponsorship of sports and games in India, and where the assessee is a company; (b) an amount equal to 50% of the aggregate of the sums paid as donation by an assessee during the tax year to— (i) the Prime Minister's Drought Relief Fund; (ii) any fund or any institution to which this section applies, if:— (A) it is established in India for a charitable purpose; and (B) it is a registered non-profit organisation or an institution or fund mentioned in Schedule VII (Table: Sl. No. 1) and approved under section 354; (iii) the Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning; (iv) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; (v) a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community; (vi) for the purposes of sub-clause (v), "minority community" means a community notified as such by the Central Government; (vii) any entity, for the renovation or repair of any temple, mosque, gurudwara, church or other place which is notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

(2) Where the aggregate of the sums referred to in sub-section (1)(a)(xxiii) and (xxiv), sub-section (1)(b)(ii) to (v) and (vii) exceeds 10% of the adjusted gross total income, then the amount in excess of 10% of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).

(3) Where deduction under this section is claimed and allowed for any tax year in respect of any sum specified in sub-section (1), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other tax year.

(4) The deduction under this section shall be allowed only for donation made as a sum of money.

(5) Any deduction for a donation over two thousand rupees shall be allowed only if the payment is made by a mode other than cash.

(6) Any claim of deduction by the assessee in his return of income filed for any tax year in case of a donation made to an institution or fund referred in sub-section (1)(b)(ii), shall be allowed only on the basis of— Deductions in respect of rents paid. (a) the information relating to such donation furnished by such institution or fund to the prescribed authority or person authorised by such authority; and (b) subject to verification as per the risk management strategy formulated by the Board from time to time.

(7) For the purposes of this section,— (a) “adjusted gross total income” means gross total income as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter; (b) “charitable purpose” does not include any purpose the whole or substantially the whole of which is of a religious nature; (c) “National Blood Transfusion Council” means a society registered under the Societies Registration Act, 1860 and has an officer of the rank of an Additional Secretary to the Government of India or higher to deal with the AIDS Control Project as its Chairman; (d) “State Blood Transfusion Council” means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India and has a Secretary to the Government of that State dealing with the Department of Health, as its Chairman; and (e) an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as notified by the Central Government, shall be considered to be an institution established in India for a charitable purpose.

133.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of donations to certain funds, charitable institutions, etc.

80G. (1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section,—

(*i*) in a case where the aggregate of the sums specified in sub-section (2) includes any sum or sums of the nature specified in sub-clause (*i*) or in sub-clause (*iiia*) or in sub-clause (*iiiaa*) or in sub-clause (*iiiab*) or in sub-clause (*iiib*) or in sub-

clause (*iiie*) or in sub-clause (*iiif*) or in sub-clause (*iiig*) or in sub-clause (*iiiga*) or sub-clause (*iiih*) or sub-clause (*iiiha*) or sub-clause (*iiihb*) or sub-clause (*iiihc*) or sub-clause (*iiihd*) or sub-clause (*iiihe*) or sub-clause (*iiihf*) or sub-clause (*iiihg*) or sub-clause (*iiihh*) or sub-clause (*iiihi*) or sub-clause (*iiihj*) or sub-clause (*iiihk*) or sub-clause (*iiihl*) or sub-clause (*iiihm*) or in sub-clause (*vii*) of clause (*a*) or in clause (*c*) or in clause (*d*) thereof, an amount equal to the whole of the sum or, as the case may be, sums of such nature *plus* fifty per cent of the balance of such aggregate; and

(*ii*) in any other case, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).

(2) The sums referred to in sub-section (1) shall be the following, namely :—

(*a*) any sums paid by the assessee in the previous year as donations to—

(*i*) the National Defence Fund set up by the Central Government; or

(*ii*) [85-87][***]

(*iii*) the Prime Minister's Drought Relief Fund; or

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

(*iiiaa*) the Prime Minister's Armenia Earthquake Relief Fund; or

(*iiiab*) the Africa (Public Contributions - India) Fund; or

(*iiib*) the National Children's Fund; or

(*iiic*) [85-87][***]

(*iiid*) [85-87][***]

(*iiie*) the National Foundation for Communal Harmony; or

(*iiif*) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or

(*iiig*) the Maharashtra Chief Minister's Relief Fund during the period beginning on the 1st day of October, 1993 and ending on the 6th day of

October, 1993 or to the Chief Minister's Earthquake Relief Fund, Maharashtra; or

(*iiiga*) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or

(*iiih*) Any Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district for the purposes of

improvement of primary education in villages and towns in such district and for literacy and post-literacy activities.

Explanation.—For the purposes of this sub-clause, "town" means a town which has a population not exceeding one lakh according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

(*iiiha*) the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks.

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

(*a*) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 (21 of 1860) and has an officer not below the rank of an Additional Secretary to the Government of India dealing with the AIDS Control Project as its Chairman, by whatever name called;

(*b*) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India and has Secretary to the Government of that State dealing with the Department of Health, as its Chairman, by whatever name called; or

(*iiihb*) any fund set up by a State Government to provide medical relief to the poor; or

(*iiihc*) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or

(*iiihd*) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or

(*iiihe*) the National Illness Assistance Fund; or

(*iiihf*) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be :

Provided that such Fund is—

(*a*) the only Fund of its kind established in the State or the Union territory, as the case may be;

(*b*) under the overall control of the Chief Secretary or the Department of Finance of the State or the Union territory, as the case may be;

(*c*) administered in such manner as may be specified by the State Government or the Lieutenant Governor, as the case may be; or

(*iiihg*) [88][*the National Sports Development Fund set up*] by the Central Government; or

(*iiihh*) the National Cultural Fund set up by the Central Government; or

(*iiihi*) the Fund for Technology Development and Application set up by the Central Government; or

(*iiihj*) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); or

(*iiihk*) the Swachh Bharat Kosh, set up by the Central Government, other than

the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013); or

(*iiihl*) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013); or

(*iiihm*) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(*iv*) any other fund or any institution to which this section applies; or

(*v*) the Government or any local authority, to be utilised for any

charitable purpose other than the purpose of promoting family planning; or

(*vi*) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(*via*) any corporation referred to in clause (*26BB*) of section 10; or

(*vii*) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning;

(*b*) any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurdwara, church or other place as is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States;

(*c*) any sums paid by the assessee, being a company, in the previous year as donations to the Indian Olympic Association or to any other association or institution established in India, as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in

this behalf for—

(*i*) the development of infrastructure for sports and games; or

(*ii*) the sponsorship of sports and games,

in India;

(*d*) any sums paid by the assessee, during the period beginning on the 26th day of January, 2001 and ending on the 30th day of September, 2001, to any trust, institution or fund to which this section applies for providing relief to the victims of earthquake in Gujarat.

(3) [*Omitted by the Finance Act, 1994, w.e.f. 1-4-1994.*]

(4) Where the aggregate of the sums referred to in sub-clauses (*iv*), (*v*), (*vi*), (*via*) and (*vii*) of clause (*a*) and in clauses (*b*) and (*c*) of sub-section (2) exceeds ten per cent of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this

Chapter), then the amount in excess of ten per cent of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).

(5) This section applies to donations to any institution or fund referred to in sub-clause (*iv*) of clause (*a*) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely :—

(*i*) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (*23AA*) or clause (*23C*) of section 10 :

Provided that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of section 11 shall not apply in relation to such income, if—

(*a*) the institution or fund maintains separate books of account in respect of such business;

(*b*) the donations made to the institution or fund are not used by it, directly

or indirectly, for the purposes of such business; and

(*c*) the institution or fund issues to a person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly, for the purposes of such business;

(*ii*) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;

(*iii*) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;

(*iv*) the institution or fund maintains regular accounts of its receipts and expenditure;

(*v*) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (1 of 1956), or is a University established by law, or is any other educational institution recognised by the

Government or by a University established by law, or affiliated to any University established by law, or is an institution financed wholly or in part by the Government or a local authority;

(*vi*) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being approved by the Principal Commissioner or Commissioner;

(*vii*) where any institution or fund had been approved under clause (*vi*) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (*15*) of section 2, be deemed to have been,—

(*a*) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(*b*) approved under the said clause (*vi*) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;

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

Provided that the institution or fund may also deliver to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and

(*ix*) the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed:

Provided that the institution or fund referred to in clause (*vi*) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

(*i*) where the institution or fund is approved under clause (*vi*) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;

(*ii*) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(*iii*) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier; [89][or]

[90][(*iv*) [91][***] where activities of the institution or fund have—

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

(*B*) commenced [91a][***] at any time after the commencement of such activities:]

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

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

(*ii*) where the application is made under clause (*ii*) or clause (*iii*) [92][or sub-clause (*B*) of clause (*iv*)] of the said proviso,—

(*a*) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—

(*A*) the genuineness of activities of such institution or fund; and

(*B*) the fulfilment of all the conditions laid down in clauses (*i*) to (*v*);

(*b*) after satisfying himself about the genuineness of activities under item (*A*), and the fulfilment of all the conditions under item (*B*), of sub-clause (*a*),—

(*A*) pass an order in writing granting it approval for a period of five years; or

[93][(*B*) if he is not so satisfied, pass an order in writing, rejecting such application and cancelling its approval, if any, after affording it a reasonable opportunity of being heard;]

[94][(*iii*) where the application is made under sub-clause (*A*) of clause (*iv*) of the said proviso or the application is made under clause (*iv*) of the said proviso as it stood immediately before its amendment *vide* the Finance Act, 2023, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the approval is sought,]

and send a copy of such order to the institution or fund:

[95][**Provided also** that the order under clause (*i*) and clause (*iii*) of the second proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months and one month, as the case may be, calculated from the end of the month in which the application was received:]

[96][**Provided also** that the order under sub-clause (*b*) of clause (*ii*) of the second proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of six months from the end of the quarter in which the application was received:]

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

(*a*) clause (*i*) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

(*b*) clause (*iii*) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

(*c*) in any other case, from the assessment year immediately following the financial year in which such application is made.

(5A) Where a deduction under this section is claimed and allowed for any assessment year in respect of any sum specified in sub-section (2), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.

(5B) Notwithstanding anything contained in clause (*ii*) of sub-section (5) and *Explanation 3,* an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply.

(5C) This section applies in relation to amounts referred to in clause (*d*) of sub-section (2) only if the trust or institution or fund is established in India for a charitable purpose and it fulfils the following conditions, namely :—

(*i*) it is approved in terms of clause (*vi*) of sub-section (5);

(*ii*) it maintains separate accounts of income and expenditure for providing relief to the victims of earthquake in Gujarat;

(*iii*) the donations made to the trust or institution or fund are applied only for providing relief to the earthquake victims of Gujarat on or before the 31st day of March, 2004;

(*iv*) the amount of donation remaining unutilised on the 31st day of March, 2004 is transferred to the Prime Minister's National Relief Fund on or before the 31st

day of March, 2004;

(*v*) it renders accounts of income and expenditure to such authority and in such manner as may be prescribed, on or before the 30th day of June, 2004.

(5D) No deduction shall be allowed under this section in respect of donation of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.

(5E) All applications, pending before the Commissioner on which no order has been passed under clause (*vi*) of sub-section (5) before the date on which this sub-section has come into force, shall be deemed to be applications made under clause (*iv*) of the first proviso to sub-section (5) on that date.

(6) [***]

Explanation 1.—An institution or fund established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (*iii*) of sub-section (5).

Explanation 2.—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub-section (5) applies shall not be denied merely on either or both of the following grounds, namely :—

(*i*) that, subsequent to the donation, any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of section 11, section 12 or section 12A;

(*ii*) that, under clause (*c*) of sub-section (1) of section 13, the exemption under section 11 or section 12 is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (*h*) of sub-section (2) of section 13 where the aggregate of the funds invested by it in a concern referred to in the said clause (*h*) does not exceed five per cent of the capital of that concern.

Explanation 2A.—For the removal of doubts, it is hereby declared that claim of the assessee for a deduction in respect of any donation made to an institution or fund to which the provisions of sub-section (5) apply, in the return of income for any assessment year filed by him, shall be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority

or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

Explanation 3.—In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature.

Explanation 4.—For the purposes of this section, an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf, shall be deemed to be an institution established in India for a charitable purpose.

Explanation 5.—For the removal of doubts, it is hereby declared that no deduction shall be allowed under this section in respect of any donation unless such donation is of a sum of money.

133.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 133 of the Bill seeks to provide for deduction in respect of donations to funds and charitable institutions. The clause corresponds to Section 80G of the Act, both in the nature of provisions and the number of institutions and organizations covered within its ambit. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

133.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some important views/suggestions of the experts/stakeholders are summarized as under:-

(i) The provision of Section 133(2) is differently worded, leading to potential higher deductions under ITB 2025 compared to ITA 1961. The deduction is inadvertently allowed to the extent of 10% of “gross total income” instead of “adjusted gross total income”, leading to inconsistent results. Correct the anomaly by ensuring that the deduction is quantified based on 10% of “adjusted gross total income”, aligning it with the intent of ITA 1961.

(ii) **More clarity on treatment of CSR expenses** for scientific research, agricultural extension, and skill development is required. Schedule VII of the Companies recognize these activities as CSR activity. While such expenditure is eligible for deduction under specified clauses, it is simultaneously restricted under section 37 [Clause 34 (2) (b)] leading to interpretational issues.

133.5 Examination by the Committee

Replying to the corresponding suggestions of the stakeholders as above, the Ministry submitted in their written replies as under:-

(i) "The first reference is to the amount of adjusted gross total income. Therefore, the excess which is to be ignored is also required to be referenced to the adjusted gross total income. The suggestion is acceptable.

Example: If 10% of GTI is Rs. 8 and 10% of adjusted GTI is Rs. 6 and donation amount is Rs. 10 then Rs. 4 is to be ignored and not Rs. 2.

The provisions proposed in the Income-Tax Bill 2025 under clause mentioned in col no 2 are simplified version of the corresponding provisions of IT Act 1961 as mentioned in col no 3, and no amendment has been introduced in the simplified version from the policy perspective".

(ii) "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025."

133.6 Observations/Recommendations of the Committee:

During the examination of the proposed Clause 133 pertaining to the deduction in respect of donations to certain funds, charitable institutions, etc. the Committee observe that the text of the proposed clause was differently worded as compared to the parallel Section 80G of the IT Act, 1961. While the first reference in the Clause to adjusted gross total income is comprehendible, the subsequent contextual reference is to gross total income. The absence of the word can lead to higher deductions, belying the intent of the Clause. The Ministry, when queried upon, realized the inadvertent omission and were amenable to the correction. Thus, the Committee recommend the Ministry to rephrase the mention of gross total income to adjusted gross total income in 133(2) so as to rectify an omission

causing an unintended higher tax liability. The Committee, further accept the remaining contents of the proposed Clause.

Clause - 134 - Deductions in respect of rents paid.

134.1 Provisions proposed in the Income-Tax Bill, 2025:

134. (1) In computing the total income of an assessee, subject to other provisions of this section, there shall be deducted any expenditure incurred by him towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence.

(2) The deduction under sub-section (1) shall be allowable on such rent exceeding 10% of his total income, subject to a maximum of five thousand rupees per month, or 25% of total income for tax year, whichever is less.

(3) For the purposes of deduction under sub-section (1), such other conditions or limitations having regard to the area or place in which such accommodation is situated and other relevant consideration, as prescribed, shall be taken into account.

(4) No deduction under this section shall be allowed to an assessee in any case, where— (a) any residential accommodation is— (i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or (ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under section 21(6) or (7)(a); or (b) the assessee has any income falling in Schedule III (Table: Sl. No. 11

(5) For the purposes of this section, the expressions “10% of his total income” and “25% of his total income” shall mean 10% or 25%, as the case may be, of the total income of the assessee before allowing deduction for any expenditure under this section.

134.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deductions in respect of rents paid.

80GG. In computing the total income of an assessee, not being an assessee having any income falling within clause (*13A*) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed five thousand rupees per month or twenty-five per cent of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations :

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is—

(*i*) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(*ii*) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under clause (*a*) of sub-section (2) or, as the case may be, clause (*a*) of sub-section (4) of section 23.

Explanation.—In this section, the expressions "ten per cent of his total income" and "twenty-five per cent of his total income" shall mean ten per cent or twenty-five per cent, as the case may be, of the assessee's total income before allowing deduction for any expenditure under this section.

134.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 134 of the Bill seeks to provide that deduction to an assesse being an individual in respect of any expenditure incurred by him towards payment of rent for any accommodation occupied by him for the purpose of his own residence. The clause corresponds to Section 80GG of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

134.4 <u>Examination by the Committee:</u>

In view of the proposed Clause, the Committee were desirous of acquainting themselves with the opinion of the Ministry on the adequacy of the monetary cap in light of rising urban rents and the possibility of clause 134 effecting the streamlining of procedural requirements to minimize taxpayer burden while ensuring effective enforcement. The Ministry in their written replies have submitted as under:-

> "The substantial provisions are the same as they were in the Act. A substantial benefit has been provided by reducing the slab rates and the tax rates in the Budget 2025. In line with the Government's stated policy of removing exemption/deductions, these reduced rates are applicable for only those which do not avail exemptions/deductions".

134.5 <u>Observations/Recommendations of the Committee:</u>

On studying the details of the proposed clause 134 provisioning for deductions in respect of rent paid vis-à-vis the corresponding Section 80 GG of the IT Act, 1961, the Committee notice that there is only a transportation of the content from the present IT Act, 1961 to the proposed Bill, 2025 without any material change altering the sentiments of the Section. The Committee also went through the justification provided by the Ministry for the proposed Clause and found it satisfactory. Therefore, the Committee accept the proposed Clause 134 in entirety without any amendment.

Clause - 135 - Deduction in respect of certain donations for scientific research or rural development.

135.1 Provisions proposed in the Income-Tax Bill, 2025:

135. (1) In computing the total income of an assessee, there shall be deducted, as per the provisions of this section, any sum paid by the assessee in the tax year to,— (a) a research association which has as its object the undertaking of scientific research, or to a University, college or other institution approved for the purposes of section 45(3)(a)(i) to be used for scientific research; (b) a research association which has as its object the undertaking of research in social science or statistical research, or to a University, college or other institution approved for the purposes of section 45(3)(a)(ii) to be used for research in social science or statistical research;

(2) Deduction for contributions made as per sub-section (1) shall not be allowed, if— (a) the gross total income of the assessee includes income which is chargeable under the head "Profits and gains of business or profession"; or (b) the contribution is made in cash exceeding two thousand rupees.

(3) Deduction under sub-section (1)(a) and (1)(b) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, approval to such association, University, college, other institution referred there in to whom the payment was made has been withdrawn.

(4) The claim of the assessee for a deduction in respect of any sum referred to in sub-section (1) in the return of income for any tax year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification as per the risk management strategy formulated by the Board from time to time.

135.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of certain donations for scientific research or rural development.

80GGA. (1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2).

(2) The sums referred to in sub-section (1) shall be the following, namely :—

(*a*) any sum paid by the assessee in the previous year to a research association which has as its object the undertaking of scientific research or to a University,

college or other institution to be used for scientific research :

Provided that such association, University, college or institution is for the time being approved for the purposes of clause (*ii*) of sub-section (1) of section 35;

(*aa*) any sum paid by the assessee in the previous year to a research association which has as its object the undertaking of research in social science or statistical research or to a University, college or other institution to be used for research in social science or statistical research :

Provided that such association, University, college or institution is for the time being approved for the purposes of clause (*iii*) of sub-section (1) of section 35.

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a research association, University, college or other institution to which clause (*a*) or clause (*aa*) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval to such association, University, college or other institution referred to in clause (*a*) or clause (*aa*), as the case may be, has been withdrawn;

(*b*) any sum paid by the assessee in the previous year—

(*i*) to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved for the purposes of section 35CCA; or

(*ii*) to an association or institution which has as its object the training of persons for implementing programmes of rural development :

Provided that the assessee furnishes the certificate referred to in sub-section (2) or, as the case may be, sub-section (2A) of section 35CCA from such association or institution.

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development to which this clause applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme, or as the case may be, to the association

or institution has been withdrawn;

(*bb*) any sum paid by the assessee in the previous year to a public sector company or a local authority or to an association or institution approved by

the National Committee, for carrying out any eligible project or scheme :

Provided that the assessee furnishes the certificate referred to in clause (*a*) of sub-section (2) of section 35AC from such public sector company or local authority or, as the case may be, association or institution.

Explanation 1.— The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company, or to a local authority or to an association or institution for carrying out the eligible project or scheme referred to in section 35AC, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(*a*) the approval granted to such association or institution has been withdrawn; or

(*b*) the notification notifying the eligible project or scheme referred to in section 35AC carried out by the public sector company, or local authority or association or institution has been withdrawn.

Explanation 2.—For the purposes of this clause, the expressions "National Committee" and "eligible project or scheme" shall have the meanings respectively assigned to them in the *Explanation* to section 35AC;

(*c*) any sum paid by the assessee in any previous year ending on or before the 31st day of March, 2002 to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or of afforestation approved for the purposes of section 35CCB :

Provided that the association or institution is for the time being approved for the purposes of sub-section (2) of section 35CCB;

(*cc*) any sum paid by the assessee in any previous year ending on or before the 31st day of March, 2002 to such fund for afforestation as is notified by the Central Government under clause (*b*) of sub-section (1)

of section 35CCB;

(*d*) any sum paid by the assessee in the previous year to a rural development fund set up and notified by the Central Government for the purposes of clause (*c*) of sub-section (1) of section 35CCA;

(*e*) any sum paid by the assessee in the previous year to the National Urban Poverty Eradication Fund set up and notified by the Central Government for the purposes of clause (*d*) of sub-section (1) of section 35CCA.

(2A) No deduction shall be allowed under this section in respect of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.

(3) Notwithstanding anything contained in sub-section (1), no deduction under this section shall be allowed in the case of an assessee whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession".

(4) Where a deduction under this section is claimed and allowed for any assessment year in respect of any payments of the nature specified in sub-section (2), deduction shall not be allowed in respect of such payments under any other provision of this Act for the same or any other assessment year.

Explanation.—For the removal of doubts, it is hereby declared that the claim of the assessee for a deduction in respect of any sum referred to in sub-section (2) in the return of income for any assessment year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

135.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 135 of the Bill seeks to provide for deduction in respect of certain donations for scientific research or rural development. The clause corresponds to Section 80GGA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

135.4 <u>Examination by the Committee:</u>

The Committee, while scrutinizing the Clause 135 queried from the Ministry upon the omission of words, rural development, afforestation and conservation from the text of the clause as was earlier present in S. 80GGA of IT Act, 1961. Responding to the query, the Ministry in their written replies have submitted as under:-

> "The provisions relevant to afforestation and conservation were allowed only till 2002 and have been sunset since. Therefore, they have not been incorporated in the Bill. The provisions relevant to rural development are connected to section 35CCA that provides for certain programs and funds that are redundant now. Therefore, they have not been incorporated in the Bill."

135.5 <u>Observations/Recommendations of the Committee:</u>

The Committee, after thorough scrutiny of the proposed Clause 135 pertaining to the deduction in respect of certain donations for scientific research or rural development find that it is synonymous to the Section 80 GGA of the IT Act, 1961. The content of the clause does not deviate from its core and retains its spirit as under Section 80 GGA of the IT Act, 1961. The Committee is also satisfied with the justification and response elicited from the Minstry in this regard. Therefore, the Committee accept the clause as proposed.

Clause - 136 - Deduction in respect of contributions given by companies to political parties.

136.1 Provisions proposed in the Income-Tax Bill, 2025:

136. (1) An assessee, being an Indian company, shall be allowed a deduction for the amount contributed by it, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951 or an electoral trust. (2) In this section, the word “contribute”, with its grammatical variations and cognate expressions shall have the same meaning as assigned to it in section 182 of the Companies Act, 2013.

136.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of contributions given by companies to political parties.

80GGB. In computing the total income of an assessee, being an Indian company, there shall be deducted any sum contributed by it, in the previous year to any political party or an electoral trust:

Provided that no deduction shall be allowed under this section in respect of any sum contributed by way of cash.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this section, the word "contribute", with its grammatical variation, has the meaning assigned to it under section 293A of the Companies Act, 1956 (1 of 1956).

136.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 136 of the Bill seeks to provide for deduction in respect of contributions given by companies to political parties. The clause corresponds to Section 80GGB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

136.4 Examination by the Committee:

In the context of the contributions given by companies to Political Parties as in the S. 80 GGB of IT Act, 1961, the Committee were keen to know the details of a few aspects, such as the view of the Ministry for incorporating the definition of “Electoral Trust” in the body of the Act itself for better statutory clarity, whether the clause also includes the possibility and quantification of indirect contributions such as goods and services or in-kind contributions and if the contributions through electoral bonds for anonymous contributions to the political parties qualify for deduction under these provisions. Replying to the above queries, the Ministry have submitted as under:-

"The phrase "Electoral trust" is already defined in Definitions in Section 2(22AAA) in the Act and in Clause 2(43) of the Bill. It is already incorporated in the Act and the Bill".

136.5 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the poposed Clause 136 that provides for deduction in respect of contributions given by companies to political parties is similar to Section 80 GGB of the IT Act, 1961 in terms of the content and intent elicited. No substantial change has been brought about, instead it is a carrying forward of the parallel provision to the IT Bill, 2025. In view of this situation and considering the satisfactory justification provided by the Ministry for the proposed Clause, the Committee accept the proposed Clause in its entirety.

Clause - 137 - Deduction in respect of contributions given by any person to political parties.

137.1 Provisions proposed in the Income-Tax Bill, 2025:

137. An assessee, (other than a local authority and an artificial juridical person wholly or partly funded by the Government), shall be allowed a deduction for the amount contributed by him, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951, or an electoral trust.

137.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of contributions given by any person to political parties.

80GGC. In computing the total income of an assessee, being any person, except local authority and every artificial juridical person wholly or partly funded by the Government, there shall be deducted any amount of contribution made by him, in the previous year, to a political party or an electoral trust :

Provided that no deduction shall be allowed under this section in respect of any sum contributed by way of cash.

Explanation.—For the purposes of sections 80GGB and 80GGC, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

137.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 137 of the Bill seeks to provide for deduction in respect of contributions given by any person (other than a local authority and an artificial juridical person wholly or partly funded by the Government) to political parties. The clause corresponds to Section 80GGC of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

137.4 Examination by the Committee:

Similar to Section 80 GGC of the IT Act, 1961, the Clause 137 provisions for the Deduction in respect of contributions given by any person to political parties. However, the Committee were curious to be made aware about the precise modes of acceptable non-cash contributions (e.g., digital wallets, payment apps) in light of evolving payment technologies. The Ministry have responded to the query in their written replies as produced below;-

"Clause 137, in line with Section 80GGC of the Income-tax Act, allows deductions for contributions to political parties made through non-cash modes. An assessee, (other than a local authority and an artificial juridical person wholly or partly funded by the Government), shall be allowed a deduction for the amount contributed by him, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951, or an electoral trust. The section and clause clearly mention that any mode of contribution other than cash is acceptable. There is no bar on any modes of contribution other than cash from the plain reading of these provisions."

137.5 <u>Observations/Recommendations of the Committee:</u>

The Proposed Clause 137 of the Income-Tax Bill, 2025 that pertains to deduction in respect of contributions given by any person to political parties resonate with the Section 80 GGC of the Income-Tax Act, 1961. The Committee find a mere shifting of the content without any changes in terms of policy matters from the scrutiny of the parent Act and the IT Bill, 2025 under consideration. Thus, the Committee, keeping in view the objectives of the Bill to provide simplification in the language and the satisfactory justification provided by the Ministry, accept the proposed Clause in entirety.

Clause - 138 - Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

138.1 Provisions proposed in the Income-Tax Bill, 2025:

C.—Deductions in respect of certain incomes.

138. In respect of any tax year beginning on or after the 1st April, 2026, where— (a) the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in section 80-IA of the Income-tax Act, 1961; and (b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed, there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that— (i) the amount of deduction is calculated as per the provisions of section 80-IA of the Income-tax Act,1961; and (ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IA of the Income-tax Act,1961, as if the said Act had not been repealed.

138.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

80-IA. (1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business for ten consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an industrial park or develops a special economic zone referred to in clause (*iii*) of sub-section (4) or generates power or commences transmission or distribution of power or undertakes substantial renovation and modernisation of the existing transmission or distribution lines :

Provided that where the assessee develops or operates and maintains or develops, operates and maintains any infrastructure facility referred to in clause (*a*) or clause (*b*)

or clause (*c*) of the *Explanation* to clause (*i*) of sub-section (4), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the deduction in computing the total income of an undertaking providing telecommunication services, specified in clause (*ii*) of sub-section (4), shall be hundred per cent of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent of such profits and gains for further five assessment years.

(3) This section applies to an undertaking referred to in clause (*ii*) or clause (*iv*) of sub-section (4) which fulfils all the following conditions, namely :—

(*i*) it is not formed by splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose:

Provided that nothing contained in this sub-section shall apply in the case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board referred to in clause (*7*) of section 2 of the Electricity Act, 2003 (36 of 2003), whether or not such transfer is in pursuance of the splitting up or reconstruction or reorganisation of the Board under Part XIII of that Act.

Explanation 1.—For the purposes of clause (*ii*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the assessee.

Explanation 2.—Where in the case of an undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(4) This section applies to—

(*i*) any enterprise carrying on the business of (*i*) developing or (*ii*) operating and maintaining or (*iii*) developing, operating and maintaining any infrastructure facility which fulfils all the following conditions, namely :—

(*a*) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act;

(*b*) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (*i*) developing or (*ii*) operating and maintaining or (*iii*) developing, operating and maintaining a new infrastructure facility;

(*c*) it has started or starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995:

Provided that where an infrastructure facility is transferred on or after the 1st day of April, 1999 by an enterprise which developed such infrastructure facility (hereafter referred to in this section as the transferor enterprise) to another enterprise (hereafter in this section referred to as the transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, the provisions of this section shall apply to the transferee enterprise as if it were the enterprise to which this clause applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not

taken place:

Provided further that nothing contained in this section shall apply to any enterprise which starts the development or operation and maintenance of the infrastructure facility on or after the 1st day of April, 2017.

Explanation.—For the purposes of this clause, "infrastructure facility" means—

(*a*) a road including toll road, a bridge or a rail system;

(*b*) a highway project including housing or other activities being an integral part of the highway project;

(*c*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(*d*) a port, airport, inland waterway, inland port or navigational channel in the sea;

(*ii*) any undertaking which has started or starts providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services on or after the 1st day of April, 1995, but on or before the 31st day of March, 2005.

Explanation.—For the purposes of this clause, "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service;

(*iii*) any undertaking which develops, develops and operates or maintains and operates an industrial park or special economic zone notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006 :

Provided that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 or a special economic zone on or after the 1st day of April, 2001 and transfers the operation and maintenance of such industrial park or such special economic zone, as the case may be, to another undertaking (hereafter in this section referred to as the transferee undertaking), the deduction under sub-section (1) shall be allowed to such transferee

undertaking for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee undertaking :

Provided further that in the case of any undertaking which develops, develops and operates or maintains and operates an industrial park, the provisions of this clause shall have effect as if for the figures, letters and words "31st day of March, 2006", the figures, letters and words "31st day of March, 2011" had been substituted;

(*iv*) an undertaking which,—

(*a*) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2017;

(*b*) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2017:

Provided that the deduction under this section to an undertaking under sub-clause (*b*) shall be allowed only in relation to the profits derived from laying of such network of new lines for transmission or distribution;

(*c*) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2017.

Explanation.—For the purposes of this sub-clause, "substantial renovation and modernisation" means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent of the book value of such plant and machinery as on the 1st day of April, 2004;

(*v*) an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if—

(*a*) such Indian company is formed before the 30th day of November, 2005 with majority equity participation by public sector companies for the

purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before the 31st day of December, 2005 by the Central Government for the purposes of this clause;

(*b*) such undertaking begins to generate or transmit or distribute power before the 31st day of March, 2011;

(*vi*) [***]

(5) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(6) Notwithstanding anything contained in sub-section (4), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which such transfer to reserve account took place.

(7) The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, before the specified date referred to in section 44AB and the assesseefurnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant.

(8) Where any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the eligible business and, in either case, the consideration, if any, for such

transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date :

Provided that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, "market value", in relation to any goods or services, means—

(*i*) the price that such goods or services would ordinarily fetch in the open market; or

(*ii*) the arm's length price as defined in clause (*ii*) of section 92F, where the transfer of such goods or services is a specified domestic transaction referred to in section 92BA.

(9) Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "*C.—Deductions in respect of certain incomes*", and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.

(10) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (*ii*) of section 92F.

(11) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(12A) Nothing contained in sub-section (12) shall apply to any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger on or after the 1st day of April, 2007.

(13) Nothing contained in this section shall apply to any Special Economic Zones notified on or after the 1st day of April, 2005 in accordance with the scheme referred to in sub-clause (*iii*) of clause (*c*) of sub-section (4).

Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1).

138.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 138 of the Bill seeks to provide for deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc. The clause corresponds to Section 80-IA of the Act. The provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, a reference to the IT Act, 1961 is made for these provisions in the Bill”.

138.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

A few important suggestions from the Stakeholders are summarized as below:-

(i) Section 138 of the Income-tax Bill, 2025 should ideally provide for the computation mechanism itself so that the Income-tax Bill is self-contained. Also, under the conditions stipulated in clause (b), after (i) and (ii), (iii) be inserted as follows - “The deduction under this section from the profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the tax year for which deduction is claimed have been audited by an accountant, as defined in section 515(3)(b) on or before the specified date mentioned in section 63 and the assessee furnishes by that date, the report of such audit in the prescribed form duly signed and verified by such accountant. Consequentially, the word “and” may be removed after (b)(i) and inserted after (b)(ii).

Section 138 of the Income-tax Bill, 2025, which corresponds to section 80-IA of the Income-tax Act, 1961 provides deduction of an amount calculated as per the provisions of section 80-IA the Income-tax Act, 1961. Sections 138, 139, 141 and 144 of the Income-Tax Bill, 2025 correspond to section 80-IA, 80-IAB, 80-IB and 10AA of the Income-tax Act, 1961. These sections require that the amount of deduction be calculated as per the corresponding section of the Income-tax Act, 1961 and that the deduction under the new Act be allowed only for such tax years as would have been allowed under the corresponding section of the Income-tax Act, 1961 if the said Act had not been repealed. **However, the requirement of audit stipulated in these four sections is not mentioned in the Bill.** The same has to be incorporated in the Bill.

(ii) Clause 138 to Clause 152 deal with various deductions in Respect of incomes relating to business. Many of the deductions are for 100% of income. Full deduction provides for a simple tool to dishonest and unscrupulous persons. The deductions be, only to certain activities and industries sought to be encouraged as a government policy. A deduction up to maximum 90% will serve the desired purpose. Hence, it is suggested that maximum deduction under the bill for all such policy encouragement for the industry be restricted upto maximum of 90% only.

(iii) These sections merely make reference to old/ repealed provisions. One consolidated provision may be inserted wherein all the deductions are mentioned, instead of referring to the old Act. Alternatively, a specific clause may be inserted in clause 536 that benefits as per old section shall continue to be eligible under new Act subject to terms and conditions specified therein.

138.5 <u>Examination by the Committee:</u>

The response of the Ministry to the corresponding views of the stakeholders as mentioned above are as under:-

(i) “Suggestion seeks full text of provision providing incentive under IT Act to be carried in Bill. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few number of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Further, the requirement of Audit arises from the fulfilment of the provisions of the corresponding section of the IT Act, for which due reference has been made. Therefore, it may not be feasible to act upon the suggestion. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025”.

(ii) “It is suggested that the deductions should not be given upto 100% but limited only till 90% of the profits. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the

bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025”.

(iii) “It is suggested that one consolidated provision may be inserted where the deductions are mentioned, instead of referring to the IT Act, 1961. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessee. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Instead of clause 536, there are separate clauses that mention that the benefits will continue to apply as they were in the IT Act, 1961. Therefore, the suggestion may not be feasible.

The proposed provisions are similar to the provisions in Income-tax Act, 1961”.

138.5.2 On the aspect of providing a clean break from the reference back to Old Act, i.e. IT Act, 1961 in the new proposed Bill, the Secretary, Ministry of Finance (Department of Revenue), during the course of sitting, deposed before the Committee as below:-

> "Based on Committee's advice, we had said that we will examine because it is in the nature of saving clause. The problem was the general saving clause while it incorporates this too, but there may be some confusion when a specific return is filed. So, what you had advised us was to see if this could become in some more specific form in the saving clause, so, we will examine it as a part of that". …."सर, मैं इस विषय पर थोड़ी और क्लियेरिटी देना चाहूंगा। सेविंग्स क्लॉज़ में एक जनरल क्लॉज़ रहता है, जो कि जनरल इंग्लिश में रहता है, which says all the obligations on the benefits available in the old Act will continue. अगर हम उसकी ओवरऑल एप्रोच को देखें, तो यह भी उसमें ऑटोमेटिकली कवर्ड होगा। अगर हम इस रेफरेंस को यहां से हटा देते हैं और सिर्फ सेविंग्स क्लॉज़ को जनरल फॉर्म में रखते हैं, तो एज़-ए-प्रिंसिपल ये सारे बेनिफिट्स उसको एविलेबल होंगे। लेकिन, डिपार्टमेंट का यह मानना था कि जब कोई बेनिफिट्स लेते हैं, तो उन्हें स्पेसिफिक सेक्शन्स के अंडर में उन्हें क्लेम करते हैं। अतः ये रेफरेंसेज़, रिटर्न्स वगैरह के टाइम पर थोड़ी सी प्रॉब्लम्स देंगी, इसीलिए, उन्होंने पुराने रेफरेंस को रखा था। अब आपने जो सलाह दी है, उसके हिसाब से हम लोग यह कोशिश कर रहे हैं कि सेविंग्स क्लॉज़ में ही इसकी स्पेसिफिकसिटी को किसी एक एनेक्सचर के रूप में ले आएं, ताकि, एक्ट में पुराने एक्ट का रेफरेंस न रहे।"

138.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 138 of the Bill pertains to the provisions of deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.. While the Clause corresponds to Section 80-IA of the Act, it is noticeable that the provisions of this section have a sunset clause and a reference to the IT Act, 1961 is also made here. The Committee take cognizance of the fact that the benefit period of these provisions are nearing their end and no new assesses are being added as justification for the cross-reference to the IT Act, 1961. Still, the Committee are of the view that the cross referencing to the IT Act, 1961 in the current Bill will

necessitate the reference to a repealed Act in future and will make the exercise cumbersome and not in the fitness of things. The Committee, further, are in consonance with the other aspects of the proposed Clause which does in no way alter the content of the Section 80-IA of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. Besides, the Committee agree with the remaining content of the proposed Clause.

<u>Clause - 139</u> - Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

139.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

139. In respect of any tax year, where— (a) the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st April, 2005 under the Special Economic Zones Act, 2005 referred to in section 80-IAB of the Income-tax Act, 1961; and (b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed, there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that— (i) the amount of deduction is calculated as per the provisions of section 80-IAB of the Income-tax Act, 1961; and (ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IAB of the Income-tax Act, 1961, if the said Act had not been repealed.

139.2 <u>RelevantProvisions of the Principal Act (Income-Tax Act, 1961):</u>

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

80-IAB. (1) Where the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st day of April, 2005 under the Special Economic Zones Act, 2005, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for ten consecutive assessment years:

Provided that the provisions of this section shall not apply to an assessee, being a developer, where the development of Special Economic Zone begins on or after the 1st day of April, 2017.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which a Special Economic Zone has been notified by the Central Government :

Provided that where in computing the total income of any undertaking, being a Developer for any assessment year, its profits and gains had not been included by

application of the provisions of sub-section (13) of section 80-IA, the undertaking being the Developer shall be entitled to deduction referred to in this section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in sub-section (1) or sub-section (2), as the case may be :

Provided further that in a case where an undertaking, being a Developer who develops a Special Economic Zone on or after the 1st day of April, 2005 and transfers the operation and maintenance of such Special Economic Zone to another Developer (hereafter in this section referred to as the transferee Developer), the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.

(3) The provisions of sub-section (5) and sub-sections (7) to (12) of section 80-IA shall apply to the Special Economic Zones for the purpose of allowing deductions under sub-section (1).

Explanation.—For the purposes of this section, "Developer" and "Special Economic Zone" shall have the same meanings respectively as assigned to them in clauses (*g*) and (*za*) of section 2 of the Special Economic Zones Act, 2005.

139.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 139 of the Bill seeks to provide for deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone. The clause corresponds to Section 80-IAB of the Act. The provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, a reference to the ITAct, 1961 is made for these provisions in the Bill".

139.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some of the key suggestions of the stakeholders in this regard are furnished below:-

(i) A date of applicability/sunset clause for each of the provisions may be inserted in the new Bill for clear delineation of the date/period of applicability of the export profit-linked incentives. The self-sufficiency of new provisions is compromised by compulsory reliance on the old Act causing a burden on any reader of the statute. The suggested clause will enhance the overarching objective of ease of doing business.

(ii) EPCES Vide Finance Act 2016, Section 80-IAB, Income-Tax Act, 1961 was amended and it was provided that benefits will not be available where the development of Special Economic Zone begins on or after the1st day of April 2017. It is suggested that Clause 139(b) (ii) should be amended as below: (ii) the deductions under this Act shall be allowed only for such tax years, as would have been allowed under
section 80-IAB of the Income-Tax Act, 1961, if the said Act had not been repealed, provided that the deductions under this Act shall be allowed even where the development of Special Economic Zone begins on or after the 1st day of April 2017.After the amendment vide the Finance Act 2016, growth of SEZs has slowed down and huge developed land is lying vacant as the units
are not interested in operating in SEZs. No new proposals are being received for new SEZs. It should be allowed on the pattern of IFSC where there is no such sunset clause.

(iii) Section 139 of the Income-tax Bill, 2025 should ideally provide for the computation mechanism itself so that the Income-tax Bill, 2025 is self-contained. Also, under the conditions stipulated in clause (b), after (i) and (ii), (iii) be inserted as follows – "The deduction under this section from the profits and gains derived from an undertaking or an enterprise shall not be admissible unless the accounts of the undertaking or the enterprise for the tax year for which deduction is claimed have been audited by an accountant, as defined in section 515(3)(b) on or before the specified date mentioned in section 63 and the assessee furnishes by that date, the report of such audit in the prescribed form duly signed and verified by such accountant." Consequentially, the word "and" may be removed after (b)(i) and inserted after (b)(ii).
Section 139 of the Income-tax Bill, 2025, which corresponds to section 80-IAB of the Income-tax Act, 1961 provides deduction of an amount calculated as per the provisions of section 80-IAB the Income-tax Act, 1961. Sections 138, 139, 141 and 144 of the Incometax Bill, 2025 correspond to section 80-IA, 80-IAB, 80-IB and 10AA of the Income-tax Act, 1961. These four sections require that the amount of deduction be calculated as per the corresponding section of the Income-tax Act, 1961 and that the deduction under the new Act be allowed only for such tax years as would have been allowed under the corresponding section of the Income-tax Act, 1961 if the said Act had not been repealed. However,the requirement of audit stipulated in these four sections is not mentioned in the Bill. The same has to be incorporated in the Bill.

(iv) Export Promotion Council for SEZs and EOUs
The benefits granted for SEZ developers and SEZ Units were stopped w.e.f. 1.4.2017 (in respect of SEZ Developers) and 1.4.2021(in respect of SEZ Units) by the Finance Act, 2016.
This has impacted the growth of SEZs in India.
Huge developed land of notified SEZs is lying unutilised and SEZ units are

not interested in operating in SEZs.
On the pattern of International Financial Services Centres where there is no sunset clause, the benefits for SEZ developers under Clause 139 (erstwhile Section 80-IAB of IT Act, 1961) should also be continued even after 1.4.2017 (in respect of SEZ Developers).

139.5 <u>Examination by the Committee:</u>

The Ministry in their written replies to the corresponding suggestions above have submitted as under:-

(i) "The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. This suggestion has no merit. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(ii) "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(iii) "Suggestion seeks full text of provision providing incentive under IT Act to be carried in Bill. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few number of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Further, the requirement of Audit arises from the fulfilment of the provisions of the corresponding section of the IT Act, for which due reference has been made. Therefore, it may not be feasible to act upon

the suggestion. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

(iv) "It is suggested that there may be no sunset clause for deductions granted for SEZ developers and SEZ units.
The deductions in these sections have been given for many years to encourage development and investment in these SEZs. Some deductions are continued to be claimed though they have a sunset clause. Further, the stated policy of the government is the removal of exemptions and deductions with the reduction of rates of taxation. The

tax rates have been reduced to 22% from 30% under the new regime where no deductions are claimed.
Therefore, this suggestion is not feasible. Moreover, this is a policy suggestion. The proposed provisions are similar to the provisions in Income-tax Act, 1961".

139.5.2 During the course of examination of the Bill by the Select Committee, the representatives of the Ministry of Commerce, on the provisions for SEZs, deposed before the Committee as under:-

"If we look at broad scheme of things for SEZs, there are two sets of entities. One entity is the developer and the second entity is the unit. In terms of the existing provisions for developers, there was Income-tax exemption on the income derived from the business of development of SEZ in a block of 10 years in 15-year period under Section 80IAB of the Income-tax Act. That was withdrawn in 2017 but all the developers who availed it continue to operate after withdrawing it for a period of 10 years. That continues to operate in this current version……
Clause 139 for Section 80IAB which is for developers, they are referring back to the current statute rather than giving the sunset dates. So, for ease of reference, a self-contained Act which is going into the future should have all the necessary applicability as well as the sunset dates which are there. Otherwise, all the taxpayers need to look back into how their regime was previously except this self-contained version which is required. I think what we are recommending is only the date of applicability and sunset need to be retained. Otherwise, substantively I think all benefits which stand today which are very little though, continue to be operative in the new Bill. That is the summary of the changes that have been brought in the Act".

139.5.3 On being queried upon the issues pertaining to the tax parity between the SEZs and EOUs, the representatives of the Ministry of Commerce clarified during the sitting of the Committee as produced below:-

> "One of the issues that is repeatedly coming is about the parity of taxation in a DTA vis-à-vis the SEZs and EOU. As a policy of the Government, to maintain the parity, the special exemptions which were given, whether it was MAT or subsequently the export income-oriented exemptions which were given have been withdrawn. They do not continue to be operative in the future Bill which is proposed right now. The idea was that globally also if you look at it, taxation has two components: the direct taxation which the income tax is dealing and the indirect taxes which the Customs and the GST are dealing. The concessions related to Customs and GST continue to operate in SEZs. as EOUs and DTA are concerned, there are various schemes whether it is advance authorisation and EPCG for capital goods for DTA, or the EOU scheme itself permits both capital goods as well as inputs. So, the indirect taxes continue to operate. Direct taxes, the idea is to withdraw. We did study in terms of various other countries. आपने चीन का उल्लेख किया। I think, regulatory regime simplification plus infrastructure impetus, these are the two things which are very, very critical. Regarding taxation part, some countries are still doing it and some other financial benefits are also being given. But I think we need to see how it works here. Some amendments are being suggested. That is underway based on the global practices. With regard to whether we should continue or not, in 2017 we have stopped with regard to developers. Is there a case for resumption of that? Again, I think the fundamental principle which has been governed is that let tax parity be maintained because otherwise it is creating distortions. Therefore, whatever has been committed previously, and the sunset is there, let it continue and then let it be over with the sunset. That is the thinking. That is why no changes have been made.
>
> On the specific power issue, I think, at the time when the permission was given, it was for export purposes. Otherwise, there is a provision whereby like we provide DTA clearances to other manufacturers at a specific tariff which would take care of the benefits which have been given by the Government. Even those provisions are there".

139.5.4 Responding to a query regarding the functioning and future of SEZs, the representative of Ministry of Commerce clarified during the sitting as produced below:-

> "The question was whether the banking and financial services in GIFT city need similar benefits when they stand withdrawn, and what has been the impact of withdrawal. If you look at our SEZs, one will keep manufacturing, and one dimension is services. The IT and ITS services have become very robust, with significant growth. Unlike banking and financial services, globally, IT and ITS services in India are recognised, and there is sufficient

maturity in that sector. However, globally, banking and financial services still need to evolve to the same state as IT and ITS. Once that maturity is achieved, we can evaluate whether these tax exemptions are still required. Extensive consultations have happened regarding what is required for SEZs when considering SEZ amendments. Every suggestion from the industries regarding tax regimes, regulatory regimes, and various fiscal measures has been looked into. I think it has been a consistent stand where inter-Ministerial discussions related to those amendments have taken place, and we evaluate and recommend based on the feedback received. So as part of a consultation, definitely, it is continuous, and given the distinction in terms of manufacturing, some of the new sectors are evincing interest. I mean, for example, green hydrogen or electronics into SEZs and all. So, it is kind of a dynamic of what EPCS has been mentioned, what was mentioned, that there is a loss of interest that is there and people are withdrawing. ITITS, we see some denotifications which are happening, but there are also some who are coming in. It is not complete exodus that way".

139.6 <u>Observations/Recommendations of the Committee:(to be reviewed)</u>

The Committee note that Clause 139 of the Bill provisions for deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone. The clause corresponds to Section 80-IAB of the Act. It is noticeable that the provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. The Ministry have considered these factors for making a reference to the IT Act, 1961 in the Bill. The Committee take into account the fact that the benefit period of these provisions are nearing their end and no new assesses are being added as justification for the cross-reference to the IT Act, 1961. However, the Committee are still of the view that the cross referencing to the IT Act, 1961 in

the current Bill will create a cumbersome exercise of looking back into a repealed Act for referencing in future also. The Committee, further, are in agreement with the other aspects of the proposed Clause which does in no way alter the content of the Section 80-IAB of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. Besides, the Committee agrees with the remaining content of the proposed Clause.

Clause - 140 - Special provision in respect of specified business.

140.1 Provisions proposed in the Income-Tax Bill, 2025:

140. (1) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for three consecutive tax years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any three consecutive tax years out of ten years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions:— (a) it is not formed by splitting up, or the reconstruction, of a business already in existence; (b) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

(4) Where the business of any undertaking carried on in India is discontinued in any tax year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of— (a) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or (b) riot or civil disturbance; or (c) accidental fire or explosion; or (d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war), and thereafter, at any time before the expiry of three years from the end of such tax year, the business of such undertaking is re-established, re-constructed or revived by the assessee, the condition referred to in sub-section (3)(a) shall not apply to such undertaking which is so re-established, reconstructed or revived.

(5) For the purposes of sub-section (3)(b), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled:— (a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India; (b) such machinery or plant is imported into India; and (c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before to the date of the installation of the machinery or plant by the assessee.

(6) Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of

the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used in the business, then, for the purposes of sub-

section (3)(b), the condition specified therein shall be considered to have been complied with.

(7) Irrespective of anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the tax year immediately succeeding the initial tax year or any subsequent tax year, be computed as if such eligible business were the only source of income of the assessee during the initial tax year and to every subsequent tax year up to and including the tax year for which the determination is to be made.

(8) The deduction under sub-section (1) from profits and gains derived from an eligible business shall not be admissible unless the accounts of the eligible business for the tax year for which the deduction is claimed have been audited by an accountant, before the specified date referred to in section 63 and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant.

(9) In a case where,— (i) any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee; or (ii) where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the eligible business, and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(10) For the purposes of sub-section (9), where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

(11) For the purposes of sub-section (9), “market value”, in relation to any goods or services, means— (i) the price that such goods or services would ordinarily fetch in the open market; or (ii) the arm's length price as defined in section 173(a), where the transfer of such goods or services is a specified domestic transaction referred to in section 164.

(12) Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any tax year,

deduction to the extent of such profits and gains shall not be allowed under any other provisions of Part C of this Chapter and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.

(13) Where it appears to the Assessing Officer that,— (i) owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person; or (ii) for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably considered to have been derived therefrom.

(14) Where the arrangement as mentioned in sub-section (13) involves a specified domestic transaction referred to in section 164, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in section173(a).

(15) The Central Government may, after making such inquiry as it may think fit, direct, by notification, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(16) In this section,— (a) “eligible business” means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation; (b) “eligible start-up” means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions:— (i) it is incorporated on or after the 1st April, 2016 but before the 1st April, 2030; (ii) the total turnover of its business does not exceed one hundred crore rupees in the tax year relevant to the tax year for which deduction under sub-section (1) is claimed; and (iii) it holds a certificate of eligible business from the InterMinisterial Board of Certification as notified by the Central Government; and (c) “limited liability partnership” means a partnership referred to in section 2(1)(n) of the Limited Liability Partnership Act, 2008.

140.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Special provision in respect of specified business.

80-IAC. (1) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total

income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for three consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any three consecutive assessment years out of ten years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions, namely:—

(*i*) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of this clause, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India;

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be

deemed to have been complied with.

(4) The provisions of sub-section (5) and sub-sections (7) to (11) of section 80-IA shall apply to the start-ups for the purpose of allowing deductions under sub-section (1).

Explanation.—For the purposes of this section,—

(*i*) "eligible business" means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation;

(*ii*) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—

(*a*) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, [97] [*2030*];

(*b*) the total turnover of its business does not exceed one hundred crore rupees in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed; and

(*c*) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government;

(*iii*) "limited liability partnership" means a partnership referred to in clause (*n*) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009).

140.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 140 of the Bill seeks to provide deduction to eligible start up in respect of profits and gains of eligible businesses, which have high potential of employment generation, subject to certain conditions specified therein. The clause corresponds to Section 80-IAC of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

140.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some of the important views/suggestions from the stakeholders are summarized as under:-

(i) The deduction under sub-section (1) from profits and gains derived from an eligible business shall not be admissible unless the accounts of the

eligible business for the tax year for which the deduction is claimed have been audited by a chartered accountant in practice or cost accountant in practice, before the specified date referred to in section 63 and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by chartered accountant in practice or **cost accountant in practice.** Cost accountants are, perhaps, adequately qualified, as claimed, to issue such certifications. Hence the cost accountants in practice may be allowed after looking into the demand objectively.

(ii) The eligible startups should be one having **DPIIT certification.**Startup certification through the startup India initiative is a crucial step for early-stage companies in India to access a wide range of benefits and support from the Government, fostering their growth and innovation.

(iii) Sub-section (2A) may be inserted – **(2A)** Where the assessee has claimed deduction under section 80-IAC of the Income-tax Act, 1961 for any assessment year or years, deduction under subsection (1) of this section would be allowable for the remaining tax year or years under this Act. Deduction under section 80-IAC of the Income-tax Act, 1961 is allowable in respect of 3 consecutive assessment years out of ten years beginning from the year in which the eligible start-up is incorporated. In case the assessee, being an eligible startup has already started claiming deduction under section 80-IAC for one or two assessment years, **deduction under section 140 of the Income-tax Bill would be available only for the remaining years out of the three years.**

140.5 <u>Examination by the Committee:</u>

The Ministry in their written replies to the above-mentioned corresponding suggestion have submitted as under:-

(i) “The suggestion made by the stakeholder to incorporate "cost accountants" is not in line with the provisions of the IT Act 1961. This is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025.”

(ii) “The deduction under any provision of the Act is predicated upon fulfillment of certain essential conditions. For deduction u/s 80-IAC (clause

140 of the Bill), checking of eligible business has to be a primary check which is certified by Inter Ministerial Board of Certification. Any start-up registered with DPIIT can't avail the deduction. The suggestion has no merits.The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(iii) "Suggestion seeks reference of IT Act for incentives allowed under IT Act and continued in Bill. The provisions of the Bill are clear in the fact that the deduction will be applicable only for 3 years out of the 1st 10 years of incorporation. This is covered in the Repeal and Savings clause in 536(2), the provisions of which are :***536. (2)*** *Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (3)—**(a) nothing shall** affect the previous operation of the repealed Act and orders or anything duly done or suffered there under; or**(b) nothing shall** affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;* Therefore, this suggestion is already addressed. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

140.5.2 During the deposition of the representatives of Ministry of Commerce (DPIIT), the Secretary, DPIIT submitted before the Committee as under:-

"the provisions in the IT Act as far as DPIIT is concerned, are the exemptions given to the startups. Under the existing Act, firstly under Section 80IAC read with Section 80IA and Section 33B, 100 per cent tax deduction is allowed for three consecutive years in the startup. This continues under Section 140 of the new Bill. The language is simplified. All the provisions which are existing have been carried over. ……In addition, we have been receiving requests from various startups on what is given under Section 80IAC for Minimum Alternative Tax should be extended to startups and they should also be exempted from this tax which will help them grow".

140.5.3 Further elaborating on the issues associated with the Startups, the representatives from MeitY submitted during the sitting as mentioned below:-

"With regard to Section 80-IAC, I would like to elaborate that during the 10 year period, a newly registered start-up, from the date of incorporation till a period of 10 years, can avail of various benefits including income tax benefits. Sir, 80-IAC is one of the benefits which he can use for a

consecutive three year period, which allows the start-up to avail of 100 per cent tax deduction. But despite the 100 per cent tax deduction, the MAT or Minimum Alternate Tax is still applicable on the start-ups. So, the demand from the start-ups has been that this tax should not be imposed on the start-ups. Secondly, there has also been a request that this three-year period -- which is there, which can be availed of the start-ups during any of the three consecutive years in the ten-year period may be allowed to break it up one year each any of the ten years. So, these are the demands we have received".

140.5.4 Further, on the issue of MAT (Minimum Alternate Tax), the representative from MeitY added that:-

"Sir, we are supporting the start-ups' demands that MAT or Minimum Alternate Tax should be removed. As far as the concern about covering all start-ups versus selected start-ups, the provision itself provides for
and I will it read out: That eligible business means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation. So, keeping this mind, the inter Ministerial Board -- which is also a requirement under the Section and which is headed by a Joint Secretary and has a Department of Science and Technology and Department of Biotechnology on board -- it recommends and issues a certificate for the start-up to avail of the benefit. So, of all 1.68 lakh start-ups which are registered with DPIIT, not all are able to avail of the benefits. The benefits are given to a small number only".

140.5.5 Regarding the DPIIT certification, when queried upon, the representatives of the Ministry of Finance submitted before the Committee as produced below:-

"But the request is that eligible startups should be allowed to claim deduction under Section 80-IAC. The eligible startup should be one which is having DPIIT certification. So far, we have enabled only those startups which have gone through the process of Inter-Ministerial Board (IMB) certification…..सर, 80-IAC में दिया हुआ है। डीपीआईआईटी से ही कंसल्टेशन में वह दिया हुआ है। DPIIT maintains that distinction that these are the startups which are registered, and these are the startups which cross that threshold line and come into the process of the oversight mechanism. Then, they get the IMB certification. So, we have enabled that deduction under 80-IAC in our law. The whole process is run by DPIIT".

140.6 <u>Observations/Recommendations of the Committee:</u>

The Committee find that Clause 140 of the Bill provisions for deduction to eligible start up in respect of profits and gains of eligible businesses akin to the Section

80-IAC of the Income-Tax Act, 1961. Examination of the said Clause vis-à-vis Section 80-IAC reveals that the Section has been textually simplified and retained with the same intent in this clause without carrying out any substantive nature of modification in terms of policy change. Thus, the Committee, finding the justification provided by the Ministry satisfactory, accept the proposed Clause 140 in entirety.

Clause - 141 - Deduction in respect of profits and gains from certain industrial undertakings

141.1 Provisions proposed in the Income-Tax Bill, 2025:

141. In respect of any tax year, where— (a) the gross total income of an assessee, includes any profits and gains derived from any business referred to in section 80-IB of the Income-tax Act, 1961; and (b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed, there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that— (i) the amount of deduction is calculated as per the provisions of section 80-IB of the Income-tax Act, 1961; and (ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IB of the Income-tax Act, 1961, if the said Act had not been repealed.

141.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

80-IB. (1) Where the gross total income of an assessee includes any profits and gains derived from any business referred to in sub-sections (3) to (11), (11A) and (11B) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as specified in this section.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :—

(*i*) it is not formed by splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of an industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(*iii*) it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India :

Provided that the condition in this clause shall, in relation to a small scale industrial undertaking or an industrial undertaking referred to in sub-section (4) shall apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.

Explanation 1.—For the purposes of clause (*ii*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with;

(*iv*) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

(3) The amount of deduction in the case of an industrial undertaking shall be twenty-five per cent (or thirty per cent where the assessee is a company), of the profits and gains derived from such industrial undertaking for a period of ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) beginning with the initial assessment year subject to the fulfilment of the following conditions, namely :—

(*i*) it begins to manufacture or produce, articles or things or to operate such plant or plants at any time during the period beginning from the 1st day of April, 1991 and ending on the 31st day of March, 1995 or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular undertaking;

(*ii*) where it is an industrial undertaking being a small scale industrial undertaking, it begins to manufacture or produce articles or things or to operate its cold storage plant [not specified in sub-section (4) or sub-section (5)] at any time during the period beginning on the 1st day of April, 1995 and ending on the 31st day of March, 2002.

(4) The amount of deduction in the case of an industrial undertaking in an industrially backward State specified in the Eighth Schedule shall be hundred per cent of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from such industrial undertaking :

Provided that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) subject to fulfilment of the condition that it begins to manufacture or produce articles or things or to operate its cold storage plant or plants during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2004 :

Provided further that in the case of such industries in the North-Eastern Region, as may be notified by the Central Government, the amount of deduction shall be hundred per cent of profits and gains for a period of ten assessment years, and the total period of deduction shall in such a case not exceed ten assessment years :

Provided also that no deduction under this sub-section shall be allowed for the assessment year beginning on the 1st day of April, 2004 or any subsequent year to any undertaking or enterprise referred to in sub-section (2) of section 80-IC:

Provided also that in the case of an industrial undertaking in the State of Jammu and Kashmir, the provisions of the first proviso shall have effect as if for the figures, letters and words "31st day of March, 2004", the figures, letters and words "31st day of March, 2012" had been substituted :

Provided also that no deduction under this sub-section shall be allowed to an industrial undertaking in the State of Jammu and Kashmir which is engaged in the manufacture or production of any article or thing specified in Part C of the Thirteenth Schedule.

(5) The amount of deduction in the case of an industrial undertaking located in such industrially backward districts as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf as industrially backward district of category 'A' or an industrially backward district of category 'B' shall be,—

(*i*) hundred per cent of the profits and gains derived from an industrial undertaking located in a backward district of category 'A' for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains of an industrial undertaking :

Provided that the total period of deduction shall not exceed ten consecutive assessment years or where the assessee is a co-operative society, twelve consecutive assessment years :

Provided further that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2004;

(*ii*) hundred per cent of the profits and gains derived from an industrial undertaking located in a backward district of category 'B' for three assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains of an industrial undertaking :

Provided that the total period of deduction does not exceed eight consecutive assessment years (or where the assessee is a co-operative society, twelve consecutive assessment years) :

Provided further that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2004.

(6) The amount of deduction in the case of the business of a ship shall be thirty per cent of the profits and gains derived from such ship for a period of ten consecutive assessment years including the initial assessment year provided that the ship—

(*i*) is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(*ii*) was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and

(*iii*) is brought into use by the Indian company at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995.

(7) The amount of deduction in the case of any hotel shall be—

(*a*) fifty per cent of the profits and gains derived from the business of such hotel for a period of ten consecutive years beginning from the initial assessment year as is located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant considerations, specify by notification in the Official Gazette and such hotel starts functioning at any time during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1994 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001:

Provided further that the said hotel is approved by the prescribed authority for the purpose of this clause in accordance with the rules made under this Act and where the said hotel is approved by the prescribed authority before the 31st day of March, 1992, shall be deemed to have been approved by the prescribed

authority for the purpose of this section in relation to the assessment year commencing on the 1st day of April, 1991;

(*b*) thirty per cent of the profits and gains derived from the business of such hotel as is located in any place other than those mentioned in sub-clause (*a*) for a period of ten consecutive years beginning from the initial assessment year if such hotel has started or starts functioning at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001;

(*c*) the deduction under clause (*a*) or clause (*b*) shall be available only if—

(*i*) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(*ii*) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(*iii*) the hotel is for the time being approved by the prescribed authority:

Provided that any hotel approved by the prescribed authority before the 1st day of April, 1999 shall be deemed to have been approved under this sub-section.

(7A) The amount of deduction in the case of any multiplex theatre shall be—

(*a*) fifty per cent of the profits and gains derived, from the business of building, owning and operating a multiplex theatre, for a period of five consecutive years beginning from the initial assessment year in any place :

Provided that nothing contained in this clause shall apply to a multiplex theatre located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee or a cantonment board or by any other name) of Chennai, Delhi, Mumbai or Kolkata;

(*b*) the deduction under clause (*a*) shall be allowable only if—

(*i*) such multiplex theatre is constructed at any time during the period beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2005;

(*ii*) the business of the multiplex theatre is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of any building or of any machinery or of plant previously used for any purpose;

(*iii*) the assessee furnishes the report of audit in such form and containing such particulars, as may be prescribed, duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, before the specified date referred to in section 44AB, certifying that the deduction has been correctly claimed.

(7B) The amount of deduction in the case of any convention centre shall be—

(*a*) fifty per cent of the profits and gains derived, by the assessee from the business of building, owning and operating a convention centre, for a period of five consecutive years beginning from the initial assessment year;

(*b*) the deduction under clause (*a*) shall be allowable only if—

(*i*) such convention centre is constructed at any time during the period beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2005;

(*ii*) the business of the convention centre is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of any building or of any machinery or plant previously used for any purpose;

(*iii*) the assessee furnishes the report of audit in such form and containing such particulars, as may be prescribed, duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2)

of section 288, before the specified date referred to in section 44AB, certifying that the deduction has been correctly claimed.

(8) The amount of deduction in the case of any company carrying on scientific research and development shall be hundred per cent of the profits and gains of such business for a period of five assessment years beginning from the initial assessment year if such company—

(*a*) is registered in India;

(*b*) has the main object of scientific and industrial research and development;

(*c*) is for the time being approved by the prescribed authority at any time before the 1st day of April, 1999.

(8A) The amount of deduction in the case of any company carrying on scientific research and development shall be hundred per cent of the profits and gains of such business for a period of ten consecutive assessment years, beginning from the initial assessment year, if such company—

(*i*) is registered in India;

(*ii*) has its main object the scientific and industrial research and development;

(*iii*) is for the time being approved by the prescribed authority at any time after the 31st day of March, 2000 but before the 1st day of April, 2007;

(*iv*) fulfils such other conditions as may be prescribed.

(9) The amount of deduction to an undertaking shall be hundred per cent of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following, namely:—

(*i*) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;

(*ii*) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997 but not later than the 31st day of March, 2017 :

Provided that the provisions of this clause shall not apply to blocks licensed

under a contract awarded after the 31st day of March, 2011 under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated the 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner;

(*iii*) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998 but not later than the 31st day of March, 2012;

(*iv*) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (hereafter referred to as "NELP-VIII") under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after the 1st day of April, 2009 but not later than the 31st day of March, 2017;

(*v*) is engaged in commercial production of natural gas in blocks licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks and begins commercial production of natural gas on or after the 1st day of April, 2009 but not later than the 31st day of March, 2017.

Explanation.—For the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th

February, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or a State Government in any other manner, shall be treated as a single "undertaking"

(10) The amount of deduction in the case of an undertaking developing and building housing projects approved before the 31st day of March, 2008 by a local authority shall be hundred per cent of the profits derived in the previous year relevant to any assessment year from such housing project if,—

(*a*) such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes such construction,—

(*i*) in a case where a housing project has been approved by the local authority before the 1st day of April, 2004, on or before the 31st day of

March, 2008;

(*ii*) in a case where a housing project has been, or, is approved by the local authority on or after the 1st day of April, 2004 but not later than the 31st day of March, 2005, within four years from the end of the financial year in which the housing project is approved by the local authority;

(*iii*) in a case where a housing project has been approved by the local authority on or after the 1st day of April, 2005, within five years from the end of the financial year in which the housing project is approved by the local authority.

Explanation.—For the purposes of this clause,—

(*i*) in a case where the approval in respect of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority;

(*ii*) the date of completion of construction of the housing project shall be taken to be the date on which the completion certificate in respect of such housing project is issued by the local authority;

(*b*) the project is on the size of a plot of land which has a minimum area of one acre:

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to a housing project carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings in areas declared to be slum areas under any law for the time being in force and such scheme is notified by the Board in this behalf;

(*c*) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the city of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place;

(*d*) the built-up area of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate built-up area of the housing project or five thousand square feet, whichever is higher;

(*e*) not more than one residential unit in the housing project is allotted to any person not being an individual; and

(*f*) in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons, namely:—

(*i*) the individual or the spouse or the minor children of such individual,

(*ii*) the Hindu undivided family in which such individual is the karta,

(*iii*) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the karta.

Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government).

(11) Notwithstanding anything contained in clause (*iii*) of sub-section (2) and sub-sections (3), (4) and (5), the amount of deduction in a case of industrial undertaking deriving profit from the business of setting up and operating a cold chain facility for agricultural produce, shall be hundred per cent of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from the operation of such facility in a manner that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) and subject to fulfilment of the condition that it

begins to operate such facility on or after the 1st day of April, 1999 but before the 1st day of April, 2004.

(11A) The amount of deduction in a case of an undertaking deriving profit from the business of processing, preservation and packaging of fruits or vegetables or meat and meat products or poultry or marine or dairy products or from the integrated business of handling, storage and transportation of food grains, shall be hundred per cent of the profits and gains derived from such undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten

consecutive assessment years and subject to fulfilment of the condition that it begins to operate such business on or after the 1st day of April, 2001:

Provided that the provisions of this section shall not apply to an undertaking engaged in the business of processing, preservation and packaging of meat or meat products or poultry or marine or dairy products if it begins to operate such business before the 1st day of April, 2009.

(11B) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area shall be hundred per cent of the profits and gains of such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

(*i*) such hospital is constructed at any time during the period beginning on the 1st day of October, 2004 and ending on the 31st day of March, 2008;

(*ii*) the hospital has at least one hundred beds for patients;

(*iii*) the construction of the hospital is in accordance with the regulations, for the time being in force, of the local authority; and

(*iv*) the assessee furnishes the report of audit in such form and containing such particulars, as may be prescribed, duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, before the specified date referred to in section 44AB, certifying that the deduction has been correctly claimed.

Explanation.—For the purposes of this sub-section, a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the concerned local authority.

(11C) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, shall be hundred per cent of the profits and gains derived from such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

(*i*) the hospital is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013;

(*ii*) the hospital has at least one hundred beds for patients;

(*iii*) the construction of the hospital is in accordance with the regulations or bye-laws of the local authority; and

(*iv*) the assessee furnishes the report of audit in such form and containing such particulars, as may be prescribed, duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, before the specified date referred to in section 44AB, certifying that the deduction has been correctly claimed.

Explanation.—For the purposes of this sub-section—

(*a*) a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned;

(*b*) "initial assessment year" means the assessment year relevant to the previous year in which the business of the hospital starts functioning;

(*c*) "excluded area" shall mean an area comprising—

(*i*) Greater Mumbai urban agglomeration;

(*ii*) Delhi urban agglomeration;

(*iii*) Kolkata urban agglomeration;

(*iv*) Chennai urban agglomeration;

(*v*) Hyderabad urban agglomeration;

(*vi*) Bangalore urban agglomeration;

(*vii*) Ahmedabad urban agglomeration;

(*viii*) District of Faridabad;

(*ix*) District of Gurgaon;

(*x*) District of GautamBudh Nagar;

(*xi*) District of Ghaziabad;

(*xii*) District of Gandhinagar; and

(*xiii*) City of Secunderabad;

(*d*) the area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(13) The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

(14) For the purposes of this section,—

(*a*) "built-up area" means the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units;

(*aa*) "cold chain facility" means a chain of facilities for storage or transportation of agricultural produce under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(*ab*) "convention centre" means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as may be prescribed;

(*b*) "hilly area" means any area located at a height of one thousand metres or more above the sea level;

(*c*) "initial assessment year"—

(*i*) in the case of an industrial undertaking or cold storage plant or ship or hotel, means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the cold chain facility or the ship is first brought into use or the business of the hotel starts functioning;

(*ii*) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (8);

(*iii*) in the case of an undertaking engaged in the business of commercial production or refining of mineral oil referred to in sub-section (9), means the assessment year relevant to the previous year in which the undertaking commences the commercial production or refining of mineral oil;

(*iv*) in the case of an undertaking engaged in the business of processing, preservation and packaging of fruits or vegetables or in the integrated business of handling, storage and transportation of food grains, means the assessment year relevant to the previous year in which the undertaking begins such business;

(*v*) in the case of a multiplex theatre, means the assessment year relevant to the previous year in which a cinema hall, being a part of the said multiplex theatre, starts operating on a commercial basis;

(*vi*) in the case of a convention centre, means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis;

(*vii*) in the case of an undertaking engaged in operating and maintaining a hospital in a rural area, means the assessment year relevant to the previous year in which the undertaking begins to provide medical services;

(*d*) "North-Eastern Region" means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland,

Sikkim and Tripura;

(*da*) "multiplex theatre" means a building of a prescribed area, comprising of two or more cinema theatres and commercial shops of such size and number and having such other facilities and amenities as may be prescribed;

(*e*) "place of pilgrimage" means a place where any temple, mosque, gurdwara, church or other place of public worship of renown throughout any State or States is situated;

(*f*) "rural area" means any area other than—

(*i*) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the preceding census of which relevant figures have been published before the first day of the previous year; or

(*ii*) an area within such distance not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (*i*), as the Central Government may, having regard to the stage of development of such area including the extent of, and scope for, urbanisation of such area and other relevant considerations specify in this behalf by notification in the Official Gazette;

(*g*) "small-scale industrial undertaking" means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

141.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 141 of the Bill provides for deduction in respect of profits and gains from certain industrial undertakings and provides for deduction for industrial undertakings in North-eastern region and also in respect of undertakings promoting housing projects. The clause corresponds to Section 80-IB of the Act. The provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assesse can claim these deductions. Considering these factors, a reference to the IT Act, 1961 is made for these provisions in the Bill”.

141.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Few important suggestions of the stakeholders are as produced below:-

(i) Section 141 of the Income-tax Bill, 2025 should ideally provide for the computation mechanism itself so that the Income-tax Bill, 2025 is self-contained. Also, under the conditions stipulated in clause (b), after (i) and (ii), (iii) be inserted as follows - "The deduction under this section from the profits and gains derived from a business shall not be admissible unless the accounts of the business for the tax year for which deduction is claimed have been audited by an accountant, as defined in section 515(3)(b) on or before the specified date mentioned in section 63 and the assessee furnishes by that date, the report of such audit in the prescribed form duly signed and verified by such accountant." Consequentially, the word "and" may be removed after (b)(i) and inserted after (b)(ii). Section 141 of the Income-tax Bill, 2025, which corresponds to section 80-IB of the Income-tax Act, 1961 provides deduction of an amount calculated as per the provisions of section 80-IB the Income-tax Act, 1961. Sections 138, 139, 141 and 144 correspond to section 80-IA, 80-IAB, 80-IB and 10AA. These four sections require that the amount of deduction be calculated as per the corresponding section of the Income-tax Act, 1961 and that the deduction under the new Act be allowed only for such tax years as would have been allowed under the corresponding section of the Income-tax Act, 1961 if the said Act had not been repealed. However, **the requirement of audit stipulated in these four sections is not mentioned in the Bill.** The same has to be incorporated in the Bill.

141.5 <u>Examination by the Committee:</u>

Responding to the above suggestion, the Ministry, in their written replies, have submitted as under:-

"Suggestion seeks full text of provision providing incentive under IT Act to be carried in Bill. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Further, the requirement of Audit arises from the fulfilment of the provisions of the corresponding section of the IT Act, for which due reference has been made. Therefore, it may not be feasible to act upon the suggestion.The proposed provisions are similar to the provisions in Income-tax

Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

141.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 141 of the Bill stipulates for deduction in respect of profits and gains from certain industrial undertakings and provides for deduction for industrial undertakings in North-eastern region and also in respect of undertakings promoting housing projects. The clause is similar to Section 80-IB of the Act. From the replies of the Ministry, the Committee find that the provisions of this section have a sunset clause and many changes have been made over the years. The concluding date is nearing and as such there is a limited period left for the claim of deductions under these sections. Further, no new assessee can claim these deductions. Considering these factors, a reference to the ITAct, 1961 is made for these provisions in the Bill. The Committee take into consideration the justifications provided by the Ministry for keeping the cross-reference to the IT Act, 1961. Still, the Committee observe that the cross referencing to the IT Act, 1961 in the current Bill does not suit to a neat reading, making it unappealing to refer back to a repealed Act for having a full grasp of the section in future. The Committee, however, find the other aspects of the proposed Clause not altering the content of the Section 80-IB of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. The Committee agrees with the remaining content of the proposed Clause and make no recommendation for any modification.

Clause - 142 - Deductions in respect of profits and gains from housing projects

142.1 Provisions proposed in the Income-Tax Bill, 2025:

142. In respect of any tax year, where— (a) the gross total income of an assessee, includes any profits and gains derived from the business of developing and building housing projects or rental housing projects referred to in section 80-IBA of the Income-tax Act,1961; and (b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed, there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that— (i) the amount of deduction is calculated as per the provisions of section 80-IBA of the Income-tax Act, 1961; and (ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IBA of the Income-tax Act, 1961, if the said Act had not been repealed.

142.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deductions in respect of profits and gains from housing projects.

80-IBA. (1) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.

(1A) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building rental housing project, there shall be allowed a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.

(2) For the purposes of sub-section (1), a housing project shall be a project which fulfils the following conditions, namely:—

(*a*) the project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2022;

(*b*) the project is completed within a period of five years from the date of approval by the competent authority:

Provided that,—

(*i*) where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first

approved by the competent authority; and

(*ii*) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;

(*c*) the carpet area of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate carpet area;

(*d*) the project is on a plot of land measuring not less than—

(*i*) one thousand square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai; or

(*ii*) two thousand square metres, where the project is located in any other place;

(*e*) the project is the only housing project on the plot of land as specified in clause (*d*);

(*f*) the carpet area of the residential unit comprised in the housing project does not exceed—

(*i*) thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai; or

(*ii*) sixty square metres, where the project is located in any other place;

(*g*) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

(*h*) the project utilises—

(*i*) not less than ninety per cent of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai, or

(*ii*) not less than eighty per cent of such floor area ratio where such project is located in any place other than the place referred to in sub-clause (*i*); and

(*i*) the assessee maintains separate books of account in respect of the housing project:

Provided that for the projects approved on or after the 1st day of September, 2019, the provisions of this sub-section shall have effect as if for clauses (*d*) to (*i*), the following clauses had been substituted, namely:—

"(*d*) the project is on a plot of land measuring not less than—

(*i*) one thousand square metres, where such project is located within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); or

(*ii*) two thousand square metres, where such project is located in any other place;

(*e*) the project is the only housing project on the plot of land as specified in clause (*d*);

(*f*) the carpet area of the residential unit comprised in the housing project does not exceed—

(*i*) sixty square metres, where such project is located within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); or

(*ii*) ninety square metres, where such project is located in any other place;

(*g*) the stamp duty value of a residential unit in the housing project does not exceed forty-five lakh rupees;

(*h*) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or

the spouse or the minor children of such individual;

(*i*) the project utilises—

(*I*) not less than ninety per cent of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where such project is located within the metropolitan

cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); or

(*II*) not less than eighty per cent of such floor area ratio where such project is located in any place other than the place referred to in sub-clause (*I*); and

(*j*) The assessee maintains separate books of account in respect of the housing project."

(3) Nothing contained in this section shall apply to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).

(4) Where the housing project is not completed within the period specified under clause (*b*) of sub-section (2) and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

(5) Where any amount of profits and gains derived from the business of developing and building housing projects is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.

(6) For the purposes of this section,—

(*a*) "carpet area" shall have the same meaning as assigned to it in clause (*k*) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(*b*) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(*c*) "floor area ratio" means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land;

(*d*) "housing project" means a project consisting predominantly of residential units with such other facilities and amenities as the competent authority may approve subject to the provisions of this section;

(*da*) "rental housing project" means a project which is notified by the Central Government in the Official Gazette under this clause on or before the 31st day of March, 2022 and fulfils such conditions as may be specified in the said notification;

(*e*) "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household;

(*f*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.

142.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 142 of the Bill provides for deductions in respect of profits and gains of business of developing and building housing projects. The clause corresponds to Section 80-IBA of the Act. The provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assesse can claim these deductions. Considering these factors, a reference to the IT Act, 1961 is made for these provisions in the Bill”.

142.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

An important suggestion of the stakeholder is as produced:-

> Section 142 of the Income-tax Bill, 2025 should ideally provide for the computation mechanism itself so that the Income-tax Bill is self-contained. Section 142 of the Income-tax Bill, 2025, which corresponds to section 80-IBA of the Income-tax Act, 1961 provides deduction of an amount calculated as per the provisions of section 80-IBA the Income-tax Act, 1961.

142.5 Examination by the Committee:

The Ministry, in their written response to the above suggestion have submitted as below:-

> "Suggestion seeks full text of provision providing incentive under IT Act to be carried in Bill. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Therefore, it may
>
> not be feasible to act upon the suggestion. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

142.6 Observations/Recommendations of the Committee:

The Committee take into note the deductions in respect of profits and gains from housing projects provided to the assessee through the proposed Clause 142, erstwhile Section 80-IBA of the IT Act, 1961. Further, it has been observed that other than simplification of language to make the bill concise and easy to comprehend, no substantial alteration has been proposed in the Income-Tax Bill, 2025. As in few earlier cases too, here also, the Committee observe that the benefit period of these provisions are nearing their end and no new assesses are being added as justification given by the Ministry for the cross-reference to the IT Act, 1961. However, the Committee maintain their view that the cross referencing to the IT Act, 1961 in the current Bill is not called for and provision may be further simplified by doing away with the referencing to IT Act, 1961. Hence, the

Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of the proposed Clause 142 also and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. The Committee also take into consideration the suggestion of the stakeholder for providing the computation mechanism itself in the Clause, but find the justification provided by the Ministry being satisfactory in nature for not doing so. Thus, the Committee, does not recommend any further change and accept the remaining content of the proposed Clause.

Clause - 143 - Special provisions in respect of certain undertakings in North-Eastern States.

143.1 Provisions proposed in the Income-Tax Bill, 2025:

143.(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking, to which this section applies, from any business referred to in sub-section (2), there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for ten consecutive tax years commencing with the initial tax year.

(2) This section applies to any undertaking which has, during the period beginning on the 1st April, 2007 and ending with the 1st April, 2017, begun or begins, in any of the North-Eastern States,— (a) to manufacture or produce any eligible article or thing; (b) to undertake substantial expansion to manufacture or produce any eligible article or thing; and (c) to carry on any eligible business.

(3) This section applies to any undertaking which fulfils all the following conditions:— (a) it is not formed by splitting up, or the reconstruction, of a business already in existence; (b) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose; (c) condition referred to in clause (a) shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 140(4),in the circumstances and within the period specified therein.

(4) For the purposes of sub-section (3)(b), the provisions of section 140(5) and (6) shall apply.

(5) Irrespective of anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in this Chapter in relation to the profits and gains of the undertaking.

(6) Irrespective of anything contained in this Act, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section or under second proviso to section 80-IB(4) of the Income-tax Act, 1961 exceeds ten tax years.

(7) The provisions contained in section 140(7) to (15) shall, so far as may be, apply to the eligible undertaking under this section.

(8) In this section,— (a) “eligible article or thing” means the article or thing other than the following:— (i) goods falling under Chapter 24 of the First Schedule to the

Central Excise Tariff Act, 1985, which pertains to tobacco and manufactured tobacco substitutes; (ii) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985; (iii) plastic carry bags of less than twenty microns as specified by the Ministry of Environment and Forests vide notification numbers S.O. 705(E), dated the 2nd September, 1999 and S.O. 698(E), dated the 17th June, 2003; and (iv) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985, produced by petroleum oil or gas refineries; (b) "eligible business" means the business of— (i) hotel (not below two star category); (ii) adventure and leisure sports including ropeways; (iii) providing medical and health services in the nature of nursing home with a minimum capacity of twenty-five beds; (iv) running an old-age home; (v) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training; (vi) running information technology related training centre; (vii) manufacturing of information technology hardware; and (viii) bio-technology; (c) "initial tax year" means the tax year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion; (d) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura; (e) "substantial expansion" means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the tax year in which the substantial expansion is undertaken.

143.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Special provisions in respect of certain undertakings in North-Eastern States.

80-IE. (1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking, to which this section applies, from any business referred to in sub-section (2), there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business for ten consecutive assessment years commencing with the initial assessment year.

(2) This section applies to any undertaking which has, during the period beginning on the 1st day of April, 2007 and ending before the 1st day of April, 2017, begun or begins, in any of the North-Eastern States,—

(*i*) to manufacture or produce any eligible article or thing;

(*ii*) to undertake substantial expansion to manufacture or produce any eligible article or thing;

(*iii*) to carry on any eligible business.

(3) This section applies to any undertaking which fulfils all the following conditions, namely :—

(*i*) it is not formed by splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in the said section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations 1* and *2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (*ii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10AA or section 10B or section 10BA, in relation to the profits and gains of the undertaking.

(5) Notwithstanding anything contained in this Act, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section, or under section 80-IC or under the second proviso to sub-section (4) of section 80-IB or under section 10C, as the case may be, exceeds ten assessment years.

(6) The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible undertaking under this section.

(7) For the purposes of this section,—

(*i*) "initial assessment year" means the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion;

(*ii*) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(*iii*) "substantial expansion" means increase in the investment in the plant and machinery by at least twenty-five per cent of the book value of plant and

machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken;

(*iv*) "eligible article or thing" means the article or thing other than the following :—

(*a*) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), which pertains to tobacco and manufactured tobacco substitutes;

(*b*) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(*c*) plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests *vide* Notification No. S.O. 705(E), dated the 2nd September, 1999 and S.O. 698(E), dated the 17th June, 2003; and

(*d*) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced by petroleum oil or gas refineries;

(*v*) "eligible business" means the business of,—

(*a*) hotel (not below two star category);

(*b*) adventure and leisure sports including ropeways;

(*c*) providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds;

(*d*) running an old-age home;

(*e*) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;

(*f*) running information technology related training centre;

(*g*) manufacturing of information technology hardware; and

(*h*) bio-technology.

143.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 143 of the Bill provides for special provisions in respect of profits and gains of certain undertakings with respect to production of eligible article or things in North-Eastern States. The clause corresponds to Section 80-IE of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

143.4 Examination by the Committee:

The Committee pondered upon the usage of the term "ending with the 1st April, 2017" in stating the duration of the 10 year period for beginning the business in the Clause since the comparative Section 80-IE of IT Act, 1961 uses the term "ending before the 1st April, 2017". In this context, the Ministry were requested to state the rationale behind such change, more so, when the change seems to cause ambiguity over the status of 1st April, 2017. Responding to the query, the Ministry have submitted as below:-

> "ending with the 1st April, 2017" includes 1st April 2017 as the last day of the period. "ending before the 1st April, 2017" excludes 1st April 2017 from the period. This is an acceptable change and drafting correction will be made accordingly".

143.5 Observations/Recommendations of the Committee

The Committee examined the proposed Clause 143 in the Income-Tax Bill, 2025 and the corresponding Section 80-IE of the Income-Tax Act, 1961 and find that although there is no substantive change in the content of the proposed Clause 143 which provides for special provisions in respect of profits and gains of certain undertakings with respect to production of eligible article or things in North-Eastern States, there is usage of "ending with the 1st April, 2017" in 143 (2), which creates ambiguity over the end date, whether it includes 1st April, 2017 also. Being pointed out, the Ministry have admitted it as drafting correction and should be read as "ending before the 1st April, 2017" instead. The Committee also take note of the reference to IT Act, 1961 and, as earlier, recommend the Ministry to remove the reference to the IT Act, 1961 from the body of the Clause

to Savings Clause of the Bill alongwith the correction of end date to "ending before the 1st April, 2017" in 143 (2). Further, in view of the foregoing that only simplification of remaining text is elicited in the Clause 143, and the satisfactory justification of the Ministry, the Committee accept the other content of the proposed Clause 143 in entirety.

<u>Clause – 144</u>– Special provisions in respect of newly established Units in Special Economic Zones.

144.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

144. In respect of any tax year , where— (a) in computing the total income of an assessee, being an entrepreneur as referred to in section 2(j) of the Special Economic Zones Act, 2005, who begins to manufacture or produce articles or things or provide any services referred to in section 10AA of the Income-tax Act, 1961; and (b) such assessee is eligible to claim a deduction from the profits and gains derived from the export, of such articles or things or from services for such tax year under the provisions of the said section, if the said Act had not been repealed, there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that— (i) the amount of deduction is calculated as per the provisions of section 10AA of the Income-tax Act, 1961; and (ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 10AA of the Income-tax Act, 1961, if the said Act had not been repealed.

144.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

80-IAB. (1) Where the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st day of April, 2005 under the Special Economic Zones Act, 2005, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for ten consecutive assessment years:

Provided that the provisions of this section shall not apply to an assessee, being a developer, where the development of Special Economic Zone begins on or after the 1st day of April, 2017.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which a Special Economic Zone has been notified by the Central Government :

Provided that where in computing the total income of any undertaking, being a Developer for any assessment year, its profits and gains had not been included by

application of the provisions of sub-section (13) of section 80-IA, the undertaking being the Developer shall be entitled to deduction referred to in this section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in sub-section (1) or sub-section (2), as the case may be :

Provided further that in a case where an undertaking, being a Developer who develops a Special Economic Zone on or after the 1st day of April, 2005 and transfers the operation and maintenance of such Special Economic Zone to another Developer (hereafter in this section referred to as the transferee Developer), the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.

(3) The provisions of sub-section (5) and sub-sections (7) to (12) of section 80-IA shall apply to the Special Economic Zones for the purpose of allowing deductions under sub-section (1).

Explanation.—For the purposes of this section, "Developer" and "Special Economic Zone" shall have the same meanings respectively as assigned to them in clauses (*g*) and (*za*) of section 2 of the Special Economic Zones Act, 2005.

144.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 144 of the Bill provides for deduction in respect of profits and gains of newly established units in Special Economic Zones. The clause corresponds to Section 10AA of the Act. The provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assesse can claim these deductions. Considering these factors, a reference to the ITAct, 1961 is made for these provisions in the Bill".

144.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some important suggestions of the Stakeholders in the context of the Clause 144 are summarized as below:-

(i) A date of applicability/sunset clause for each of the provisions may be inserted in the new Bill for clear delineation of the date/period of applicability of the export profit-linked incentives. The self sufficiency of new provisions is compromised by compulsory reliance on the old Act causing a burden on any reader of the statute. The suggested clause will enhance the overarching objective of ease of doing business.

(ii) Vide Finance Act 2016, Section 10AA, Income-Tax Act, 1962 was amended and it was provided that benefits will not be available after the1st day of April, 2021. It is suggested that Clause144(ii) should be amended as below: (ii) the deductions under this Act shall be allowed only for such tax years, as would have been allowed under section10AA of the IncomeTaxAct,1961, If the said Act had not been repealed, provided that the deductions under this Act **shall be allowed even after the 1st day of April 2021.** After the amendment vide the Finance Act 2016, growth of SEZs has slowed down and huge developed land is lying vacant as the units are not interested in operating in SEZs. It should be allowed on the pattern of IFSC where there is no such sunset clause.

(iii) Section 144 of the Income-tax Bill, 2025 should ideally provide for the computation mechanism itself so that the Income-tax Bill is self-contained. Also, under the conditions stipulated in clause (b), after (i) and (ii), (iii) be inserted as follows - "The deduction under this section from the profits and gains derived by an assessee, being an entrepreneur, from export shall not be admissible unless theaccounts of the undertaking for the tax year for which deduction is claimed have been audited by an accountant, as defined in section 515(3)(b) on or before the specified date mentioned in section 63 and the assessee furnishes by that date, the report of such audit in the prescribed form duly signed and verified by such accountant. Consequentially, the word "and" may be removed after (b)(i) and inserted after (b)(ii).
Section 144 of the Income-tax Bill, 2025, which corresponds to section 10AA of the Income-tax Act, 1961 provides deduction of an amount calculated as per the provisions of section 10AA of the Income-tax Act, 1961. Sections 138, 139, 141 and 144 of the Income-Tax Bill, 2025 correspond to section 80-IA, 80-IAB, 80-IB and 10AA of the Income-tax Act, 1961. These four sections require that the amountof deduction be calculated as per the corresponding section of the Income-tax Act, 1961 and that the deduction under the new Act be allowed only for such tax years as would have been allowed under the corresponding section of the Income-tax Act, 1961 if the said Act had not been repealed. However, the requirement of audit stipulated in these four sections is not mentioned in the Bill. The same has to be incorporated in the Bill.

144.5 <u>Examination by the Committee:</u>

The Ministry have replied to the corresponding suggestions in their written submissions, as under:-

(i) "The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few

numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made.This suggestion has no merit. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(ii) "The suggestion made by the stakeholder is in the **nature of policy change** which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(iii) "Suggestion seeks full text of provision providing incentive under IT Act to be carried in Bill. The provisions of these sections have a sunset clause and many changes have been made over the years. There is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. Considering these factors, the redrafting of these provisions is unwieldy and a reference to the IT Act, 1961 is hence made. Further, the requirement of Audit arises from the fulfilment of the provisions of the corresponding section of the IT Act, for which due reference has been made. Therefore, it may not be feasible to act upon the suggestion.The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

144.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause144 of the Bill provides for deduction in respect of profits and gains of newly established units in Special Economic Zones and that the Clause corresponds to Section 10AA of the IT Act, 1961. The provisions of this section have a sunset clause. The Committee find that the Ministry contend that there is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assesses and further, no new

assesse can claim these deductions. Considering these factors, a reference to the IT Act, 1961 is made for these provisions in the Bill. The Committee take into consideration, the justification for the cross-reference to the IT Act, 1961. Still, the Committee believe that the cross referencing to the IT Act, 1961 in the current Bill may be done away with, so that the reader of the new Act is not burdened to look back into a repealed Act for referencing. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and keep it in the Savings Clause 536 of the Bill. The Committee, further, agree with the remaining content of the proposed Clause and does not recommend any change.

Clause – 145– Deduction for businesses engaged in collecting and processing of bio-degradable waste.

145.1 Provisions proposed in the Income-Tax Bill, 2025:

145. (1) If the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for,— (a) generating power; or (b) producing bio-fertilizers, bio-pesticides or biological agents; or (c) producing bio-gas; or (d) making pellets or briquettes for fuel or organic manure, there shall be allowed a deduction equal to the whole amount of such profits and gains for five consecutive tax years, beginning with the tax year in which such business commences.

Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

145.2 Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste.

80JJA. Where the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for generating power or producing bio-fertilizers, bio-pesticides or other biological agents or for producing bio-gas or making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to the whole of such profits and gains for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which such business commences.

145.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 145 of the Bill seeks to provide for deduction for businesses engaged in collecting and processing of bio-degradable waste. The clause corresponds to Section 80JJA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

145.4 Examination by the Committee:

Section 80 JJA of IT Act, 1961 used the term "other biological agents" in connection with the production as a result of the treatment of biodegradable waste. However, clause 145 mentions "biological agents", with the omission of the term "other". In this context, the Committee were desirous of clarification on the need for narrowing the definition now, and if the word "other" encouraged innovation through the scientific creativity and its omission would have a discouraging effect on the R&D sector of Life Sciences. The Ministry in their written replies have submitted as under:-

"This is an acceptable change and drafting correction will be made accordingly. The term "other" will be used in accordance with the provisions of the Act.'

145.5 <u>Observations/Recommendations of the Committee:</u>

On the examination of the proposed Clause 145 of the Bill, the Committee note that the Clause seeks to provide for deduction for businesses engaged in collecting and processing of bio-degradable waste, which was provisioned in Section 80JJA of the Income-Tax Act, 1961. However, clause 145 mentions "biological agents", with the omission of the term "other" as had been used in the Section 80 JJA of IT Act, 1961. In this context, the Committee on seekng clarification from te Ministry on the need for narrowing the definition now, and if the word "other" encouraged innovation through the scientific creativity and its omission would have a discouraging effect on the R&D sector of Life Sciences, the Ministry accepted it as a drafting correction. Barring this, there has been no substantive change in the content of the Clause as compared to the earlier Section other than textual simplification and there is retention of the same intent in this clause, as evinced from the justification provided by the Ministry also. Thus, the Committee, while recommending the addition of the term "other" in 145 (1)(b) as previously used in the IT Act, 1961 accept the remaining proposed Clause.

Clause – 146 – Deduction in respect of additional employee cost.

146.1 Provisions proposed in the Income-Tax Bill, 2025:

146. (1) Subject to the conditions specified in sub-sections (2) and (3), if the gross total income of an assessee, to whom section 63 applies, includes any profits and gains from business, a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the tax year shall be allowed.

(2) The deduction referred to in sub-section (1) shall be allowed for three consecutive tax years, beginning from the tax year in which the employment is provided.

(3) The deduction under sub-section (1) shall not be allowed, if— (a) the business is formed by splitting up, or the reconstruction, of an existing business; or (b) the business is acquired by the assessee through transfer from any other person or as a result of any business reorganisation; (c) the assessee does not furnish the report of an accountant, before the specified date as referred to in section 63, giving the particulars in the report, as prescribed.

(4) The condition referred to in sub-section (3)(a) shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 140(4) in the circumstances and within the period specified in that sub-section.

(5) In this section,— (a) “additional employee cost” means— (i) the total emoluments paid or payable to additional employees employed during the tax year; or (ii) emoluments paid or payable to employees employed during the tax year, where that year is the first year of a new business, and it shall be nil in the case of an existing business, if— (A) there is no increase in the number of employees from the total number employed as on the last day of the preceding tax year; or (B) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode, as prescribed; (b) “additional employee” means an employee who has been employed during the tax year and whose employment increases the total number of employees employed by the employer as on the last day of the preceding tax year, but does not include any employee— (i) whose total emoluments exceed twenty-five thousand rupees per month; (ii) for whom the Government pays the entire contribution under the Employees’ Pension Scheme notified as per the provisions of the Employees, Provident Funds and Miscellaneous Provisions Act,1952; (iii) employed for less than one hundred and fifty days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this

section shall apply accordingly; (iv) employed for less than two hundred and forty days during the tax year in case of any other assessee, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this section shall apply accordingly; and (v) who does not participate in a recognised provident fund; (c) “emoluments” means any sum paid or payable to an employee in lieu of his employment, by whatever name called, but does not include— (i) employer contributions to any pension or provident fund or any other fund for the benefit of the employee as mandated by any law; and (ii) lump sum payments paid or payable to an employee at the time of termination of his service, superannuation, or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

146.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of employment of new employees.

80JJAA. (1) Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

(2) No deduction under sub-section (1) shall be allowed,—

(*a*) if the business is formed by splitting up, or the reconstruction, of an existing business:

Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(*b*) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;

(*c*) unless the assessee furnishes the report of the accountant, as defined in the *Explanation* below sub-section (2) of section 288, before the specified date referred to in section 44AB giving such particulars in the report as may be prescribed.

Explanation.—For the purposes of this section,—

(*i*) "additional employee cost" means the total emoluments paid or payable to additional employees employed during the previous year:

Provided that in the case of an existing business, the additional employee cost shall be *nil,* if—

(*a*) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;

(*b*) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed:

Provided further that in the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost;

(*ii*) "additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include—

(*a*) an employee whose total emoluments are more than twenty-five thousand rupees per month; or

(*b*) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or

(*c*) an employee employed for a period of less than two hundred and forty days during the previous year; or

(*d*) an employee who does not participate in the recognised provident fund:

Provided that in the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, the provisions of sub-clause (*c*) shall have effect as if for the words "two hundred and forty days", the

words "one hundred and fifty days" had been substituted:

Provided further that where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly;

(*iii*) "emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—

(*a*) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and

(*b*) any lump sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

(3) The provisions of this section, as they stood immediately prior to their amendment by the Finance Act, 2016, shall apply to an assessee eligible to claim any deduction for any assessment year commencing on or before the 1st day of April, 2016.

146.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 146 of the Bill provides for deduction in respect of additional employee cost in certain cases for specified period and shall be subject to conditions specified therein. The clause corresponds to Section 80JJAA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

146.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some of the important suggestions of the stakeholders are produced as below:-

(i) The assessee does not furnish the report of a chartered accountant in practice or **cost accountant** in practice, before the specified date as referred to in section 63, giving the particulars in the report, as prescribed. Additional employee cost means the total emoluments paid to additional employees hired during a tax year as compared to previous tax year. This substantially affects the cost statements of a company hence the cost accountants in practice may be allowed to furnish such a report.

(ii) The limit of per employee emoluments of INR 25,000 per month may be enhanced to **INR 100,000** per month. The limit of per employee

emoluments of INR 25,000 per month was introduced in the year 2016. This leaves out a significant portion of entry-level hires, particularly in the IT industry where starting salaries often exceed this threshold. Therefore, the limit may be enhanced.

(iii) To cover additional employees, it is recommended to increase the salary limit to widen the scope of deduction that a taxpayer can claim under Clause 146
This is likely to reduce tax for the enterprise, as additional employment could result in increment in individual income-tax collections. As per the Code on Wages, 2019, there is an increase in the minimum wages payable. Further, as per the Code on Wages, 2019, the definition of employee includes managerial and administrative persons.

(iv) Section 80JJAA was first introduced in 1998 to encourage employment of new industrial workmen and subsequently revamped in 2016 to liberalise& expand to all sectors. It provides deduction of 30% of 'additional employee cost' for three years by way of deduction from Gross Total Income. It is available even if taxpayer has opted for concessional tax regime. However, the revamped s.80JJAA has not created the desired offtake in the economy by way of new employment The revenue impact of this provision is very low. One of the primary reasons for this is the limit of monthly emoluments of Rs 25,000 for the employee to qualify as "additional employee". This has resulted in tax benefit being restricted to recruitment of only "blue collared" employees like house keeping, security, etc. In Budget (No.2) 2024, the Government announced bold and ambitious direct benefit "employment linked incentives" through 3 schemes for new employment. These schemes are not yet implemented. As an interim measure, considering the imperative of employment creation in the economy, it is desirable for Government to also explore additional tax policy measures to incentivise new employment. It is recommended to Increase the monthly salary limit from Rs 25,000 per month to Rs 1 lakh per month. The limit of Rs 1 lakh per month is consistent with ceiling limit for employment linked incentive schemes announced by the Government in 2024. This will result in more taxpayers getting meaningful benefit and achieve the government's objective of incentivising creation of new employment. For taxpayers who avail benefit of "employment linked incentives" schemes of the Government (once they are implemented), benefit u/s 80JJAA may be denied.

146.5 <u>Examination by the Committee:</u>

The Ministry in their written replies to the corresponding suggestions have submitted as below:-

(i) “The suggestion made by the stakeholder to incorporate **"cost accountants" i**s not in line with the provisions of the IT Act 1961. This is in the **nature of policy change** which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025”.

(ii) “The suggestion made by the stakeholder is in the **nature of policy change** which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025”.

(iii) Suggestion seeks to enhance Value of emoluments per employee to avail 80JJAA. The value is less than 25000 per month, which is in line with average monthly wage in India for low and semi-skilled wage earners. It is the stated policy of the Government to phase out exemptions deductions and other incentives while at the same time gradually reducing the tax rates and slabs. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025”.

(iv) Suggestion seeks to enhance Value of emoluments per employee to avail 80JJAA. The value is less than 25000 per month, which is in line with average monthly wage in India for low and semi-skilled wage earners. It is the stated policy of the Government to phase out exemptions deductions and other incentives while at the same time gradually reducing the tax

rates and slabs. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

146.5.2 During the course of examination, in a sitting, the representative of Ministry of Finance, regarding the additional employee deduction stated that:-

"But then there is a deduction, 80 JJAA. This deduction is available under the new regime as well as old regime. The employee's wages are limited to Rs.25,000 and based on that employee's wages, the taxpayer is allowed a deduction. So, it is 30 per cent of the employee cost that he has incurred during the year. The suggestion is that Rs.25,000 should be increased. This deduction itself has been made available to increase employment of low-wage persons. That is why, we have not agreed to this increase of limit. In any case, it is also a budget-related matter".

146.6 <u>Observations/Recommendations of the Committee:</u>

The examination of the proposed Clause 146 of the Bill reveals that it provides for deduction in respect of additional employee cost in certain cases for specified period and that the clause corresponds to Section 80JJAA of the Act. The Committee find that only the provision of the existing section has been textually simplified and has been retained with the same intent in this clause. However, the Committee note the response of the Ministry to the suggestion for enhancing the value of emoluments per employee to avail 80JJAA being satisfactory as it has been contended by the Ministry that the deduction itself has been made available to increase employment of low-wage persons and it is also a budget-related matter. In view of the foregoing, the Committee appreciate the rationale behind

the approach of the Ministry as sound enough and hence accept the proposed Clause in its entirety without any alteration.

Clause - 147– Deductions for income of Offshore Banking Units and Units of International Financial Services Centre.

147.1 Provisions proposed in the Income-Tax Bill, 2025:

147. (1) Where the following assessee has any income of the nature referred to in sub-section (3), there shall be allowed a deduction equal to 100% of such income:— (a) a scheduled bank, or a bank incorporated under the laws of a country outside India, having an Offshore Banking Unit in a Special Economic Zone; or (b) a unit of an International Financial Services Centre.

(2) The deduction shall be allowed— (a) for ten consecutive tax years beginning from the relevant tax year in the case of an entity mentioned in sub-section (1)(a); (b) for ten consecutive tax years within fifteen years beginning from the relevant tax year, at the option of an assessee, in the case of an entity mentioned in sub-section (1)(b).

(3) The income referred to in sub-section (3) shall be the income from— (a) an Offshore Banking Unit located in a Special Economic Zone; or (b) the business activities referred to in section 6(1) of the Banking Regulation Act, 1949, with undertakings in a Special Economic Zone or entities that develop, develop and operate, or develop, operate and maintain Special Economic Zone; or (c) the approved business activities of any Unit of an International Financial Services Centre set up in a Special Economic Zone; or 19 of 1952. Deductions for income of Offshore Banking Units and Units of International Financial Services Centre. Deduction in respect of certain inter-corporate dividends. Deduction in respect of income of co-operative societies. (d) transfer of an asset being, an aircraft or a ship, leased by a unit referred to in clause (c) if such unit commenced its business operations by 31st March, 2030.

(4) The deduction under this section shall be allowed only if the assessee submits along with the return of income— (a) a report in the form as prescribed, from an accountant certifying the correctness of claim of deduction; and (b) a copy of the— (i) permission obtained under section 23(1)(a) of the Banking Regulation Act, 1949; or (ii) permission or registration obtained under the International Financial Services Centres Authority Act, 2019.

(5) In this section,— (a) “relevant tax year” shall be,— (i) in case of an entity mentioned in sub-section (1)(a), the tax year in which permission under section 23(1)(a) of the Banking Regulation Act, 1949, or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law was obtained; or (ii) in case of an entity mentioned in sub-section (1)(b), the tax year in which permission under section 23(1)(a) of the Banking Regulation Act, 1949, or permission or registration under the Securities and Exchange Board of India Act,

1992, or permission or registration under the International Financial Services Centre Authority Act, 2019 was obtained; (b) “Unit” shall have the same meaning as assigned to it in section 2(zc) of the Special Economic Zones Act, 2005; (c) “aircraft” and “ship” shall have the meanings respectively assigned to them in Schedule VI Note 3.

147.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre.

80LA. (1) Where the gross total income of an assessee, being a scheduled bank, or, any bank incorporated by or under the laws of a country outside India; and having an Offshore Banking Unit in a Special Economic Zone, includes any income referred to in sub-section (2), there shall be allowed, in accordance with and subject to the provisions of this section, a deduction from such income, of an amount equal to—

(*a*) one hundred per cent of such income for five consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission, under clause (*a*) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 (10 of 1949) or permission or registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or any other relevant law was obtained, and thereafter;

(*b*) fifty per cent of such income for five consecutive assessment years:

[98][Provided that for the assessment year commencing on or after the 1st day of April, 2023, the deduction under this clause shall be one hundred per cent of such income.]

(1A) Where the gross total income of an assessee, being a Unit of an International Financial Services Centre, includes any income referred to in sub-section (2), there shall be allowed, in accordance with and subject to the provisions of this section, a deduction from such income, of an amount equal to one hundred per cent of such income for any ten consecutive assessment years, at the option of the assessee, out of fifteen years, beginning with the assessment year relevant to the previous year in which the permission, under clause (*a*) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 (10 of 1949) or permission or registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or permission or registration under the International Financial Services Centres Authority Act, 2019 (50 of 2019) was obtained.

(2) The income referred to in sub-section (1) and sub-section (1A) shall be the income—

(*a*) from an Offshore Banking Unit in a Special Economic Zone; or

(*b*) from the business referred to in sub-section (1) of section 6 of the Banking Regulation Act, 1949 (10 of 1949) with an undertaking located in a Special Economic Zone or any other undertaking which develops, develops and operates or develops, operates and maintains a Special Economic Zone; or

(*c*) from any Unit of the International Financial Services Centre from its business for which it has been approved for setting up in such a Centre in a Special Economic Zone;

(*d*) arising from the transfer of an asset, being an aircraft or a ship, which was leased by a unit referred to in clause (*c*) to a person, subject to the condition that the unit has commenced operation on or before the 31st day of March, [99][*2030*].

Explanation.—For the purposes of this clause, "aircraft" and "ship" shall have the meaning assigned to it in the *Explanation* to clause (*4F*) of section 10.

(3) No deduction under this section shall be allowed unless the assessee furnishes along with the return of income,—

(*i*) the report, in the form specified by the Central Board of Direct Taxes under clause (*i*) of sub-section (2) of section 80LA, as it stood immediately before its substitution by this section, of an accountant as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section; and

(*ii*) a copy of the permission obtained under clause (*a*) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 (10 of 1949) or copy of permission or registration obtained under the International Financial Services Centres Authority Act, 2019 (50 of 2019).

Explanation.—For the purposes of this section,—

(*a*) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*b*) "scheduled bank" shall have the same meaning as assigned to it in clause (*e*)

of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);

(*c*) "Special Economic Zone" shall have the same meaning as assigned to it in clause (*za*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*d*) "Unit" shall have the same meaning as assigned to it in clause (*zc*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

147.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 147 of the Bill provides for deductions for income of Offshore Banking Units and Units of International Financial Services Centre. The clause corresponds to Section 80LA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

147.4 Important Views/Suggestions given by Experts/Stakeholders:

Key suggestions from the stakeholders are summarized as under:-

(i) Absence of reference to 'gross total income' may raise controversy about eligibility for exemption even without positive gross total income due to losses set off. To avoid confusion, it is recommended to include a reference to 'gross total income' in section 147. Additionally, correct the typo in section 147(3) to refer to section 147(1) instead of S. 147(3) itself.

(ii) (a) a report in the form as prescribed, from a chartered accountant in practice or **a cost accountant** in practice certifying the correctness of claim of deduction. Cost accountants are adequately qualified to prepare and certify such types of reports, as claimed. Hence the cost accountants in practice may be allowed to furnish such a report after looking into their demand objectively.

(iii) Sub-section (2A) may be inserted – Sub-section (2A) may be inserted – (2A) Where the assessee has claimed deduction under section 80-LA of the Income-tax Act, 1961 for any assessment year or years, deduction under clause (b) of sub section (1) of this section would be allowable for the remaining tax year or years under this Act. Deduction of 100% of income is allowable under section 80LA of the Income-tax Act, 1961 in respect of any ten consecutive assessment years, at the option of the assessee, being a unit of IFSC, out of fifteen years. Where an assessee, being a unit of IFSC, has started claiming deduction under section 80LA of the Income-taxAct, 1961 for any assessment year or years, he should be eligible for deduction under section 147 of the

Income-tax Bill, 2025 only for the remaining tax years out of 10 years. This provision needs to be incorporated.

147.5 <u>Examination by the Committee:</u>

The response of the Ministry to the corresponding suggestions of the stakeholders are summarized as under:-

(i) **"Clause 147 - Reference to Gross Total Income:** Any claim of deduction has to be from the gross total income only (clause 121(2) of the IT Bill). Where there is no gross total income or no positive gross total income, there is no possibility of claim of exemption. Therefore, there is no ambiguity in the present provisions of the Bill. This suggestion does not have merits.

ACCEPTABLE Incorrect referencing to 147(3) to be corrected. The provisions proposed in the Income-Tax Bill 2025 under clause mentioned in col no 2 are simplified version of the corresponding provisions of IT Act 1961 as mentioned in col no 3, and no amendment has been introduced in the simplified version from the policy perspective except for a typographic error".

(ii) "The suggestion made by the stakeholder to incorporate **"cost accountants" i**s not in line with the provisions of the IT Act 1961. This is in the **nature of policy change** which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025".

(iii) "Suggestion seeks reference of IT Act for incentives allowed under IT Act and continued in Bill. This is covered in the Repeal and Savings clause in 536(2), the provisions of which are : ***536. (2)*** *Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (3)—**(a) nothing shall** affect the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or**(b) nothing shall** affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;* Therefore, this suggestion is already addressed".The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than

simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025.

147.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, while scrutinizing the proposed clause 147 of the IT Bill, 2025 pertaining to the deductions for income of Offshore Banking Units and Units of International Financial Services Centre, find it to be a parallel provision of Section 80 LA of the Income-Tax Act, 1961. There is no marked difference in the contents and is primarily an exercise of simplification of texts. However, an incorrect referencing to 147 (3) itself, instead of 147 (1) to ascertain the nature of income referred to in 147 (1) is revealed. On seeking the views of the Ministry, the inadvertent drafting error was accepted. Hence, the Committee recommend the Ministry to rectify the drafting error in 147(3) to 147(1). The Committee accept the remaining provisions of the proposed Clause147 without any amendment.

Clause – 148– Deduction in respect of certain inter-corporate dividends.

148.1 Provisions proposed in the Income-Tax Bill, 2025:

148. (1) If the gross total income of a domestic company in any tax year includes any income by way of dividends from— (a) any other domestic company; or (b) a foreign company; or (c) a business trust, such domestic company shall, be allowed a deduction of an amount equal to so much of the income by way of dividends received from the person mentioned in clause (a) or (b) or (c) as does not exceed the amount of dividend distributed by it by the date one month before the due date for filing the return of income under section 263(1). (2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

148.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of certain inter-corporate dividends.

80M. (1) Where the gross total income of a domestic company in any previous year includes any income by way of dividends from any other domestic company or a foreign company or a business trust, there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividends received from such other domestic company or foreign company or business trust as does not exceed the amount of dividend distributed by it on or before the due date.

(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

Explanation.—For the purposes of this section, the expression "due date" means the date one month prior to the date for furnishing the return of income under sub-section (1) of section 139.

148.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 148 of the Bill seeks to provide for deduction in respect of certain inter-corporate dividends i.e. dividends from any other domestic company or a foreign company or a business trust. The clause corresponds to Section 80M of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

148.4 Important Views/Suggestions given by Experts/Stakeholders:

Important suggestion from the stakeholders are summarized as below:-

(i) Currently, the deduction of the dividends distributed by an Indian Company under Section 80M of the Act against dividend income is available after considering the business losses and unabsorbed depreciation of the Indian Company. This results in the utilization of such business loses and unabsorbed depreciation of the Indian Company before the benefit of Section 80M can be availed which is not the intent of the Law. Deduction of the dividend distributed to an Indian Company under Section 80M of the Act against dividend income should be available before considering set off of business losses and unabsorbed depreciation of the holding company. To enable this, **it is recommended that instead of providing deduction under 80 M of the Act, the deduction can be provided under Section 57 of the Act, which allows deductions against income chargeable under the head ''Income from other sources''.** Section 80M of the Act was introduced in Finance Act 2020 to mitigate the issue of double taxation of dividend income thereby avoiding cascading taxation in multi-tier structures. In cases where an Indian Company has an unabsorbed depreciation and business losses available for set off, while computing the taxable income of the Indian Company, set off of such an unabsorbed depreciation and business loses are to be made prior to availing deduction under Section 80M. Once the set off is done, the taxpayer has lower business loses and unabsorbed depreciation and, therefore, there is a tax effect suffered by the taxpayer. However, since the gross total income Is nil, the deduction under section 80M is not allowed to the taxpayer and the distribution of the dividend income would anyways be taxable in the hands of the taxpayer.

(ii) Reinstate the benefit of deduction for inter-corporate dividend under section 148 of the ITB (corresponding to section 80M of the Act) in respect of companies opting for CTR of 22%. The absence of a specific provision of allowing deduction for inter-corporate dividend in section 20 0 of the ITB, which corresponds to section 115BAA of the Act (allowing companies to opt for 22% tax rate), means that companies opting for the CTR under section 200 of the ITB after 1 April 2026, will not be able to claim a deduction for intercorporate dividends This creates a discrepancy as the provision for such a deduction exists under the current Act Thus, there appears to be an unintentional discrimination between companies opting for the 22% tax rate and those opting for the 15% tax rate (i.e manufacturing companies).

(iii)APREA and Indian REITs Association Inter-corporate dividend benefit to Companies opting for Concessional Corporate Tax Regime. Under Section 115BAA\BAB of Act,

domestic companies opting for concessional tax regime (CTR) of either 22% or 15% are not allowed to claim any income linked deductions except for deduction in respect of (a) employment cost of new employees (S.80JJA of the Act corresponding to S.146 of the Bill) (b) inter corporate dividend (S.80M of the Act corresponding to S.148 of the Bill) and (c) profits of IFSC unit (s.80LA of theAct for s.115BAA only) subject to fulfillment of conditions stipulated in the respective sections Under S.200(1)(a) of the Bill which corresponds with S.115BAA(2)(i) of the Act, deduction for employment cost of new employees is allowed but the deduction for inter-corporate dividends is not allowed The benefit of deduction of inter-corporate dividend is allowed under S.201 of the Bill (S.115BAB of the Act) which grants CTR benefit of 15%, however the similar benefit is inadvertently omitted in section 200(1)(a) of the Bill In absence of specific provision, deduction for inter-corporate dividends cannot be claimed by companies opting for CTR under S.200 of bill (correspond to S.115BAA of the Act) after 1 April 2026 The discrimination between companies opting for 22% rate vs 15% rate appears to be unintentional Hence, it is recommended to reinstate the benefit of deduction of inter-corporate dividends u/s 148 of the Bill (corresponding to S.80M of the Act). To reinstate the benefit of deduction of inter-corporate dividends u/s 148 of Bill (corresponding to S.80M of the Act).

(iv) Deduction for Inter-corporate dividends should not be removed Provides for a concessional tax rate of 22% (plus surcharge and cess) subject to conditions However, the way S 200 is currently worded, it does not allow companies choosing the lower tax rate to claim deduction under S 148 (which is equivalent to S 80M of current IT Act) • Under S 80M of current IT Act, Indian companies are allowed to deduct dividends received from domestic or foreign companies, or business trusts, when these dividends are distributed to their shareholders, to prevent cascading taxation in multi-tier structures • For example, if Company A earns dividend income of INR 1000, it would need to pay tax @ 22% or 30% on that amount However, if Company A distributes the entire INR 1000 to its shareholders as dividends, it can claim a deduction, resulting in no taxable dividend income for the company Consequently, the dividend is taxed only at the shareholder level However, under the IT Bill, if Company A opts for the concessional corporate tax rate of 22%, it would still pay tax on the INR 1000 dividend, as the deduction would not be available Additionally, shareholders would also be taxed on the same INR 1000, resulting in double taxation Amend S 200 of IT Bill to allow deduction under S 148 (S 80M of current IT Act) for inter-corporate dividends. This would result in hardship for domestic companies that operate through complex corporate structures with multiple subsidiaries and holding companies and opt for 22% tax rate This would make them less tax-efficient and necessitate restructuring before declaring dividends.

(V) Companies are eligible for taxation at lower rate of 22% subject to certain conditions One of the condition includes computation of total income without Chapter VI-A deductions, excluding deduction under section 80JJAA (deduction in respect of employment of new employees) Our recommendation Section 80M (Clause 148 of the New Bill) allows domestic companies to deduct dividends received from other domestic companies, thereby eliminating the cascading effect of taxation on dividend income and avoiding double taxation. This seems to be a drafting error and reference to section 148 of the new bill be added under section 200 of the new Bill.

(vi) It is proposed that **clause 200 be amended to allow deduction of clause 148** even with respect to companies mentioned in clause 200 (corresponding section 115BAA of the Income-Tax Act, 1961) to remove the cascading effect of dividend taxation in cases where the same dividend amount is successively distributed by multiple companies down a corporate chain, and to prevent a higher effective tax burden for multi-tiered corporate structures to remove multiple layers of taxation as the dividend is passed down from one company to another, before reaching the ultimate shareholder. Removing the cascading effect by allowing deductions for dividends that are redistributed aligns with global best practices and promotes tax neutrality.

(vii) Section 200(1)(a)(ii) should be amended as under :- (ii) Chapter VIII other than the provisions of Section 146 and 148; or While giving option to Companies to opt for concessional tax regime (22%), it was prescribed that deduction u/s 80M will be allowable. Basis this, Companies has done their cost benefit analysis and opted for concessional tax regime. Now withdrawing this deduction will be against the spirit of the law.

148.5 <u>Examination by the Committee:</u>

In view of the above suggestions, the written replies of the Ministry, correspondingly, are summarized below:-

(i) “It is suggested that the deduction under Section 80M for inter-corporate dividends should be given under Section 57 so that even entities that have no gross profit may benefit from it. Deductions are allowed only where GTI is positive. This is a principle in vogue for all kinds of deductions. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to

comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

(ii) "**ACCEPTED:** This is a drafting Correction. The reference to Clause 148 (Section 80M in the Act) is to be included in Clause 200(1)(a)(ii). The suggestion is acceptable. The proposed provision is the simplified version

of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(iii) "**ACCEPTED:** Same as above. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(iv) "Accepted: Same as above. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(v) "Accepted. Same as above. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(vi) "Accepted. Same as above. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(vii) "Accepted. Same as above. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

148.5.2 On the issue of deductions under erstwhile Section 80M, when enquired during the Sitting, the representative, Ministry of Finance, deposed as under:-

"the suggestion is that there is a deduction under 80(M). 80(M) is like dividends are received and when they are paid, then for whatever has been paid, Rs.100 is received and Rs.50 is paid or Rs.40 is paid. For this Rs.40, that deduction is allowed and the taxpayer is required to pay tax only net Rs.60. So, that is effectively deduction under 80(M). So, all deductions are

allowed after gross total income. The suggestion is that if the gross total income is nil, then we cannot claim this deduction because

that is a requirement of the law earlier also, that deduction can only be given where the gross total income is positive. The stakeholder is asking that because you are allowing deduction in a particular manner, so I am not able to fully offset whatever deduction is available to me under 80(M). Why do you not allow it under income from other sources so that I can claim the full extent of deduction? Our response to that is that it is a settled provision that deductions are allowed from gross total income. Gross total income, wherever it is negative or it is nil, then deductions are not allowed. So, it is not just with 80(M), it is with any other kind of deduction. If the taxpayer is having nil gross total income or he is running into losses, then, why should he be paying dividend? Somebody running into losses should not be paying dividend".

148.5.3 Elaborating further on the same, the Secretary, Ministry of Finance (Department of Revenue) submitted before the Committee as mentioned below:-

"सर, अगर इस एक्ट के संदर्भ में देखें तो आपको जैसे हम लोगों ने बताया, इस नए एक्ट मतलब नए बिल में जो अप्रोच रही है, तो ऐसा कोई पॉलिसी चेंज नहीं किया गया है, जो एग्जिस्टिंग एक्ट की तुलना में किसी भी तरह से टैक्स ट्रीटमेंट में बदलाव लोगों को या किसी तरह का इंप्लीकेशन करे। यह पहला पॉइंट है। जहाँ तक दूसरा पॉइंट है कि हम लोगों ने अपने टैक्स रिजीम को सुधारने के लिए काफी, जो हमने शुरू में भी बैकग्राउंड दिया था, काफी सारे एक्शंस लिये गए हैं इंक्लूडिंग न्यू टैक्स रिजीम, जो सिंपलीफाइड है। टैक्स रेट लो किया गया, स्लैब्स बढ़ाये गए और उस सिस्टम को सिंपल रखा गया ताकि लोगों को टैक्स पे करने में आसानी रहे। जहाँ तक स्टॉर्टअप्स और सोवरेन फंड्स आदि का सवाल है, स्पेशल टैक्स ट्रीटमेंट उनको भी दिया गया है। ये जो जनरल पॉलिसीज हैं, to encourage more investments in India, to prevent flipping, स्टॉर्टअप्स जो यहाँ पर हैं, वे बाहर जाकरअपनी कंपनी स्थापित न करें, वह एक रेगुलर बजट में, डिफरेंट बजट्स में कई पॉलिसीज के थ्रू किया गया है। अगर आप चाहें तो उसको हम लिस्ट आउट करके आपको दे सकते हैं। हम यह एक आश्वासन देना चाहेंगे कि इस नए बिल में ऐसा कोई चेंज नहीं किया जा रहा है, जो एग्जिस्टिंग एक्ट की तुलना में किसी तरह से निगेटिव इंप्लीकेशन उस इश्यू पर दे सके"।

148.6 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that the proposed Clause 148 pertaining to the deduction in respect of certain inter-corporate dividends is similar to the Section 80M of the IT Act, 1961. The contents of the Section have been textually carried forward to

the IT Bill, 2025. It was further noted that an integral omission of the reference to Clause 148 (Section 80M in the Act) is to be included in Clause 200(1)(a)(ii) to maintain the uniformity of the carrying forward of the contents and to synchronise with the stance of no policy change proposed in the Bill. The Ministry on being enquired upon ceded to the omission by attributing to drafting error. Therefore, the Committee while accepting the other contents of the Clause 148, recommend the Ministry to incorporate the reference to Clause 148 in Clause 200 (1)(a)(ii) so that the benefit of deduction for inter-corporate dividend under section 148 of the ITB (corresponding to section 80M of the Act) in respect of companies opting for CTR of 22% is reinstated.

Clause - 149– Deduction in respect of income of co-operative societies

149.1 Provisions proposed in the Income-Tax Bill, 2025:

149. (1) If the gross total income of an assessee, being a co-operative society, includes any income referred to in sub-section (2), the sums specified in the said sub-section shall, in accordance with and subject to the provisions of this section, be allowed as deduction in computing the total income of such assessee.

(2) The sums referred to in sub-section (1) shall be the following:— (a) in the case of a co-operative society engaged in— (i) carrying on the business of banking or providing credit facilities to its members; or (ii) a cottage industry; or (iii) the marketing of agricultural produce grown by its members; or (iv) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or (v) the processing, without the aid of power, of the agricultural produce of its members; or (vi) the collective disposal of the labour of its members; or (vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members, the whole of the amount of profits and gains of business attributable to any one or more of such activities; (b) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits, or vegetables raised or grown by its members to— (i) a federal co-operative society, engaged in the business of supplying milk, oilseeds, fruits or vegetables; or (ii) the Government or a local authority; or (iii) a Government company, as defined in section 2(45) of the Companies Act, 2013, or a corporation established by or under a Central Act or State Act or Provincial Act, engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public, the whole of the amount of profits and gains of such business; (c) in the case of a co-operative society engaged in activities not specified in clause (a) or (b), (either independently of, or in addition to, all or any of the activities so specified), that amount of profits and gains attributable to such activities as does not exceed— (i) one lakh rupees, if the society is a consumers' co-operative society; and (ii) fifty thousand rupees, in any other case; (d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income; (e) in respect of any income by derived by the co-operative society from the letting of godowns or warehouses for storage, processing, or facilitating the marketing of commodities, the whole of such income; (f) in the case of a co-operative society, not being— (i) a housing society; or (ii) an urban consumers' society (being a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area, or cantonment); or (iii) a society carrying on transport business; or (iv) a society engaged in performing manufacturing operations with the aid of power, where the gross total

income does not exceed twenty thousand rupees, the amount of income— (i) by way of interest on securities; or (ii) any income from house property chargeable under section 20.

(3) In the case of a co-operative society as referred to in sub-section (2)(a)(vi) or (vii), provisions of sub-section (2) shall apply when the rules and bye-laws of the society restrict the voting rights to the following classes of members:— (i) the individuals who contribute their labour or carry on fishing or allied activities; or (ii) the co-operative credit societies which provide financial assistance to the society; or (iii) the State Government.

(4) The deduction under sub-section (1) in relation to the sums specified in sub-section (2)(a)or (b) or (c) or sub-section (3), shall be allowed with reference to the income referred to in those sub-sections included in the gross total income after reducing the deduction under section 80-IA of the Income-tax Act, 1961, if the assessee is also entitled to such deduction.

(5) The provision of this section shall not apply to any co-operative bank which is not a primary agricultural co-operative society or a primary co-operative agricultural and rural development bank.

(6) In this section,— (a) “consumers’ co-operative society” means a society for the benefit of the consumers; (b) “co-operative bank” and “primary agricultural credit society” have the same meanings as respectively assigned to them in Part V of the Banking Regulation Act, 1949; and (c) “primary co-operative agricultural and rural development bank” means a society having an area of operation confined to a taluk, the principal object of which is to provide long-term credit for agricultural and rural development activities.

149.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of income of co-operative societies.

80P. (1)Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2) The sums referred to in sub-section (1) shall be the following, namely :—

(*a*) in the case of a co-operative society engaged in—

(*i*) carrying on the business of banking or providing credit facilities to its members, or

(*ii*) a cottage industry, or

(*iii*) the marketing of agricultural produce grown by its members, or

(*iv*) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

(*v*) the processing, without the aid of power, of the agricultural produce of its members, or

(*vi*) the collective disposal of the labour of its members, or

(*vii*) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,

the whole of the amount of profits and gains of business attributable to any one or more of such activities :

Provided that in the case of a co-operative society falling under sub-clause (*vi*), or sub-clause (*vii*), the rules and bye-laws of the society restrict the voting rights to the following classes of its members, namely:—

(*1*) the individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities;

(*2*) the co-operative credit societies which provide financial assistance to the society;

(*3*) the State Government;

(*b*) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits or vegetables raised or grown by its members to—

(*i*) a federal co-operative society, being a society engaged in the business of supplying milk, oilseeds, fruits, or vegetables, as the case may be; or

(*ii*) the Government or a local authority; or

(*iii*) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public),

the whole of the amount of profits and gains of such business;

(*c*) in the case of a co-operative society engaged in activities other than those specified in clause (*a*) or clause (*b*) (either independently of, or in addition to, all or any of the activities so specified), so much of its profits and gains attributable to such activities as does not exceed,—

(*i*) where such co-operative society is a consumers' co-operative society, one hundred thousand rupees; and

(*ii*) in any other case, fifty thousand rupees.

Explanation.—In this clause, "consumers' co-operative society" means a society for the benefit of the consumers;

(*d*) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

(*e*) in respect of any income derived by the co-operative society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of such income;

(*f*) in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed twenty thousand rupees, the amount of any income by way of interest on securities or any income from house property chargeable under section 22.

Explanation.—For the purposes of this section, an "urban consumers' co-operative society" means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

(3) In a case where the assessee is entitled also to the deduction under section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA or section 80J, the deduction under sub-section (1) of this section, in relation to the sums specified in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (2), shall be allowed with reference to the income, if any, as referred to in those clauses included in the gross total income as reduced by the deductions under section 80HH, section 80HHA, section 80HHB, section 80HHC, section 80HHD, section 80-I, section 80-IA, section 80J and section 80JJ.

(4) The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation.—For the purposes of this sub-section,—

(*a*) "co-operative bank" and "primary agricultural credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(*b*) "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.

(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

Explanation.—For the purposes of this section, the expression "due date" means the date one month prior to the date for furnishing the return of income under sub-section (1) of section 139.

149.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 149 of the Bill seeks to provide for deduction in respect of income of co-operative societies. The clause corresponds to Section 80P of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

149.4 <u>Observations/Recommendations of the Committee:</u>

The examination of the proposed Clause 149 of the Bill with regard to the deduction in respect of income of co-operative societies revealed the fact before the Committee that there was only textual simplification as compared to the

corresponding Section 80 P of the IT Act, 1961. No changes are proposed in the content or the intent of the provision. Considering these aspects alongwith the satisfactory justification provided by the Ministry, the Committee accept the proposed Clause 149 of the Bill in its entirety. However, the Committee, find that there is a reference to IT Act, 1961 in 149(4) and as earlier, for a clean break, the Committee recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clause and instead create some provision in the Savings Clause 536 of the Bill.

Clause – 150 – Deduction in respect of certain income of Producer Companies.

150.1 Provisions proposed in the Income-Tax Bill, 2025:

150. (1) An assessee, who,— (a) is a Producer Company; (b) has a total turnover of less than one hundred crore rupees in any tax year; and (c) has any profits and gains derived from eligible business included in its gross total income, shall be allowed a deduction of 100% of the profits and gains attributable to such business for the tax year commencing on or after the 1st April, 2018, but before the 1st April, 2024.

(2) The deduction under this section shall be allowed after the gross total income of the assessee mentioned in sub-section (1) is reduced by any other deduction under this Chapter to which such assessee is entitled.

(3) For the purposes of this section,— (a) "eligible business" means— (i) the marketing of agricultural produce grown by the members; or (ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or (iii) the processing of the agricultural produce of the members; (b) "Member" shall have the same meaning as assigned to it in section 378A(e) of the Companies Act, 2013; (c) "Producer Company" shall have the same meaning as assigned to it in section 378A(1) of the Companies Act, 3013.

150.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of certain income of Producer Companies.

80PA. (1)Where the gross total income of an assessee, being a Producer Company having a total turnover of less than one hundred crore rupees in any previous year, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains attributable to such business for the previous year relevant to an assessment year commencing on or after the 1st day of April, 2019, but before the 1st day of April, 2025.

(2) In a case where the assessee is entitled also to deduction under any other provision of this Chapter, the deduction under this section shall be allowed with reference to the income, if any, as referred to in this section included in the gross total income as reduced by the deductions under such other provision of this Chapter.

Explanation.—For the purposes of this section,—

(*i*) "eligible business" means—

(*a*) the marketing of agricultural produce grown by the members; or

(*b*) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or

(*c*) the processing of the agricultural produce of the members;

(*ii*) "member" shall have the meaning assigned to it in clause (*d*) of section 581A of the Companies Act, 1956 (1 of 1956);

(*iii*) "Producer Company" shall have the meaning assigned to it in clause (*l*) of section 581A of the Companies Act, 1956 (1 of 1956).

150.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 150 of the Bill seeks to provide for deduction in respect of certain incomes of Producer Companies. The clause corresponds to Section 80PA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion of the stakeholder is produced as under:-

(i) Instead of "3013", "2013" should be inserted.

Examination by the Committee:

Responding to the above suggestion, the Ministry have submitted as below:-

(i) ACCEPTABLE: Drafting Correction. The typographical error is to be corrected to 2013 instead of 3013.

Observations/Recommendations of the Committee:

The Committee examined the proposed Clause 150 pertaining to the deduction in respect of certain income of Producer Companies and find that barring a typographical error in the last line of Clause 150 (3) wherein 3013 is written

instead of 2013, no material changes can be observed while comparing the proposed clause to its repository, Section 80 PA of the IT Act, 1961. The Ministry have accepted this as a typographical error which is to be corrected. Keeping this in view, alongwith the satisfactory justification of the Ministry, the Committee accept the proposed Clause.

Clause – 151 – Deduction in respect of royalty income, etc., of authors of certain books other than text books.

151.1 Provisions proposed in the Income-Tax Bill, 2025:

151. (1) Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section (2).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1), or an amount of three lakh rupees, whichever is less.

(3) Where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of 15% of the value of such books sold during the tax year shall be ignored.

(4) In respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority may allow in this behalf. Deduction in respect of certain income of Producer Companies.Deduction in respect of royalty income, etc., of authors of certain books other than text books.184 Deduction in respect of royalty on patents.

(5) Deduction under this section shall not be allowed unless the assessee furnishes a certificate in such form and manner, as prescribed, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section (1), along with the return of income, setting forth such particulars, as prescribed.

(6) Deduction under this section shall not be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(7) Where a deduction for any tax year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any tax year.

(8) In this section,— (a) “author” includes a joint author; (b) “books” shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called; (c) “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law in force for regulating payments and dealings in foreign exchange; and (d) “lump sum”, in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

151.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of royalty income, etc., of authors of certain books other than text-books.

80QQB. (1) Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section (2).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1), or an amount of three lakh rupees, whichever is less :

Provided that where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of fifteen per cent of the value of such books sold during the previous year shall be ignored :

Provided further that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(3) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form and in the prescribed manner, duly verified by any

person responsible for making such payment to the assessee as referred to in sub-section (1), along with the return of income, setting forth such particulars as may be prescribed.

(4) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(5) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any assessment year.

Explanation.—For the purposes of this section,—

(*a*) "author" includes a joint author;

(*b*) "books" shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called;

(*c*) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;

(*d*) "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

151.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 151 of the Bill provides for deduction in respect of royalty income, etc., of authors of certain books other than text-books. The clause corresponds to Section 80QQB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

151.4 <u>Examination by the Committee:</u>

The Committee, during the course of examination of the Clause 151 pertaining to deduction in respect of royalty income etc., of authors of certain books other than text–books needed a clarification on the change in the quantum of deduction under the Section 80QQA of the IT Act, 1961, which allowed the deduction of 25% of eligible income to Clause 151 of the IT Bill, 2025 which provisions for 100% of eligible income or Rs. 3 lakh, whichever is less. The Committee feel that it creates a situation wherein Clause 151 seems to be more generous for authors earning up to Rs. 3 lakh in

royalty/copyright income, but less so for high-earning authors, for whom the deduction is capped. This might have a deterrent effect on the Authors getting their books published here and may seek better tax havens. Responding to this query, the Ministry have responded in their written replies as under:-

> "There are two sections in the IT Act for authors of books viz.- section 80QQA and 80QQB. Clause 151 provides for a capped deduction for authors of books other than text books to the extent of 100% of royalty income or ₹3 lakh, whichever is lower. This is consistent with the provisions of the corresponding Section 80QQB of the Act. Section 80QQA which provided for 25% deduction for authors of text books in Indian languages. is sunset and there is no corresponding clause in the IT Bill. There are thus, no new provisions or deductions provided in the Bill when compared with the Act in respect of royalty on books." **(RLoP III, pg. no. 7)**

151.5 <u>Observations/Recommendations of the Committee:</u>

The Committee find from the examination of Clause 151 of the Bill that it provides for deduction in respect of royalty income, etc., of authors of certain books other than text-books. The proposed clause corresponds to Section 80QQB of the IT Act, 1961. Having gone through the justification provided by the Ministry and the satisfactory response of the Ministry to the query associated with the change in the capping for claiming deduction against the royalty, the Committee are of the opinion that the provision of the existing section has been textually simplified and retained with the same intent in this clause. Hence, the Committee accept the proposed clause in its entirety.

Clause - 152– Deduction in respect of royalty on patents.

152.1 Provisions proposed in the Income-Tax Bill, 2025:

152. (1) An assessee, being an individual, who is—– (a) a resident in India; (b) a patentee; (c) in receipt of income by way of royalty in respect of a patent registered on or after the 1st April, 2003 under the Patents Act, 1970; and. (d) having gross total income for the tax year which includes royalty, shall be allowed a deduction from such income computed in the manner specified in sub-sections (2) to (6).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1) or three lakh rupees, whichever is less.

(3) Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.

(4) In respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority referred to in section 151(8)(c) may allow in this behalf.

(5) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the authority as prescribed, along with the return of income setting forth such particulars, as prescribed.

(6) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in such form, from the authority or authorities, as prescribed, along with the return of income.

(7) In this section,—– (a) “Controller” means the authority as defined in section 2(1)(b) of the Patents Act, 1970; (b) “lump sum” includes a non-refundable advance payment for royalties; (c) “patent” means any patent granted, including a patent of addition, under the Patents Act, 1970; (d) “patentee” means the true and first inventor recorded as the patentee under the Patents Act, 1970, including joint patentees recorded as such true and first inventors; (e) “patent of addition” shall have the same meaning as assigned to it in section 2(1)(q) of the Patents Act, 1970; (f) “patented article” and “patented process” shall have the same meanings as assigned to them in section 2(1)(o) of the Patents Act, 1970; (g) “royalty” in respect of a patent, means consideration for—– (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(ii) the imparting of any information concerning the working of, or the use of, a patent; or (iii) the use of any patent; or (iv) the rendering of any services in connection with the activities referred to in sub-clauses (i) to (iii), but does not include any consideration,— (A) which would be the income of the recipient chargeable under the head "Capital gains"; or (B) for sale of product manufactured with the use of patented process or of the patented article for commercial use; and (h) "true and first inventor" shall have the same meaning as assigned to it in section 2(1)(y) of the Patents Act, 1970.

152.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Deduction in respect of royalty on patents.

80RRB. (1) Where in the case of an assessee, being an individual, who is—

(*a*) resident in India;

(*b*) a patentee;

(*c*) in receipt of any income by way of royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970 (39 of 1970), and

his gross total income of the previous year includes royalty, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, from such income, of an amount equal to the whole of such income or three lakh rupees, whichever is less:

Provided that where a compulsory licence is granted in respect of any patent under the Patents Act, 1970 (39 of 1970), the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act :

Provided further that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority referred to in clause (*c*) of the *Explanation* to section 80QQB may allow in this behalf.

(2) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

(3) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the

prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

(4) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed, under any other provision of this Act in any assessment year.

Explanation.—For the purposes of this section,—

(*a*) "Controller" shall have the meaning assigned to it in clause (*b*) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);

(*b*) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(*c*) "patent" means a patent (including a patent of addition) granted under the Patents Act, 1970 (39 of 1970);

(*d*) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, 1970 (39 of 1970), and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(*e*) "patent of addition" shall have the meaning assigned to it in clause (*q*) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);

(*f*) "patented article" and "patented process" shall have the meanings respectively assigned to them in clause (*o*) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);

(*g*) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use) for—

(*i*) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) the imparting of any information concerning the working of, or the use of, a patent; or

(*iii*) the use of any patent; or

(*iv*) the rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*);

(*h*) "true and first inventor" shall have the meaning assigned to it in clause (*y*) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970).

152.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 152 of the Bill provides for deduction in respect of royalty on patents. The clause corresponds to Section 80RRB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

152.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion of the stakeholder is produced below:-

A sub-clause similar to sub-section (4) of section 80RRB needs to be inserted to provide that where a deduction has been claimed and allowed under this section, then no deduction shall be allowed in respect of such income under any other provision.

152.5 Examination by the Committee:

Responding to the above suggestion, the Ministry have submitted as under:-

"Accepted: Suggestion: Deduction in respect of royalty on patents once allowed, should not be allowed for the same income again under any provision in any tax year. This will be in line with the provisions of 80RRB (4). The suggestion is acceptable. Drafting correction may be made in cl. 152". The proposed provisions are similar to the provisions in Income-tax Act, 1961 apart from this drafting correction.

152.6 Observations/Recommendations of the Committee:

The Committee note that Clause 152 of the Bill is parallel to the Section 80RRB of the IT Act, 1961 and provides for deduction in respect of royalty on patents. While the provision of the existing section has been textually simplified and retained

with the same intent in this clause, the Committee, further note the absence of a limiting provision of deduction in respect of royalty on patents in terms of not to be claimed again once deduction already claimed for same income, under any provision in any tax year, as had been earlier provided for

with the provisions of 80RRB (4) in the IT Act, 1961. The Ministry addressed this omission and are amenable to carry out the Drafting correction. Thus, the Committee recommend the Ministry to carry out suitable correction in the Clause 152 and incorporate the limiting provision of availing the deduction only once for the same income in a tax year. Besides, the Committee are satisfied with the other contents of the proposed Clause.

D.—Deductions in respect of other incomes

Clause - 153– Deduction for interest on deposits.

153.1 Provisions proposed in the Income-Tax Bill, 2025:

153. (1) An assessee who is— (a) an individual, not being a senior citizen; or (b) an individual, being a senior citizen; or (c) a Hindu undivided family, shall be allowed a deduction from the gross total income, subject to conditions specified in sub-section (2), where it includes income by way of interest on deposits with— (i) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act); or Deduction for interest on deposits. Deduction in case of a person with disability. Rebate to be allowed in computing income-tax. (ii) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or (iii) a Post Office as defined in section 2(k) of the Post Office Act, 2023.

(2) The deduction under sub-section (1) shall be allowed for a tax year as follows:— (a) in case of assessee mentioned in sub-section 1(a) or (c), the whole of the interest up to a maximum amount of ten thousand rupees on deposits in a savings account, excluding time deposits; (b) in case of assessee mentioned in sub-section (1)(b), the whole of the interest up to a maximum amount of fifty thousand rupess on deposits in a savings account, including time deposits.

(3) Where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

(4) In this section, “time deposits” means the deposits repayable on expiry of fixed periods.

153.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of interest on deposits in savings account.

80TTA. (1) Where the gross total income of an assessee (other than the assessee referred to in section 80TTB), being an individual or a Hindu undivided family, includes any income by way of interest on deposits (not being time deposits) in a savings account with—

(*a*) a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of

that Act);

(*b*) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(*c*) a Post Office as defined in clause (*k*) of section 2 of the Indian Post Office Act, 1898 (6 of 1898),

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee a deduction as specified hereunder, namely:—

(*i*) in a case where the amount of such income does not exceed in the aggregate ten thousand rupees, the whole of such amount; and

(*ii*) in any other case, ten thousand rupees.

(2) Where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

Explanation.—For the purposes of this section, "time deposits" means the deposits repayable on expiry of fixed periods.

153.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 153 of the Bill provides for certain deduction for interest on savings account deposits (excluding time deposits) for individuals and Hindu undivided families. The clause corresponds to Section 80TTA and section 80TTB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

153.4 <u>Examination by the Committee:</u>

Regarding a query of the Committee about Clause 153 pertaining to the deduction for interest on deposits, Ministry were requested to present their views on the aspect of providing deductions on the deposits including time deposits to the non-senior citizen assesses also, the Ministry have responded in their written replies as under:-

“It is the stated policy of governemnt of India to phase out exemptions and deductions while rationalising tax rates. The provision has been specially made for

senior citizens and is not meant to give plenary benefit to all taxpayers. The non-senior citizens are given deductions only for non-fixed deposits".

153.5 <u>Observations/Recommendations of the Committee:</u>

The Committee after going through the contents of the Clause 153 and the parallel Section 80TTA and section 80TTB of the Act find that Clause 153 of the Bill provides for certain deduction for interest on savings account deposits (excluding time deposits) for individuals and Hindu undivided families. There is literal transportation without any substantial change and the provision of the existing section has only been textually simplified and retained with the same intent in this clause. Thus, the Committee, finding the justification of the Ministry for the proposed Clause satisfactory, accept the proposed Clause 153 in its entirety.

E.—Other deductions

Clause – 154 – Deduction in case of a person with disability.

154.1 Provisions proposed in the Income-Tax Bill, 2025:

154. (1) An individual, being resident in India, who is certified by a medical authority, at any time during the tax year, as a person with disability or person with severe disability, shall be allowed a deduction of seventy-five thousand rupees or one lakh and twenty-five thousand rupees, respectively, while computing his total income.

(2) The deduction under sub-section (1) shall be allowed only if all of the following conditions are fulfilled:— (a) the individual furnishes a copy of the certificate issued by the medical authority; (b) if the certificate specifies that the disability needs reassessment of its extent after a period stipulated in it, the deduction shall not be allowed for any tax year succeeding the tax year in which the certificate expires, unless a new disability certificate is obtained and submitted; and (c) the certificate referred to in clauses (a) and (b) of this sub-section shall be furnished in the form and manner, as prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(3) For the purposes of this section, “disability”, “medical authority”, “person with disability” or “person with severe disability” shall have the same meanings as provided in section 127.

154.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Deduction in case of a person with disability.

80U. (1) In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of seventy-five thousand rupees:

Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "seventy-five thousand rupees", the words "one hundred and twenty-five thousand rupees" had been substituted.

(2) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed :

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry

of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

Explanation.—For the purposes of this section,—

(*a*) "disability" shall have the meaning assigned to it in clause (*i*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and includes "autism", "cerebral palsy" and "multiple disabilities" referred to in clauses (*a*), (*c*) and (*h*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*b*) "medical authority" means the medical authority as referred to in clause (*p*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (*a*), (*c*), (*h*), (*j*) and (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*c*) "person with disability" means a person referred to in clause (*t*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), or clause (*j*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*d*) "person with severe disability" means—

(*i*) a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); or

(*ii*) a person with severe disability referred to in clause (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).

154.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 154 of the Bill provides for deduction in case of a person with disability and to provide for deduction for an individual resident who is certified by a medical authority as a person with disability or severe disability. The clause corresponds to Section 80U of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

154.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion of the stakeholder is mentioned as under:-

> Honour UDID under RPwD Act 2016. Despite UDID viz a Central Government document under RPwD Act 2016, Tax Department is still requiring a Medical Certificate in its own format certifying the disability from a recognized Medical authority.

154.5 Examination by the Committee:

The Ministry in their written reply on the above suggestion have submitted as under:-

> "It is suggested that the UDID (Unique Disabled ID) issued under RPwD Act must be honored by the Department instead of requiring a medical certificate for deduction under section 80U/Clause 154. The deduction under Income-tax Act is allowed for specified purposes. Alignment fully with any other Act will have unintended consequences. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

154.5.2 During the examination of the IT Bill, 2025, in a sitting, the representatives of the Ministry of Finance, on the issue of certificate for claiming deduction under Section 80U submitted as below:-

> "there is a deduction under Section 80U in the old regime where deduction is allowed to a person who is having a disability. So, the suggestion is that there is a unique disabled ID which is issued under RPWD Act. So, in our clause, in our section, we have provided that the person has to give a certificate issued by a medical authority that he is suffering from disability. On that basis, on the basis of that certificate, he is allowed deduction for disability. So, suggestion is that instead of that certificate, you just take

that UDID which is issued under unique disabled RPWD Act. Sir, there are, we are saying that there are certain conditions associated with the certificate. The certificate sometimes is

valid only for a limited period, two years, three years, and then after that, it has to be renewed. That is how, Sir, the deduction is required to be claimed on the basis of that certificate. Then, there are other conditions also inbuilt into the section. So, UDID will not satisfy the provisions of the law, Sir". ……. "the certificate will specify that this disability is a permanent disability. Then, that certificate itself will say that it is a permanent……Sir, where the authority is issuing that certificate, it itself issues a certificate for a limited period…..that is an administrative issue. We will definitely look into that".

154.5.3 Explaining to the Committee further on the specific issue, the Secretary, Ministry of Finance (Department of Revenue) stated as under:-

"महोदय, एक्ट कह रहा है कि यदि कोई व्यक्ति डिसेबिलिटी या सीवियर डिसेबिलिटी के लिए आइडेंटीफाई किया गया है, वह मेडिकल सर्टिफिकेट के बेसिस पर इनकम टैक्स बैनिफिट ले सकता है। यदि सर्टिफिकेट में यह है कि कुछ समय बाद रिअसेसमेंट करना है तो वह बेनिफिट केवल उसी पीरियड के लिए रहेगा। इसका मतलब यह है कि इसमें वे लोग भी जुड़ पाएंगे जो किसी दुर्घटना में या किसी वजह से कुछ समय के लिए वे शरीर से पूरा काम नहीं कर पाते हैं, तो उस टेम्परेरी पीरियड के लिए उन्हें टैक्स बेनिफिट मिलेगा। अगर एक्ट में उनको सर्टिफिकेट दिया जा रहा है, whether such temporary disabilities are covered or not, one will have to verify it…महोदय, इसे चैक कर लेते हैं।".

154.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the proposed Clause 154 of IT Bill, 2025 is similar to Section 80U of the 1961 Act provisioning for deduction in case of a person with disability and to provide for deduction for an individual resident who is certified by a medical authority as a person with disability or severe disability. The Committee find uniformity between the proposed clause and Section 80U of the 1961 Act and is satisfied with the textual simplification. Therefore, the Committee, keeping in view, the justification provide by the Ministry accept the proposed Clause 154 in entirety.

CHAPTER IX

REBATES AND RELIEFS

A.—Rebates and reliefs

Clause – 155 – Rebate to be allowed in computing income-tax.

155.1 Provisions proposed in the Income-Tax Bill, 2025:

155. (1) In computing income-tax on the total income of an assessee with which he is chargeable for any tax year, there shall be allowed from income-tax (as computed before allowing the deductions under this Chapter), subject to the provisions of section 156, the deductions specified therein. (2) The deduction under section 156, shall not, in any case, exceed income-tax (as computed before allowing the deductions under this Chapter) on the total income of the assessee with which he is chargeable for any tax year.

155.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Rebate to be allowed in computing income-tax.

87. (1) In computing the amount of income-tax on the total income of an assessee with which he is chargeable for any assessment year, there shall be allowed from the amount of income-tax (as computed before allowing the deductions under this Chapter), in accordance with and subject to the provisions of [1][sections 87A and 88E], the deductions specified in those sections.

(2) The aggregate amount of the deductions under [1a][section 87A or section 88E] shall not, in any case, exceed the amount of income-tax (as computed before allowing the deductions under this Chapter) on the total income of the assessee with which he is chargeable for any assessment year.

155.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 155 of the Bill seeks to provide for rebate to be allowed in computing income-tax. The clause corresponds to Section 87 of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

155.4 Observations/Recommendations of the Committee:

The Committee find that the proposed Clause 155 associated with the Rebate to be allowed in computing income-tax is similar in intent to the Section 87 of the IT

Act, 1961. There is no substantial change barring the simplification of the text. Moreover, the Committee are also satisfied with the justification and reply of the Ministry regarding this Clause and, thus, accept the proposed Clause 155 in its entirety.

Clause – 156 –Rebate of income-tax in case of certain individuals.

156.1 Provisions proposed in the Income-Tax Bill, 2025:

156. (1) A resident individual assessee shall be entitled to a deduction of 100% of income-tax payable or twelve thousand five hundred rupees, whichever is less, from the income-tax (computed before allowing the deduction under this section) chargeable on the total income for any tax year if the total income does not exceed five lakh rupees.

(2) Where the total income of a resident individual assessee for any tax year is chargeable to tax under section 202(1), then from income-tax (computed before allowing the deduction under this section) following deductions shall be allowed, if— (a) the income does not exceed twelve lakh rupees, 100% of the income-tax payable or sixty thousand rupees, whichever is less; (b) the income exceeds twelve lakh rupees, the income-tax payable on the total income, reduced by total income which is in excess of twelve lakh rupees.

(3) The deduction under sub-section (2), shall not exceed income-tax payable as per the rates provided in section 202(1).

156.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Rebate of income-tax in case of certain individuals.

87A. An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income-tax or an amount of twelve thousand and five hundred rupees, whichever is less:

[2][Provided that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

(*a*) does not exceed [3][*seven*] hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred per cent of such income-tax or an amount of [4][*twenty-five*] thousand rupees, whichever is less;

(*b*) exceeds [3][*seven*] hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of [3][*seven*] hundred thousand rupees, the assessee shall be entitled to a

deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds seven hundred thousand rupees.]

Following second proviso shall be inserted after the proviso to section 87A by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided further *that the deduction under the first proviso, shall not exceed the amount of income-tax payable as per the rates provided in sub-section (1A) of section 115BAC.*

156.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 156 of the Bill seeks to provide for rebate of income-tax in case of certain individuals. The clause corresponds to Section 87A of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause".

156.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Few important suggestions from the stakeholders are summarized as under:-

(i) Ambiguity in language regarding rebate on special rate income and computation of marginal relief for income exceeding ₹12 lakh. Ambiguity in the proposed formula for marginal relief under Section 202(2)(b). Clarify that marginal relief cannot be negative and specify that rebate under Section 156 does not apply to special rate incomes. Amend respective special rate provisions to avoid litigation. Modify Section 156 to clarify that marginal relief cannot be negative. Use language similar to Section 45(4) of ITA 1961 to resolve ambiguity

(ii) The provisions for rebate may be presented in a tabular format, as done in other sections (like tax rates or surcharge slabs) for ease of comprehension. A tabular format makes it easier for taxpayers, tax professionals, and software systems to interpret eligibility and compute rebate. It also aligns with presentation used in other sections of the Bill, thereby improving uniformity, clarity, and ease of compliance.

(iv) The proposed section 156(2)(b) which provides for rebate in case total income is marginally above ₹ 12 lacs is not properly worded. The same is as under: "(b) the income exceeds twelve lakh rupees, the income tax

payable on the total income reduced by total income which is in excess of twelve lakh rupees." It means: (a) The rebate will be available in all cases even if tax payable on total income is less than the amount by which total income exceeds ₹ 12 lakhs rupees. (b) The language suggests that the amount of total income to be reduced from income-tax payable which will give absurd result. Hence, it is proposed to modify the same on the lines of present law as under: "(b) the total income exceeds twelve lakh rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of twelve lakh rupees, an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds twelve lakh rupees."

(iv) Clause 156(2)(b) may be amended as under: (b) the income exceeds twelve lakh rupees **and the income-tax payable on such income exceeds the amount by which the total income is in excess of twelve lakh rupees** the income-tax payable on the total income, reduced by total income which is in excess of twelve lakh rupees. Rationale: 1. Remove unintended consequences 2. Reduce tax litigation thereby providing certainty Marginal relief is a benefit provided to taxpayers when their income slightly exceeds a tax-free limit, ensuring they do not pay an excessively high tax compared to their income increase. Clause 156(2) provides for marginal relief in case of taxpayers whose income is marginally above the threshold of rupees twelve lakh (upto which rebate is available). In ITA 61 marginal relief is available only when income tax payable is higher than excess of total income over rupees twelve lakh. This condition ensures ceiling limit on total income upto which marginal relief is granted. Above condition is absent in ITB 25 which **could lead to marginal relief provision being applied for all cases where taxable income is above rupees twelve lakh** (without any upper limit). Further rebate under section 87A could become a negative number in the absence of above condition. To address this anomaly, provision may be amended in line with ITA 61.

156.5 <u>Examination by the Committee:</u>

The Ministry in their written replies have correspondingly stated as under:-

(i) "The suggestion made by the stakeholder regarding marginal relief is not correct. Marginal relief can not exceed the income in excess of Rs. 12 lakh. Therefore it can not be negative. Further, Clarity that rebate

u/s 156(2) of the Bill is not available against special rate incomes has been sought to be provided by way of the following –

(i) Clause 156(2) clearly states that the rebate is available where income is chargeable to tax u/s 202(1) of the Bill.

(ii) Clause 156(3) clearly states that the deduction u/s 156(2) shall not exceed income-tax payable as per the rates provided in section 202(1).

(iii) The provisions of cl. 202 are subject to the other provisions of Part A, B & C of the chapter XIII relating to special rate incomes.

(iv) FAQs have been issued for the IT Bill which have amply clarified the issue.

Similar provisions are there in section 87A and s. 115BAC (1A) of IT Act.

Thus, there is no ground for any ambiguity in this respect. It is quite clear that rebate of income-tax is not available on tax on incomes chargeable at special rates.

In view of the reasons stated, the suggestion has no merits".

The proposed provision is similar to the provisions of the Income-tax Act, 1961. There is no policy change. So, other than simplification of language to make the bill concise and easy to comprehend, no policy change has been proposed".

(ii) "The nature of these provisions are unique and require to be put in words rather than in a tabular format. Further, the nature of rebate for various levels of income has been released in the FAQs with the Budget 2025 that has all the required details. Ths table on Rebate and Marginal relief are given as Si.No 4 and Si.No 16 of FAQ.No1 issued with the Budget 2025, a copy of which is enclosed as **Annexure-1**. This suggestion is already addressed. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

(iii) "**ACCEPTED"** "The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(iv) "ACCEPTED: This is in the nature of drafting suggestion. The clause 156(2) may be modified accordingly. The suggestion is acceptable

and may be considered. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

156.5.2 On the issue of provisions of rebate to be presented in a tabular format, during the sitting of the Committee, the representative of the Ministry of Finance stated as under:-

> "there are provisions of rebate where rebate is allowed under Section 87A. So, they are saying that rebate for various levels of income should be provided in the law itself. When this rebate thing was changed in February 2025 Budget, we had issued detailed FAQs and also the tables stating how this rebate will operate. So, in the Act, we have given a formula, and that formula has to be applied for rebate, and then, for marginal relief. So, according to us, there may not be any requirement to build in those tables in the law itself".

156.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, on thorough examination of the Clause 156 of the Bill find that it seeks to provide for rebate of income-tax in case of certain individuals as provided under Section 87A of the Act. Other than textual simplification of the existing section, there is retention of the same intent in this clause. However, a closer look has brought to fore, presumably a drafting error in 156 (2)(b) which is read as <u>"(b) the income exceeds twelve lakh rupees, the income tax payable on the total income reduced by total income which is in excess of twelve lakh rupees".</u> The Committee understand that it is a deviation from the intent which can give rise to various interpretations causing unintended anomalies. Therefore, the Committee, while agreeing with the other provisions of the Clause 156, recommend the Ministry to amend 156 (2) (b) of the Clause to be read as under:-

<u>"the total income exceeds twelve lakh rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of twelve lakh rupees, an amount equal to the amount by which the</u>

income-tax payable on such total income is in excess of the amount by which the total income exceeds twelve lakh rupees".

Clause – 157 –Relief when salary, etc., is paid in arrears or in advance.

157.1 Provisions proposed in the Income-Tax Bill, 2025:

157. (1) Where the total income of an assessee is assessed at a rate higher than the rate at which it would otherwise have been assessed, due to the following receipts,— (a) a sum in the nature of arrear or advance salary; or (b) salary for more than twelve months in any one tax year; or (c) a payment in the nature of "profits in lieu of salary" under section 18(1); or (d) arrears of "family pension" as defined in section 93(1)(d), the Assessing Officer shall on an application made to him by the assessee in this behalf, grant such relief, as prescribed.

(2) No relief shall be granted on any income on which deduction has been claimed by the assessee in section 19(1)(Table: Sl. No. 12) for any amount mentioned therein, for such, or any other, tax year.

157.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Relief when salary, etc., is paid in arrears or in advance.

89. Where an assessee is in receipt of a sum in the nature of salary, being paid in arrears or in advance or is in receipt, in any one financial year, of salary for more than twelve months or a payment which under the provisions of clause (*3*) of section 17 is a profit in lieu of salary, or is in receipt of a sum in the nature of family pension as defined in the *Explanation* to clause (*iia*) of section 57, being paid in arrears, due to which his total income is assessed at a rate higher than that at which it would otherwise have been assessed, the Assessing Officer shall, on an application made to him in this behalf, grant such relief as may be prescribed:

Provided that no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (*i*) of clause (*10C*) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (*10C*) of section 10 in respect of such, or any other, assessment year.

157.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 157 of the Bill seeks to provide for relief when salary, etc, is paid in arrears or in advance. The clause corresponds to Section 89 of the Act. The provision of the

existing section has been textually simplified and retained with the same intent in this clause".

157.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

An important suggestion from the stakeholder is as mentioned below:-

> Enabling **auto-trigger of Form 10E in ITR utility or portal** when any eligible arrears/ advance salary/ family pension is reported. System should prompt user to fill year-wise breakup or import it from employer-supplied data (via Form 16/Salary schedule). Many taxpayers inadvertently fail to file Form 10E separately. This results in unwarranted litigation, Auto-trigger of Form 10E will – A. Help prevent disallowance of genuine relief. B. Ensure user-friendly experience for taxpayers, especially salaried individuals and pensioners. C. Align with government's digital-first, pre-filled return initiative. It will also reduce volume of grievances, rectifications, and litigation at CPC.

157.5 <u>Examination by the Committee:</u>

The Ministry in their written reply to the above suggestion have stated as under:-

> "This suggestion relates to the drafting of Rules/Forms and providing a Utility in filing Return of Income. This will be examined during the drafting of the Rules and the ITR. This suggestion is noted. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

157.5.2 When enquired upon the auto triggering of 10E for the ease of assesses, the representative of the Ministry of Finance submitted before the Committee as mentioned below:-

> "the suggestion is relating to drafting of rules and forms, and providing utility in filing return of income. The matter relates to rules, forms and utility. So, we will examine this during the drafting of rules and income tax returns. We have noted the suggestion".

<u>Observations/Recommendations of the Committee:</u>

The Committee find that Clause 157 of the Bill pertains to the provisions for claiming relief when salary, etc. is paid in arrears or in advance. This is parallel to the content and intent of the Section 89 of the Act. Textual simplification is visible here. Thus, the Committee, keeping under consideration the justification provided by the Ministry accept the proposed Clause 157 without any further changes.

Clause – 158 –Relief from taxation in income from retirement benefit account maintained in a notified country.

158.1 Provisions proposed in the Income-Tax Bill, 2025:

158. (1) The income accrued in a specified account, maintained in a notified country by a specified person, shall be taxed in a tax year, as prescribed.

(2) In this section,— (a) “notified country” means a country as notified by the Central Government; (b) “specified account” means an account maintained in a notified country by the specified person for his retirement benefits, which is taxed by that notified country at the time of withdrawal or redemption and, not on accrual basis; (c) “specified person” means a person resident in India having opened a specified account in a notified country while being non-resident in India and resident in that country.

158.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Relief from taxation in income from retirement benefit account maintained in a notified country.

89A. Where a specified person has income accrued in a specified account, such income shall be taxed in such manner and in such year as may be prescribed.

Explanation.—For the purposes of this section,—

(*a*) "notified country" means a country as may be notified by the Central Government in the Official Gazette for the purposes of this section;

(*b*) "specified account" means an account maintained in a notified country by the specified person in respect of his retirement benefits and the income from such account is not taxable on accrual basis but is taxed by such country at the time of withdrawal or redemption;

(*c*) "specified person" means a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country.

158.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 158 of the Bill seeks to provide for relief from taxation in income from retirement benefit account maintained in a notified country. The clause corresponds to Section 89A of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause”.

158.4 Important Views/Suggestions given by Experts/Stakeholders:

Few important suggestions of the stakeholders are produced as below:-

(i) The words **"as prescribed"** in sub-section (1) may be removed and the provisions of Rule 21AAA relating to taxation of income from retirement benefit account maintained in a notified country can be incorporated in section 158. It is suggested that the provisions of Rule 21AAA which provides the manner of taxation of income from retirement benefit account maintained in a notified country can be incorporated in section 158 for completeness and clarity.

(ii) Redraft clause 158(1) as *"The income accrued to a specified person in a specified account shall be taxed in the manner and in a tax year, as prescribed,"* 1. Clause 158 omits references to the **prescribed manner of taxation of specified accounts,** which is detailed in Rule 21AAA of the IT Rules. We would recommend a reinsertion. 2. recommended a drafting simplification since "specified account" is already defined to mean an account maintained in a notified country by a specified person

(iii) Redraft this provision as follows: **"specified account"** means an account maintained in a notified country by the specified person **for his** retirement benefits, the income from which is taxed by that notified country at the time of withdrawal or redemption and, not on accrual basis;" Our recommendation aligns the language of this provision with the language of Explanation (b) to section 89A of the IT Act.

158.5 <u>Examination by the Committee:</u>

The Ministry, in their written replies have furnished correspondingly as produced below-

(i) "This suggestion relates to the drafting of Rules and incorporating the Rule in the Clause itself. **The Rule 21AAA prescribes the conditions**, the prescription for exercising the option, other conditions and the Form for making the option. Considering that this is part of the delegated legislation made for the Govt. to prescribe rules to enable the implementation of the provision and to bring in ease of application it may not be feasible to accept this suggestion. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective."

(ii) "**ACCEPTED:**

(i) This is in the nature of drafting correction. The long line in Clause 158(1) may be redrafted as *"The income accrued to a specified*

*person in a specified account shall be taxed **in the manner** and in a tax year, as prescribed,"*

(ii) This is in the nature of drafting correction. The drafting of the Clause is consistent with the drafting in the IT Act though the mention of "notified country" is given in the Explanation rather than the section. However, the suggestion is acceptable and may be considered.

The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

(iii) "**ACCEPTED**: The suggestion made by the stakeholder is in the nature of a drafting suggestion and the phrase ***"the income from which"*** instead of ***"which"*** may be added to provide clarity and consistency with the Act. This is acceptable. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error".

158.5.2 On the issue of incorporating the Clause in the rule itself, the representative of the Ministry of Finance submitted before the Committee as under:-

"there is a rule. Then, the suggestion is that the rule should be incorporated in the law itself. So, the rule 21AAA has been discussed earlier also. A huge body of rules and subordinate legislation cannot be a part of the main law".

158.5.3 In view of the intent of relief proposed through the Clause and similar to Section 89 A of the IT Act, 1961, the Ministry were requested to further clarify upon the implication of such relief with the provisions of DTAAs; eligibility of certain accounts (e.g., employer pension vs. individual retirement accounts); whether relief applied to both principal and deposits, or only to the income component; and the modalities involved in the event of partial withdrawals or phased annuity payments. In their written response, the Ministry have clarified as under:-

"In order to address the mismatch in the year of taxability of withdrawal from retirement funds by residents who had opened such fund when they were non resident in India and resident in foreign countries, Section 89A has been inserted vide Finance Act, 2021 with effect from 1.4.2022. The said sections provides that the income of a specified person from specified account shall be taxed in the manner and in the year as prescribed by the Central Government. The said section applies to a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country. Specified account is defined

as an account maintained in a notified country which is maintained for retirement benefits and the income from such account is not taxable on accrual basis and is taxed by such country at the time of withdrawal or redemption. Therefore, there is no ambiguity and there may not be any need for any further clarification".

158.6 Observations/Recommendations of the Committee:

The Committee note that the proposed Clause 158 of the Bill seeks to provide for relief from taxation in income from retirement benefit account maintained in a notified country. While, the clause corresponds to Section 89A of the Act and the provision of the existing section has been textually simplified and possibly retained with the same intent in this clause as justified by the Ministry, the Committee find a few key omissions which can lead to uncalled anomalies at interpretational stages. The omission of *in the manner* and *in a tax year* from the long line proposed in Clause 158 (1) brings in room for ambiguity. Being highlighted, the Ministry agreed to this drafting correction. So, the Committee recommend the long line of Clause 158 (1) to be read as under:-

"The income accrued to a specified person in a specified account shall be taxed in the manner and in a tax year, as prescribed,"

Further, the phrase *"the income from which"* instead of "which" may be added in Clause 158 (2), 3rd line to provide clarity and consistency with the Act.

Barring these changes, the Committee find other provisions of the Clause 158 acceptable.

B.—Double taxation relief

Clause – 159 –Agreement with foreign countries or specified territories and adoption by Central Government of agreement between specified associations for double taxation relief.

159.1 Provisions proposed in the Income-Tax Bill, 2025:

159. (1) The Central Government may enter into an agreement with the Government of— (a) any other country; or (b) any specified territory, for the purposes mentioned in sub-section (3), and may, by notification, make such provisions as necessary for implementing the agreement.

(2) Any specified association in India may enter into an agreement with any specified association in the specified territory for the purposes mentioned in sub-section (3) and the Central Government may, by notification, make such provisions as may be necessary for adopting and implementing such agreement.

(3) The agreement mentioned in sub-section (1) or (2) may be entered for— (a) the granting of relief in respect of— (i) income on which income-tax has been paid both under this Act and income-tax in that country or specified territory, as the case may be; or (ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment; or (b) the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory); (c) exchange of information for— (i) the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be; or (ii) investigation of cases of such evasion or avoidance; or (d) recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be.

(4) Where,— (a) the Central Government has entered into an agreement with the Government of any country or specified territory, as the case may be, under sub-section (1); or (b) a specified association in India has entered into an agreement with a specified association of any specified territory under sub-section (2) and such agreement has been notified under that sub-section, for granting relief of tax, or avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(5) The charge of tax,— (a) in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable; or (b) in respect of a company

incorporated in the specified territory at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company or such company incorporated in the specified territory, as the case may be.

(6) Irrespective of anything contained in sub-section (4), the provisions of Chapter XI shall apply to the assessee, even if such provisions are not beneficial to him.

(7) Where, any—– (a) term used in an agreement entered into under sub-section (1) or (2), is defined under the said agreement, the said term shall have the same meaning as assigned to it in that agreement and where the term is not defined in that agreement, but defined in this Act, it shall have the same meaning as assigned to it in this Act and the explanation, if any, given to it by the Central Government, and shall be deemed to have effect from the date on which that agreement came into force; or (b) term is used but not defined in this Act or in the agreement referred to in sub-section (1) or (2), it shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the said agreement, have the same meaning as assigned to it in the notification issued by the Central Government in this behalf, and the meaning assigned to such term shall be deemed to have effect from the date on which that agreement came into force; or (c) term is used in any agreement entered into under sub-section (1) or (2), and not defined under the said agreement or this Act, or in any notification issued under clause (b), then, unless the context otherwise requires, it shall have the same meaning as assigned to it— (i) in any Act of the Central Government related to taxes; and (ii) in any other case, in any other law of the Central Government, and shall be deemed to have effect from the date on which the said agreement came into force.

(8) An assessee, not being a resident, shall be entitled to claim any relief under an agreement mentioned in sub-section (1) or (2), only when— (a) a certificate of his being a resident in any country or specified territory, is obtained by him from the Government of that country or Government of that specified territory, as the case may be, and (b) he provides such other documents and information, as prescribed.

(9) In this section,— (a) “specified associations” means any institution, association or body, whether incorporated or not— (A) functioning under any law for the time being in force in India or the laws of the specified territory; and (B) which may be notified as such by the Central Government; and (b) “specified territory” means any area outside India which may be notified as such by the Central Government.

159.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Agreement with foreign countries or specified territories.

90. (1) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,—

(*a*) for the granting of relief in respect of—

(*i*) income on which have been paid both income-tax under this Act and income-tax in that country or specified territory, as the case may be, or

(*ii*) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or

(*b*) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory), or

(*c*) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or

(*d*) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee even if such provisions are not beneficial to him.

(3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

(4) An assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate of his being a resident in any country outside India or specified territory outside India, as the case may be, is obtained by him from the Government of that country or specified territory.

(5) The assessee referred to in sub-section (4) shall also provide such other documents and information, as may be prescribed.

Explanation 1.—For the removal of doubts, it is hereby declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company.

Explanation 2.—For the purposes of this section, "specified territory" means any area outside India which may be notified as such by the Central Government.

Explanation 3.—For the removal of doubts, it is hereby declared that where any term is used in any agreement entered into under sub-section (1) and not defined under the said agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and the notification issued thereunder being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force.

Explanation 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (1) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and explanation, if any, given to it by the Central Government.

159.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 159 of the Bill provides for agreement with foreign countries or specified territories and adoption by the Central Government of agreement between specified associations for double taxation relief. It also seeks to provide for double taxation relief where the Central Government has entered into an agreement with other countries. The said clause further provides for exchange of information for the prevention of evasion and avoidance of income-tax and also for recovery of income-tax. The clause

corresponds to section 90 and 90A of the Act. The two sections 90 and 90A of the Act have been merged. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause.

The Bill clarifies India's tax treaty position in relation to terms used in such treaty. The proposed section 159(7) of the Bill now mentions that: -

(i) If any term is used in the agreement and defined both in the agreement and the Bill, it will have the meaning which is provided in the agreement;

(ii) If any term is used in the agreement but has not been defined in it, but has a definition in the Bill, it will have the meaning provided in the Bill or in any explanation which is given to it by the Central Government, and the meaning will be applicable from the date of the agreement;

(iii) If any term is used in the agreement and is neither defined in the agreement nor in the Bill, it will have the meaning given to it in any notification issued by the Central Government, and such meaning will be applicable from the date of the agreement;

(iv) If any term is used in the agreement and is not defined in the agreement or in the Bill or in any notification, it will have the meaning given in any Act of the Central Government relating to taxes, or in its absence, in any other law of the Central Government, and such meaning will be applicable from the date of the agreement.

This clarified position will reduce litigation and provide certainty to how any term is interpreted in a tax treaty situation. It reflects India's present tax treaty position and is also aligned with international tax treaty practices in this regard".

159.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

A few key suggestions on the proposed Clause are summarized below:-

(i) Under Section 90(3) of the existing Act, if a treaty term was not explicitly defined, it was first interpreted based on domestic tax law, then through treaty principles, followed by public international law. However, Clause 159(7) of the New Bill restricts this approach by mandating that undefined terms must be interpreted based on any ""Central Act related to taxes"" or ""any other law of the Central Government". This proposed amendment is likely to result in litigation as India's Supreme Court has repeatedly upheld reliance on the Vienna Convention on the Law of Treaties 1969 for treaty interpretation. Retain the provisions of the Income-tax Act, 1961."

(ii) Section 90 of the Current Law outlines the approach for interpreting terms that are not explicitly defined within tax treaties. It stipulates that such terms should be understood based on definitions provided in the Act itself or through notifications issued by the Central Government. While, Clause 159 of the New Bill seeks to broaden the existing approach for interpreting terms not defined in tax treaties or the Act. It specifies that if a term is not defined in the Act or through government notifications, the definition should be sought in any other

Central Government act related to tax, or from any other Central Government law. To prevent potential disputes in the interpretation and application of tax treaties, the phrase "..and is not inconsistent with the provisions of this Act or the agreement" should be incorporated into clause 159(7)(c) of the New Bill as referring to other Central Government laws for interpreting tax treaties may not align with the original intent and spirit of the tax treaty, potentially leading to disputes or inefficiencies in treaty interpretation and application.

(iii) Usually, under Article 3(2) of DTAA, if a term is not defined in the DTAA, it derives its meaning from the laws of the Contracting State relating to taxes to which the DTAA applies.

(iv) May conflict with Article 3(2) of DTAA.

(v) Avoid unilateral override.

(vi) Sub clause (d) may be inserted to clarify that: "(d) Where none of the above definitions apply, the term shall be interpreted in accordance with its ordinary meaning, having regard to the object and purpose of the agreement." Sub clause (e) may be inserted to provide that – (e) Irrespective of anything contained in sub-section (7), no notification issued under sub section (7) shall be construed to apply retrospectively so as to— (i) increase the total income or tax liability of the assessee; (ii) deny or withdraw any deduction, exemption, rebate, or relief otherwise available under this Act or the agreement; (iii) alters the tax treatment of income, expenses or transactions resulting in an additional tax liability of the assessee; (iv) reopen, reassess, or revise any completed assessment solely by virtue of such notification; (v) result in any other consequence of a substantially similar nature; unless such retrospective application is expressly provided in the notification and is consistent with the object and purpose of the said agreement.
The deeming effect from the date the treaty came into force may raise issues if a notification or law comes much later. Thus, this new sub-clause will avoid retrospective disputes arising from late notifications assigning new definitions. The proposed sub-clause (e) ensures that retrospective application of notifications defining treaty terms does not lead to unintended tax consequences such as increased liability, denial of benefits, or reopening of concluded assessments It introduces clear, objective triggers to define when retrospective application is impermissible, thereby enhancing legal certainty and reducing the scope for arbitrary or revenue-biased interpretations.

(vii) This provision should be deleted. This provision, read with Chapter XI (clause 181(1)) denies DTAA benefits to a taxpayer if an agreement is declared to be an impermissible avoidance agreement However, DTAAs are agreements between two sovereign states, based on bilateral negotiations They contain mutually agreed upon anti-abuse provisions, and the absence of anti-abuse provisions is a result of mutual negotiations Enabling Chapter XI (GAAR) to override negotiated treaty provisions results in treaty obligations not being complied with A corresponding change has also been suggested in Clause 183 of Chapter XI read with clause 159 (8).

(viii) The phrase “shall be deemed to have effect from the date on which the agreement came into force” in Clause 159(7) should be replaced as follows:

(a) “…shall be deemed to have effect from the date on which the definition of the term is introduced in the Act” in clause 159(7)(a);
(b) “…shall be deemed to have effect from the date on which the definition of the term is introduced the notification” in clause 159(7)(b); and
(c) “shall be deemed to have effect from the date on which the definition of the term is introduced the said Act or any other law, as the case may be” in clause 159(7)(c). This provision pertains to terms which are undefined in tax treaties, which are subsequently defined in domestic law. Such definitions should apply prospectively from the date of introduction into domestic law, and not from the date on which the treaty comes into force.

(ix) Insert a new provision (c) in clause 159(8) :"(c) his status as a "resident" of the concerned country or specified territory is not denied by the prescribed income-tax authority under Chapter XI of this Act." This provision relates to tax treaty residency requirements which is highly litigated A Chapter XI analysis adds an additional check to test treaty eligibility based on residency.

(x) Should be deleted. This is not in the Income-Tax Act, 1961 Further, this could also lead to unnecessary litigation as to the meaning of the term and which Act to apply, if more than one Act applies This clause introduces ambiguity and potential for litigation Different Central laws often define the same term differently Requiring reference to other Acts to interpret undefined terms can result in inconsistency and legal uncertainty Illustration: The term “forest produce” is defined under the Indian Forest Act, 1927 This definition has now been referenced in the context of section 206C of the Income-Tax Act, 1961 for TCS on sale of forest produce like timber, tendu leaves, etc However, the definition of “forest produce” can vary significantly across different forest laws and even among different State enactments If Clause 159(7) mandates applying definitions from other Central laws without specificity, disputes may arise as to which version or context of “forest produce” should apply This opens the door to conflicting interpretations and compliance challenges.

(xi) The provisions of the present Income-tax Act, 1961 should be continued. There has been policy change made by expanding meaning for undefined terms from Notification to any other Act to any Central Act related to taxes and further to any other law of Central Government! Such a policy change can lead to references which may not be in line with the law as it stands today Further, such meanings cannot be deemed to come into effect from the date on which said agreement came into force because that would have retroactive effect.

(xii) If any term used in the Tax Treaty is not defined in the Tax Treaty or the Bill or any notification issued by the Central Government, then such term will have the meaning assigned to it as per accepted international tax principles and jurisprudence. Reference to other laws to define the meaning of a term under

the income tax laws may lead to various implications. For instance, the term 'beneficial owner' referred to in Article 10 (Dividends), Article 11 (Interest) and Article 12 (Royalty/ Fee for Technical Services) of the Tax Treaty is not defined under the Tax Treaty or the ITB or any notification issued by the Central Government. The said term, however, is defined under section 2(fa) of the Prevention of Money Laundering Act (PMLA). If the

aforesaid definition is imported from PMLA to define meaning of the term beneficial owner under the Tax Treaty then such income received by, eg a Dutch company (who is beneficial owner of such income as per prevailing Indian/ international jurisprudence), may sought to be taxed in the hands of the ultimate shareholder/ promoter (who may be a resident of some other jurisdiction) of such Dutch company.

(xiii) The language should not be changed. The ITB has expanded the scope of the section to include that where any term used in the DTAA is not defined in the DTAA or the ITA, then the meaning can now also be drawn from: - Any other central tax law or - Any other Central law in India This shall create substantial interpretation issues as the reference to any tax law and any Central Law would widens the scope and may lead to unintended outcomes and would also have an implication on the interplay with Article 3(2) This change is expected to lead to further litigation rather than reducing litigation.

159.5 <u>Examination by the Committee:</u>

On the various suggestions on Clause 159 from the stakeholders, the Ministry have opined as under:-

(i) "Clause 159(7)(a) & 159(7)(b) are pari-materia to Explanation 3 & Explanation. 4 to section 90 of the IT Act. Accordingly, any term mentioned in a DTAA takes its meaning from such agreement or from IT Act or from Explanation given by the Central Government or by notification issued by the Central Government. There are cases where still some terms remained to be assigned a meaning. For example, what is a copyright or a software. Such terms should take meaning from other tax laws or other central government laws as applicable in the context. The domestic tax law should give precedence to the other domestic laws over public international law. Therefore, the amendment in the Bill has been rightly made. Since, it does not disturb the treaty provisions in any manner, there is no cause for any apprehension in this regard. A tax treaty is also part of international law. This body of international law itself permits the recourse to domestic law meaning in case of terms not defined in a tax treaty, with the caveat that the meaning in the domestic tax law shall prevail over the meaning

given in any other domestic law. Therefore, the proposed provision shall remove ambiguity and bring clarity on the existing legal position. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary. The proposed provision is similar to the provisions of the Income-tax Act, 1961. It has further been rationalised by taking into account the DTAA provisions and settled judicial

precedents. This shall clarify the legal position and minimise probable dispute in future".

(ii) "Stakeholder seeks to amend the provisions of GAAR, so that it shall not override the provisions of DTAA. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. GAAR apply irrespective of treaty. This is an internationally accepted principle. The provisions of GAAR applies to such arrangements, the main purpose of which is to obtain a tax benefit, which inter alia results in misuse or abuse of the provisions of Income-tax Act. However, the assessee is given an opportunity to the prove that the arrangement is for the bonafide reasons and contrary to the presumption that it is mainly for obtaining tax benefit. The proposed provision is similar to the provisions of the Income-tax Act, 1961".

(iii) "Stakeholder seeks an amendment in clause 159(7) so as to provide that the 'term' referred to in said clause shall be deemed to have effect from the date on which said 'term' is introduced in the Bill. Clause 159(7)(a)& (b) are pari-materia to Explanation 3 & Explanation 4 to section 90/90A of the IT Act. Further Clause 159(7)(C) is pari-materia to the provisions of certain DTAA such as India-Norway Treaty. The date of effectivity in all three provisions are same. i.e. from the date on which that agreement came into force. The proposed provision is similar to the provisions of the Income-tax Act, 1961".

(iv) "Stakeholder seeks to add a new provision where status of residency claimed is not denied by IT Authorities. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Where a taxpayer claims himself to be resident of another country and seeks relief on that account, appropriate due diligence is required to be carried out. Requirement of residency certificate and certain documents to verify genuineness of claim of tax relief are primary and necessary to ensure bonafide claims and prevent abuse of beneficial

provisions. Therefore, the suggested amended is not feasible. The proposed provisions are similar to the provisions of the I T Act".

159.5.2 Clause 159 (7) pertaining to Agreement with foreign countries or specified territories and adoption by Central Government of agreement between specified associations for double taxation relief introduces a new provision for understanding the definition of any term, not mentioned in Treaty, Current Act or Tax Laws, it can be understood by any other law of the Central Government, and shall be deemed to have effect from the date on which the said agreement came into force. In this context, the Committee were keen to be acquainted with following clarification on the following points:-

(i) Instances of probable litigation, when Clause 159(7) mandates applying definitions from other Central laws without specificity. Example- The term "forest produce" can be defined differently under different versions and context. This opens the door to conflicting interpretations and compliance challenges.

(ii) The deeming effect from the date the treaty came into force may raise issues if a notification or law comes much later. This creates a challenge of the interpretation being done retrospectively which could generate retrospective disputes arising from late notifications assigning new definitions. Idea behind keeping this retrospective effect in vogue.

(iii) When one of the primary focus of the Bill is aimed at reduction in litigation, whether any in-depth analysis was carried out before the introduction of the above quoted provision to mitigate international disputes.

The Ministry in their written response have replied as under:-

(i) "Clause 159(7)(a) & 159(7)(b) are pari-materia to Explanation 3 & Expl. 4 to section 90 of the IT Act.

(ii) Accordingly, any term mentioned in a DTAA takes its meaning from such agreement or from IT Act or from Explanation given by the Central Government or by notification issued by the Central Government.

(iii) There are cases where still some terms remained to be assigned a meaning. For example, what is a copyright or a software. Such terms should take meaning from other tax laws or other central government laws as applicable in the context. The domestic tax law should give precedence to the other domestic laws over public international law.

(iv) Therefore, the amendment in the Bill has been rightly made. Since, it does not disturb the treaty provisions in any manner, there is no cause for any apprehension in this regard.

(v) A tax treaty is also part of international law. This body of international law itself permits the recourse to domestic law meaning in case of terms not defined in a tax treaty, with the caveat that the meaning in the domestic tax law shall prevail over the meaning given in any other domestic law.

(vi) To explain the issue in detail, there exists a specific paragraph in the tax treaties (Double Taxation Avoidance Agreements or DTAAs in short) entered into by India with other countries dealing with such undefined terms. Two representative instances are given below:

(a) Article 3(2) of India-Norway DTAA:

"As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State."

(b) Article 3(2) of India-Armenia DTAA:

"2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State."

(vii) Thus, when a term is not defined in the tax treaty, its meaning is to be obtained from the domestic laws of the Contracting State which is applying the treaty. When the term is defined in more than one laws of that State, the meaning in applicable tax laws would prevail. Article 3(2) of the tax treaty also clarifies that the meaning which is prevalent in such State at the time of applying the treaty is to be taken in this regard.

(viii) This explicit reference to other laws of the treaty applying State and the hierarchy of prevalent meanings which is required to be maintained is missing from the present text of the IT Act, 1961. In other words, the provisions of the present Act have a narrower scope than the tax treaty. To bridge this gap, the

IT Bill, 2025 adopts the formulation as given in clause 159(7)(c). It conforms to the internationally prevalent and accepted text of Article 3(2) as found in modern tax treaties.

(ix) This text of Article 3(2) owes its origin to the revised text of OECD Model Convention. The OECD Commentary on paragraph 2 of Article 3 mentions the following in this regard:

"13.1 Paragraph 2 was amended in 1995 to conform its text more closely to the general and consistent understanding of member states. For purposes of paragraph 2, the meaning of any term not defined in the Convention may be ascertained by reference to the meaning it has for the purpose of any relevant provision of the domestic law of a Contracting State, whether or not a tax law. However, where a term is defined differently for the purposes of different laws of a Contracting State, the meaning given to that term for purposes of the laws imposing the taxes to which the Convention applies shall prevail over all others, including those given for the purposes of other tax laws. States that are able to enter into mutual agreements (under the provisions of Article 25 and, in particular, paragraph 3 thereof) that establish the meanings of terms not defined in the Convention should take those agreements into account in interpreting those terms."

(x) This is the approach which is now consistently being adopted in our tax treaties with other countries, Hence, a matching principle needed to be incorporated in the ITB 2025.

(xi) As regards the issue as to why has a retrospective approach been adopted by allowing for a meaning to have an effect from the date the treaty came into force, it may be stated that a tax treaty doesn't get revised very often. On the other hand, the domestic tax law gets amended quite frequently. This is the reason that Article 3(2) of a tax treaty declares categorically that the meaning of an undefined term prevalent at the time of applying the treaty is to be taken. Thus, every time a new meaning is provided in a domestic law, this meaning automatically gets covered in the tax treaty by virtue of Article 3(2). This will apply irrespective of the tax year (or assessment year concerned). To facilitate this, the deeming provision has been placed to cover all the tax years to which a treaty may apply.

(xii) As is evident from the text of Article 3(2), this is an international tax treaty principle.

(xiii) With regard to the point that whether other countries also take recourse to changing the domestic law meaning, it may be mentioned that the US income tax law was amended to include provisions relating to 'computer programs', in 1998. This was done by way of insertion of "§ 1.861-18: Classification of transactions involving computer programs" in US IRS Code. The US Department of Treasury has explained it in its TD 8765 as regulations which 'clarify the treatment under certain provisions of the Code and tax treaties of income from transactions involving computer programs'. It is specifically mentioned in TD 8785 issued by the Department of the Treasury that:

"These regulations are intended to apply for purposes of applying and interpreting U.S. tax treaties. United States tax treaties provide that terms not defined in the treaty are defined by reference to domestic law. See e.g., U.S. Model Income Tax Convention of September 20, 1996, Article 3(2)."

(xiv) Thus, the international tax treaty practice also shows that domestic law meaning can change, which is actually in consonance with the text of Article 3(2) of the tax treaty".

159.5.3 During the course of discussion, the representatives of the Ministry of Finance deposed before the Committee, on the provisions of Clause 159, as reproduced below:-

> "DTAA will have overriding effect vis-à-vis Income-Tax Act. But if it is not provided in that, in that case, what is provided in the domestic income tax law, after that, priority was if the Government has notified some definition, after that, it was not saying anything….after that, it was giving tax laws. Fourth was tax laws. Any other tax laws in India. So, that can be used for defining that term. After that, whether the same term is in some domestic law or in international law, so, which law is to be used, it was not there. This ambiguity was there. Our DTAA are aligned on that domestic law and it should be used even as the last resort…what happened, in some decisions, despite the fact that the term was available in Indian laws, the tribunals and courts went to USA and some other countries law and they decided the issue against the Department or revenue or exchequer whatever you say. So, this ambiguity is there. When we went to the OECD commentary etc, there also, they say, as the last resort, the domestic law should have priority. So, accordingly, we have made amendment in this….what we are saying is that what is being followed in other countries also and by OECD also, that if the same term is defined in our domestic law, we are interpreting for domestic transactions in our own country. So, in that case, we should first rely on our own laws, like Sir, if something is defined in Copyright Act of India, then that definition should be considered

first, not the Copyright Act defined in some foreign law. This is our contention."

159.5.4 Elaborating further on the need for amendment in the Clause 159, the Secretary, Ministry of Finance (Department of Revenue) submitted before the Committee as under:-

"Sir, just to clarify the previous point, there is an approach Sir, graded type, like what do you refer to. So, the last step today which is blank, courts have interpreted saying that we will use Vienna Convention for interpretation. So, our steps are if it is defined under the DTAA or if it is notified by the Government, all that we are doing is instead of approaching if there is, if you follow all the steps today, the blank in the law which was getting interpreted by the Supreme Court using an international law, we are saying let that interpretation be from outside our domestic law, any other tax law which is the right approach. We should use our approach and that is what we are doing. We are using the date of the notification of the DTAA. If a new definition has come, and if we are using that definition, it will have effects. Repeatedly, we do not have to change our DTAAs. Presently, it is also provided".

159.5.5 On the aspect that GAAR should not override the provisions of DTAA, the representative of Ministry of Finance during the sitting of the Committee submitted before the Committee as below:-

"Sir, these are related to General Anti avoidance Rules which have now been incorporated in most of the jurisdictions involved. These cover special types of schemes and arrangements made in order to defeat the right purposes of the Act and evade taxes. The procedure of GAAR is very tough. It cannot be invoked just like that. There is one approving panel headed by a High Court Judge-level person, one person from academia and one Chief Commissioner-level person. They approve it. And, GAAR is for domestic use. So, wherever it is found that DTAA provisions are being misused, that can also be overlooked. ……"महोदय, हमारे एग्रीमेंट्स डीटीएए कई सालों से चले आ रहे हैं और जो वर्ल्ड की जो बॉडीज हैं जैसे यूनाइटेड नेशन्स फ्रेम वर्क की बॉडी है, ये आपस में डिस्कस करते हैं। इस बारे में ग्लोबल फोरम भी सोच रही है। उसी के तहत पीपीटी बनाई गई। सारी कंट्रीज ने मिलकर आपस में डिसाइड किया है कि उनका जो एग्जिस्टिंग डीटीएए है, उसके ऊपर पीपीटी लगेगा या नहीं लगेगा।…….हमारा जो असेसिंग आफिसर है या …….वहां का जो असेसिंग आफिसर है, वह भी देख सकता है कि इस पूरे अरेंजमेंट का रियल परपस क्या है कमर्शियल है या केवल टैक्स इवेजन का है"।……"सर, आपने जो बात कही है, वह बिल्कुल तार्किक

है। आपका मूलभूत सवाल था कि हमने पहले डीटीएए क्यों साइन किया, तो अब बदलते समय के साथ-साथ हम हर जगह डीटीएए में भी एक अमेंडमेंट ला रहे हैं, जिसमें प्रिंसिपल पर्पस टैक्स (पीपीटी), जिसकी बात मेम्बर (लेजिस्लेशन) ने की, उसको हम ला रहे हैं। यह दोहरे कर से मुक्ति का एग्रीमेंट है, मतलब कि अगर मेरे यहां टैक्स दे दिया गया तो आप उस पर टैक्स न दें और इस तरह उस पर डबल टैक्स न हो, लेकिन अगर कोई टैक्स ही न दे और अगर उस तरह के किसी उद्देश्य से कोई एग्रीमेंट साइन हुआ है तो उसके लिए डीटीएए में भी अब हम प्रिंसिपल पर्पस टैक्स (पीपीटी), जो कि एक मल्टीलेटरल अरेंजमेंट है, उसको इन्क्लूड कर रहे हैं। यह उन कंपनियों को ध्यान में रखते हुए किया गया है, जोडीटीएए की आड़ में पूरे टैक्स को ही अवॉयड कर दें, न वे यहां टैक्स दें, न वहां टैक्स दें। वे किसी देश में बस इसलिए हैं कि बस टैक्स न दे पाएं। उनकी उस देश में कोई वास्तविक आर्थिक उपस्थिति नहीं है और वह कंपनी बस अपने आप को टैक्स-हेवन के थ्रू रूट कर रही है, ताकि टैक्स बेनिफिट ले सके। उस चीज को भी डीटीएए में इन्क्लूड किया गया है"। "सर, जैसा कि आपने बताया कि अगर जीएएआर और डीटीएए में कोई कॉन्फ्लिक्ट है तो जैसा पीपीटी के माध्यम से उस कॉन्फ्लिक्ट को कम किया जा रहा है। इसका मुख्य उद्देश्य यह नहीं है कि उसको डबल टैक्सेशन का बेनिफिट न दिया जाए, बल्कि मुख्य उद्देश्य यह है कि उसकी आड़ में कोई इस तरह का दुरुपयोग न हो और उसको अवॉयड करने के लिए ये चीजें डाली गयीं हैं"। "GAAR is basically invoked in domestic law"

159.5.6 The representatives of the Ministry of Finance, during the sitting, further elaborated on the aspect of use of definition of term in a treaty before the Committee as under:-

"यह कोई रेट्रोस्पेक्टिव अमेंडमेंट नहीं है। यह वह मामला है, जहां हमने बोला कि अगर कोई भी टर्म डीटीएए में डिफाइंड नहीं है तो फिर उसकी डेफिनिशन कहां से आएगी?.....There is a sequence of priority from where the definitions of terms are taken. There is a provision where a term is not defined in the treaty, but it is defined in the Act. Then, the definition of the Act prevails……The problem here is of timeline when I amend my Act to include the meaning of 'processing fees'. For example, a term 'processing' is used in the treaty. What is the meaning of the word 'processing'? Suppose, I put it on my statute at this point of time in 2020. Whether that definition of processing goes back to the signing of the treaty itself. The treaty uses the term since 2015. Whether that processing will apply from the initiation of the treaty or not. Yes, to that extent, it is retrospective. But it is not retrospective from the purpose. It is for the explanatory retrospective effect only. How that term is to be interpreted in the treaty goes by the definition as and when it is defined in the Act. Sir. It deemed

to have effect from the date on which that agreement came into force"……."सर, यहां जीएएआर एप्लाई नहीं होगा। हमारा तो यह मानना है कि अगर ट्रीटी में कोई ऐसा टर्म है, जिसकी डेफिनिशन ट्रीटी में नहीं है, दूसरी बात यह आती है कि उसकी डेफिनिशन हमारे टैक्स लॉज़ में हो, तो वहां भी नहीं है। यह पहले से एक्ट में दिया हुआ है। फिर तीसरा यह है कि सरकार ने कोई नोटिफिकेशन किया हो, जिसमें उसका अर्थ निकल रहा हो, लेकिन वहां भी नहीं है। उसके पास एक एम्बिग्विटी थी। हमारे पास कई डोमेस्टिक लॉज़ हैं। जैसे कॉपीराइट की डेफिनिशन चाहिए तो हमारा अपना कॉपीराइट एक्ट है। अगर कम्प्यूटर की डेफिनिशन चाहिए तो हमारे पास अपनी इंफॉर्मेशन टेक्नोलॉजी एक्ट है। फिर समस्या यह उठी कि हम उनके उस एक्ट को देखें या पूरे विश्व में कहीं से भी कोई एक्ट देख कर हम कोई डेफिनिशन लेकर आएं। उसमें कुछ निर्णय ऐसे आएं, जिसमें हमारे डोमेस्टिक डेफिनिशन्स को न देख कर बाहर के डेफिनिशन को देखा गया। इसलिए जब हम लोगों ने इस बिल को प्रोवाइड किया तो एक निश्चितता के लिए एम्बिग्विटी खत्म करने के लिए यह बोल दिया कि लास्ट रिसॉर्ट में हम अपने डोमेस्टिक लॉज़ को पहले देखेंगे कि क्या किसी भी दूसरे डोमेस्टिक लॉज़ में क्या कोई डेफिनिशन है? अगर वह है तो उसको मानेंगे"।….."जहां तक यह लिखा हुआ है कि it shall deem to have effect from... वह पहले भी था, जब सरकार के किसी नोटिफिकेशन से कुछ आता था। अगर हम पुराने एक्ट को देखेंगे तो उसमें भी यही भाषा का उपयोग हुआ है। हमने एम्बिग्विटी खत्म करने के लिए इसे लाया है और डोमेस्टिक लॉज़ को डॉमिनेंस देने के लिए इसको लाया है"।

159.5.7 Further elaborating before the Committee, the Secretary, Ministry of Finance (Department of Revenue) deposed as under:-

"This is essentially legally gap filling in the sense if agreement defines something, we use that definition. If agreement does not define it, how do we refer to it? Now we are saying it will refer to our Act or something we notify. What they are asking is this. For example, Sir, if you see the first paragraph, it says, 'If any term used in tax treaty is not defined, then such term will have the meaning assigned to it as per accepted international tax practice and jurisprudence'. The point which he was trying to explain is because international tax practice could be varied, there could even be cherry picking. Somebody may pick some definition from somewhere which is useful to him. We are just bringing a systemic approach, how we will go one by one, step by step to define or to refer, to use the definition where it is not there in the original agreement itself. So, we have just brought clarity and the point which was being made is, in a similar form it is there in existing Act also, in the form of an explanation. The deemed provision is not retrospective. All that it is saying is, since the agreement

has been signed at some point of time in the past, how do you treat because this issue will come only when there is a dispute in the future. So, obviously, it applies to all agreements".

159.5.8 On the aspect of adding a new provision where status of residency claimed is not denied by IT Authorities, the representatives of Ministry of Finance, during a sitting of the Committee, deposed as under:-

> **"**the stakeholder is saying that where a taxpayer claims a residency status, new provision should be inserted that the status of residency claimed is not denied by Income Tax authorities. Sir, status of residency is only a claim. After that, some due diligence has to be carried out by the Income Tax authority whether he is entitled to that claim or not. This is done to prevent abuse of the treaty. So, just by claiming that I am a resident of this country….Not every, Sir. It is only by that random selection only. We cannot check every non-resident".

159.6 <u>Observations/Recommendations of the Committee:</u>

The Committee scrutinized the proposed Clause 159 thoroughly and find that it provides for agreement with foreign countries or specified territories and adoption by the Central Government of agreement between specified associations for double taxation relief. It also seeks to provide for double taxation relief where the Central Government has entered into an agreement with other countries. The clause corresponds to section 90 and 90A of the Act. The two sections 90 and 90A of the Act have been merged. Although, the provisions of the existing sections have been textually simplified and retained with the same intent in this clause, the Committee find an addition in the new proposed Clause which states that If any term is used in the agreement and is not defined in the agreement or in the Bill or in any notification, it will have the meaning given in any Act of the Central Government relating to taxes, *<u>or in its absence, in any other law</u>*

***of the Central Government, and such meaning will be applicable from the date of the agreement*.** **The Committee take note of this addition and have also examined the replies of the Ministry in this regard. Subsequently, the Committee find that it is clarificatory in nature which further augments India's position in such agreements. It will also reduce litigation and provide certainty to how any term is interpreted in a tax treaty situation. Thus, the Committee, agree with the justification provided by the Ministry for such addition to the erstwhile Section of the IT Act, 1961 and appreciate the intent of this Clause in its simplification, while accepting the proposed Clause 159 in its entirety.**

Clause – 160 –Countries with which no agreement exists.

160.1 Provisions proposed in the Income-Tax Bill, 2025:

160.(1) If any person who is resident in India in any tax year proves that, in respect of his income which accrued or arose during that tax year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 159 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income,—

(a) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or

(b) at the Indian rate of tax, if both the rates are equal.

(2) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any tax year and such share includes any income accruing or arising outside India during that tax year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 159 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included,— (a) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or (b) at the Indian rate of tax, if both the rates are equal.

(3) In this section,— (a) “income-tax” in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country; (b) “Indian income-tax” means income-tax charged as per this Act; (c) “Indian rate of tax” means the rate determined by dividing Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this section, by the total income; and (d) “rate of tax of the said country” means income-tax and super-tax actually paid in the said country as per the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country.

160.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Countries with which no agreement exists.

91. (1) If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India

(and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

(2) If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him—

(*a*) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also; or

(*b*) of a sum calculated on that income at the Indian rate of tax;

whichever is less.

(3) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

Explanation.—In this section,—

(*i*) the expression "Indian income-tax" means income-tax charged in accordance with the provisions of this Act;

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this Chapter,

by the total income;

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country;

(*iv*) the expression "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country.

Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 160 of the Bill seeks to provide for deduction from the Indian income-tax payable by a person who has paid tax outside India in a country with which no agreement exists in respect of his income which accrued or arose during that tax year outside India. The clause corresponds to section 91 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

160.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions from the stakeholders are reproduced below:-

(i) There is a need for modification of the language of section 160(2) in line with Rule 128 In the alternative, the new rules can provide the manner of computation of credit for tax paid in respect of a country with which India does not have a DTAA in line with section 160(2). Sub-section (3) to (5) be inserted after sub-section (2) and sub-section (3) be renumbered as sub-section (6), as under – (3.) The relief under this section shall be allowed only in respect of income that is included in the total income of the assessee in the relevant tax year, and for which income-tax has been paid in the other country during the same or any earlier year, subject to such conditions and documentary evidence as may be prescribed (4)The amount of relief shall not exceed the foreign income tax paid on such income or the Indian income-tax payable thereon, whichever is lower, and shall be computed in the prescribed manner (5)No relief shall be allowed unless the assessee furnishes, in the prescribed form and manner, proof of foreign tax paid, along with a statement of foreign income offered to tax in India. The manner of computation of deduction provided in section 160(2) of the Income-tax Bill, 2025 is different from the manner provided in Rule 128 of the Income-tax Rules, 1962 on foreign tax credit. Whereas in section 160(2), deduction is allowed by applying the lower of the Indian rate of tax or the rate of tax of the other country on the doubly taxed income, in Rule 128, the credit shall be the lower of the tax payable under the Act on such

income and the foreign tax paid on such income. Sub-section (3) will provide clarity on year-mismatch scenarios.

(ii) The term “country” should be be replaced with “country or specified territory” throughout clause 160 of the IT Bill. This recommendation is to align clause 160 with clause 159 read with rule 128 of the IT Rules.

(iii) In clause 160(3), insert the definition of “specified territory” as below: “(e) “specified territory” means any area outside India which may be notified as such by the Central Government.” This recommendation is consequential to our recommendation made for replacing the term “country” should be replaced with “country or specified territory” throughout clause 160 of the IT Bill.

160.5 <u>Examination by the Committee:</u>

Responding to the suggestions, the Ministry have replied as below:-

(i) “Stakeholder seeks to insert the term 'specified territory' in clause 160 of the Bill i.e. countries with which no agreement exists. The rationale for the suggestion has not been explained. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Therefore, the suggested amendment is not feasible”.

(ii) “Stakeholder seeks to align the provisions of clause 160(2) relating to double taxation relief in a case where India has no agreement with rule 128. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Rule 128 provides for allowing foreign tax credit. Further, rule is a matter of subordinate legislation. Adding rules to the main statute is not desirable as it will make the main legislation unwieldy. The proposed provisions are similar to the provisions of the I T Act. Therefore, the proposed amendment is not feasible. The proposed provisions are similar to the provisions of the I T Act”.

(iii) “The proposed provisions are similar to the provisions of the I T Act”.

160.5.2 On a query pertaining to the usage of specified territory, the representative of Ministry of Finance, during the sitting of the Committee submitted as under:-

> “सर, पुराना सेक्शन 91 है और नया 160 है। सेक्शन 91 में भी यही है। उसकी हेडलाईन में लिखा हुआ है कि 'countries with which no agreement exists'. अब सर बोल रहे हैं कि स्पेसिफाइड टैरिटरी के साथ में, जिसके साथ कोई एग्रीमेंट एग्जिस्ट नहीं करता है उसको भी आप डबल टैक्सेशन बैनिफिट प्रोवाइड करो। सर, स्पेसिफाइड टैरिटरी ऐसे तो कोई डिफाइन नहीं है, जिसके साथ हम एग्रीमेंट करते हैं। एक एग्रीमेंट हुआ है। सर,

हमारा एक कल्चरल एग्रीमेंट इसके अंदर ताईवान से हुआ है, वह स्पेसिफाइड टैरिटरी में आता है। इसके अलावा हमारे जितने एग्रीमेंट हैं वे सब देशों के साथ ही हैं"।

160.5.3 Elaborating further on the same issue, the Secretary, Ministry of Finance (Department of Revenue) submitted as under:-

"Sir, I will just like to draw your attention to this point. There are two Sections – 159 and 160. Section 159 talks about agreements to be signed with foreign countries. Both these sections are a part of a Section which is called double taxation relief. Section 159 allows us to sign an agreement with not only a country but also with a specified territory. That gets covered and specified territory is defined there in the same fashion as has been defined in the existing Act. Section 160 takes care of the cases where there is no agreement. There we have said there will be no agreement where there is another country. There we have not included specified territory, which is not so even in the existing Act". …….. "This is a substantial policy issue. What we are saying is we will give double taxation relief either when there is an agreement or without an agreement. There are two Sections. When it comes to agreement clause, we are saying we can sign agreement either with a country or with a specified territory. But, without an agreement, we can give tax relief, double taxation under 160, only if the other side is a country. If we want to include specified territory there, we will have to really look at it carefully because we are offering under this Section to give double taxation relief without an agreement. So, who is that other specified territory? How can we give without agreement? We will have to see it very carefully for it not to be misused. So, my request is this. It is not about drafting. We may look at it separately as a policy". ……. "We will agree to acknowledge tax paid elsewhere type of a relief. So, for a specified territory, what you are saying is logical that we can say that it is notified. So, let us do it as a specific thing even under this. But that window is already available through the agreement. Would we want that kind of a window available on a non-agreement even if it is a notified territory? One will have to see it carefully. We can examine that issue a little more carefully".

160.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the proposed clause 160 is similar to the Section 91 of the IT Act, 1961 which provides for deduction from the Indian income-tax payable by a person who has paid tax outside India in a country with which no agreement

exists in respect of his income which accrued or arose during that tax year outside India. The Committee further find that other than textual simplification, no material changes have been carried out in the proposed Clause vis-à-vis Section 91 of the IT Act, 1961. Therefore, the Committee, finding the justification provided by the Ministry for this Clause satisfactory in nature, accept the proposed Clause in entirety.

CHAPTER X

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

Clause – 161 –Computation of income from international transaction and specified domestic transaction having regard to arm's length price.

161.1 Provisions proposed in the Income-Tax Bill, 2025:

161. (1) Any income arising from an international transaction or a specified domestic transaction shall be determined having regard to the arm's length price.

(2) Any allowance for any expense or interest arising from an international transaction or a specified domestic transaction shall also be determined having regard to the arm's length price.

(3) If in an international transaction or specified domestic transaction, two or more associated enterprises enter into a mutual agreement or arrangement for— (a) allocation or apportionment of any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises; or (b) any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility.

(4) The provisions of this section shall not apply if the determination under sub-section (1) or (2) or (3) has the effect of reducing the income chargeable to tax or increasing the loss, computed on the basis of entries made in the books of account in respect of the tax year in which the international transaction or specified domestic transaction was entered.

161.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Computation of income from international transaction having regard to arm's length price.

92. (1) Any income arising from an international transaction shall be computed having regard to the arm's length price.

Explanation.—For the removal of doubts, it is hereby clarified that the allowance for any expense or interest arising from an international transaction shall also be determined having regard to the arm's length price.

(2) Where in an international transaction or specified domestic transaction, two or more associated enterprises enter into a mutual agreement or arrangement for the

allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be.

(2A) Any allowance for an expenditure or interest or allocation of any cost or expense or any income in relation to the specified domestic transaction shall be computed having regard to the arm's length price.

(3) The provisions of this section shall not apply in a case where the computation of income under sub-section (1) or sub-section (2A) or the determination of the allowance for any expense or interest under sub-section (1) or sub-section (2A), or the determination of any cost or expense allocated or apportioned, or, as the case may be, contributed under sub-section (2) or sub-section (2A), has the effect of reducing the income chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of the previous year in which the international transaction or specified domestic transaction was entered into.

161.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 161 of the Bill provides for computation of income from international transaction and specified domestic transaction having regard to arm’s length price. The clause corresponds to section 92 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

161.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggest from the stakeholder is produced below:-

> Instead of current transfer pricing assessment, a Fast Track Transfer Pricing assessment should be introduced apart from regular transfer pricing assessment to provide block period pricing on the Arm’s Length basis where the tax payers should be provided a choice to opt for such scheme and it should be monitored by the local Transfer Pricing Commissioner.

161.5 Examination by the Committee:

The Ministry in their written replies have submitted as below:-

"Stakeholder seeks provisions of block assessment for Transfer Pricing cases. Clause 166 of the Bill, provides for multi year audit. The said provision was inserted in the I T Act vide Finance Act, 2025. The said
provisions inter alia provides that the Arm's length price determined for a tax year shall be applicable to two consecutive tax years following such tax year. The suggestion already stands addressed. The proposed provisions are similar to the provisions of the I T Act".

161.6 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that Clause 161 of the Bill provides for computation of income from international transaction and specified domestic transaction having regard to arm's length price. The clause corresponds to section 92 of the IT Act, 1961 and has an important role in the avoidance of tax. The Committee further find the justification and reply of the Ministry in assuaging the concern of the stakeholder pertaining to the computation for block period pricing being satisfactory in nature. Further, the provisions of the existing section have been textually simplified and retained with the same intent in this clause, so the Committee accept the proposed Clause 161 in its entirety.

Clause – 162 – Meaning of associated enterprise.

162.1 Provisions proposed in the Income-Tax Bill, 2025:

162. (1) In this Chapter, "associated enterprise", in relation to another enterprise, means an enterprise— (a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or (b) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

(2) Without affecting the generality of the provisions of sub-section (1), two enterprises shall be deemed to be associated enterprises if, at any time during the tax year,— (a) one enterprise holds, directly or indirectly, shares carrying at least 26% of the voting power in the other enterprise; or (b) any person or enterprise holds, directly or indirectly, shares carrying at least 26% of the voting power in each of such enterprises; or (c) a loan advanced by one enterprise to the other enterprise constitutes at least 51% of the book value of the total assets of the other enterprise; or (d) one enterprise guarantees at least 10% of the total borrowings of the other enterprise; or (e) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or (f) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or (g) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or (h) 90% or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or (i) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or (j) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or (k) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family or by a relative of a member of such Hindu undivided

family or jointly by such member and his relative; or (l) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds at least 10% interest in such firm, association of persons or body of individuals; or (m) there exists between the two enterprises, any relationship of mutual interest, as prescribed.

(3) In relation to a specified domestic transaction entered into by an assessee, associated enterprise shall also include— (a) other units or undertakings or businesses of such assessee in respect of a transaction referred to in section 122 or 140(9); (b) any other person referred to in section 140(13) or 205(4) in respect of a transaction referred to therein; and (c) other units, undertakings, enterprises or business of such assessee, or other person referred to in section 140(13) in respect of a transaction referred to in section 144 or the transactions referred to in Chapter VIII to which the provisions of section 140(9) or (13) are applicable.

162.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Meaning of associated enterprise.

92A. (1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, "associated enterprise", in relation to another enterprise, means an enterprise—

(*a*) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(*b*) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

(2) For the purposes of sub-section (1), two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,—

(*a*) one enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the other enterprise; or

(*b*) any person or enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in each of such enterprises; or

(*c*) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent of the book value of the total assets of the other enterprise; or

(*d*) one enterprise guarantees not less than ten per cent of the total borrowings of the other enterprise; or

(*e*) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or

(*f*) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or

(*g*) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(*h*) ninety per cent or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(*i*) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(*j*) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(*k*) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family or by a relative of a member of such Hindu undivided family or jointly by such member and his relative; or

(*l*) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent interest in such firm,

association of persons or body of individuals; or

(*m*) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

162.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 162 of the Bill seeks to define the expression "associated enterprise". The clause corresponds to section 92A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

There is an ambiguity in interplay of sub-section (1) and (2) of section 92A in view of words "for the purposes of sub-section (1)" appearing in the beginning of sub- section (1) in the Act. In order to remove the ambiguity and give intended interpretation, the words "for the purposes of sub-section (1)" are replaced with the words "Without affecting the generality of the provisions of sub-section(1)"in sub-clause (2) of clause 162 of the Bill. The change is made to reflect the intent that clause 162(1) is general definition of associated enterprise and clause 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. Since the specific instances do not override the general provisions but they only provide for certainty in specified circumstances, the phrase "without affecting the generality of the provisions of sub-section (1)" has been used in clause 162(2) of the Bill".

162.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some of the important suggestions given by the stakeholders are summarized as under:-

(i) Clause 162(2) of the New Bill has been reworded as 'Without affecting the generality of the provisions of sub-section (1),.." In comparison Section 92A(2) was amended to incorporate the words 'For the purpose of sub-section (1)…', aiming to clarify that meeting the criteria of section 92A(2) is essential, and mere satisfaction of the conditions of section 92A(1) would not be enough to treat the enterprises as AEs. The alteration of language in the above phrase appears to reverse the earlier position leading to widening the scope of AEs. This creates an anomalous situation where even where conditions of 162(2) are not fulfilled, AE relationship may be created. Cause 162(2) retains the phrase 'for the purpose of sub-section (1)' to avoid undue expansion of scope of transfer pricing provisions.Clause 162(2) retains the

phrase ‘for the purpose of sub-section (1)’ to avoid undue expansion of scope of transfer pricing provisions.

(ii) The Bill proposes to amend the language to effectively state that the term participation in management, control or capital in a generic sense shall be sufficient to trigger an associated enterprise relationship. Under the existing Act, the definition of associated enterprises was read with a deeming function which explained the contours of management, control

or capital. However, this amendment seeks to override the settled interpretation on the matter, which is not the intention of the New Bill. Retain the provisions of the Income-tax Act, 1961.

(iii) It is recommended that the AE definition can be divided into two parts- Part 1- defining the de-facto condition along with the criteria such as involvement in shareholding, control over composition of Board, etc. Part 2 may consist of the list of deeming objective criteria which do not require participation in the management, control or capital such as dependency on intangible assets, etc.

(iv) Should maintain interdependence

(v) The New Income-Tax Bill 2025 has expanded the scope of AE by delinking the section 162(1) and 162(2) in such a way that they are mutually exclusive and independent. This will increase subjectivity in interpretation of the law that may lead to litigation besides increased compliances.

(vi) May cause overreach

(vii) It is recommended to define the scope of clause 162(1) of the ITB, 2025 by specifying control, capital, and management, or retain the language of section 92A(2) of the IT Act i.e., “For the purposes of sub-section (1)” to maintain consistency.

(viii) It is suggested that the scope of the definition of associated enterprise as per the existing provisions of the Act and as settled by the Supreme Court in the case of Page Industries may be retained in the Proposed Bill. The proposed modification to the definition of the term “Associated Enterprises” would expand the scope of the transfer pricing provisions and would add subjectivity as the terms ‘Control’, ‘Capital’ and ‘management’ have not been defined in the proposed Bill The proposed changes are therefore, likely increase disputes with regard to interpretation of the term “Associated enterprises.

(ix) The Bill's proposed change breaks the essential link between sub-sections (1) and (2), making the latter an independent test and risking classification of entities with insignificant ties—like a 1% stake—as AE. Retaining the extant provision preserves legal clarity, aligns with judicial precedent, and covers only substantive relationships

(x) Section 162(3) only duplicates relationships already covered in Section 164.

(xi) A clarification is sought regarding the interpretation of sub section (1) of section 162, particularly in relation to the phrase "(a) which participates, directly or indirectly, or through one or more intermediaries, in the management, control, or capital of the other enterprise." It is suggested the terms "management," "control," and "capital" be explicitly defined. The specified percentage for deeming as controlled may be prescribed. It is suggested to explicitly include REITs, LLPs, and other modern business structures within the definition of Associated Enterprises (AEs) for greater clarity. It is suggested to introduce specific control and ownership thresholds for these entities, aligning them with existing AE criteria such as shareholding, voting rights, or management control, while also addressing indirect participation in capital, management, or control for greater clarity. This would clarify the applicability of transfer pricing rules to these entities, ensuring consistency with modern business practices, reducing litigation risks, and preventing tax disputes. It is suggested to define the term "Management", "Control" and "Capital" for better understanding of the provision of law. In sub-clauses (j) and (k) of sub-section (2) of this provision, the scope of the word "controlled" is not defined by a percentage like in other sub-clauses. This may be prone to litigation Section 92A of the Income-tax Act, 1961, defines Associated Enterprises (AEs) based on capital, management, or control.

(xii) Replace '(2) Without affecting the generality of the provisions of sub-section (1)', with '(2) For the purposes of sub-section (1)' The general (and vague) provisions of section 162(1) will lead to litigation affecting the ease of doing business To provide tax certainty, the intended arrangements that are not covered in 162(2) can be specifically covered to aid tax certainty.

(xiii) Section 162(2) should be eliminated which is universally followed practise and accepted in the OECD and UN guidelines and also in all treaties signed by India This is also an international norm followed in most of the jurisdictions of developed and developing countries except Korea and China. Therefore, section 162(2) should be eliminated leaving only section 162(1) in effect as section 162(1) being the broad principle test covers relationships based on participation in control, capital and management as well.

(xiv) The definition of AE is divided under two parts under S.92A of ITA 1961 (Cl 162 of ITB 2025): 1 First part under S.92A in sub-section (1) defines the broad contours of the term and is based on participation in "management" or "control" or "capital"; and 2 The second part under S.92A in sub-section

(2) contains a deeming provision, giving specific illustrations [clauses (a) to (m)], to indicate when two enterprises will be deemed to be AEs. • S.92A(2) of ITA 1961 starts with “for the purposes of sub-section (1)” which is proposed to be replaced with "Without affecting the generality of the provisions of sub-section (1)" in Cl.162 of ITB 2025 This leads to a possible interpretation that the provisions of Clause 162(1) and 162(2) of ITB 2025 [existing 92A(1) and 92A(2) of ITA 1961] are to be applied independently. • S.92A was amended vide Finance Act 2002 by inserting the phrase “for the purposes of sub-section (1)” in beginning of S.92A(2). The memorandum to Finance Bill, 2002 clarified the purpose of amendment that for considering an enterprise as an AE of the other enterprise, not only conditions of S.92A(1) but also atleast one of the clauses of S.92A(2) must also be satisfied The Karnataka HC in the case of PCIT v Page Industries Ltd [2021] 124 taxmann.com 605 (Kar.) held that the provisions of S.92A(1) and S.92A(2) are interlinked and have to be read together In case the provisions are read independently, then one of the provisions would be rendered otiose which is impermissible in law in view of the well settled rule of statutory limitation It is recommended that the well settled and accepted definition of the term “Associated Enterprise” be retained without any changes to avoid unintentional noThe definition of AE is divided under two parts under S.92A of ITA 1961 (Cl 162 of ITB 2025): 1 First part under S.92A in sub-section (1) defines the broad contours of the term and is based on participation in “management” or “control” or “capital”; and 2 The second part under S.92A in sub-section (2) contains a deeming provision, giving specific illustrations [clauses (a) to (m)], to indicate when two enterprises will be deemed to be AEs. • S.92A(2) of ITA 1961 starts with “for the purposes of sub-section (1)” which is proposed to be replaced with "Without affecting the generality of the provisions of sub-section (1)" in Cl.162 of ITB 2025 This leads to a possible interpretation that the provisions of Clause 162(1) and 162(2) of ITB 2025 [existing 92A(1) and 92A(2) of ITA 1961] are to be applied independently. • S.92A was amended vide Finance Act 2002 by inserting the phrase “for the purposes of sub-section (1)” in beginning of S.92A(2). The memorandum to Finance Bill, 2002 clarified the purpose of amendment that for considering an enterprise as an AE of the other enterprise, not only conditions of S.92A(1) but also atleast one of the clauses of S.92A(2) must also be satisfied The Karnataka HC in the case of PCIT v Page Industries Ltd [2021] 124 taxmann.com 605 (Kar.) held that the provisions of S.92A(1) and S.92A(2) are interlinked and have to be read together In case the provisions are read independently, then one of the provisions would be rendered otiose which is impermissible in law in view of the well settled rule of statutory limitation It is recommended that the well settled and accepted definition of the term “Associated Enterprise” be retained without any changes to avoid unintentional non-compliance.

(xv) 1) In this Chapter, “associated enterprise”, in relation to another enterprise, means an enterprise— (a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital

of the other enterprise; or(b) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise (2) For the purposes of sub-section (1), two enterprises shall be deemed to be associated enterprises if, at any time during the tax year, This change in the Income-Tax Bill constitutes a significant amendment to the position Section 92A(2) defines the scope of section 92A(1) of the Act as is evident in the Memorandum to the Finance Bill, 2002, when it was introduced, which provides as under, “It is proposed to amend subsection (2) of the said section to clarify that the mere fact of

participation by one enterprise in the management or control orcapital of the other enterprise, or the participation of one or more persons in the management or control or capital of both the enterprises shall not make them associated enterprises, unless the criteria specified in subsection (2) are fulfilled.

(xvi) The existing language under section 92A(2) should not be changed in Section 162(2) of the New Income-Tax Bill 2025. This is for the reason that sub-section (2) defines what constitute participation in management, control and capital for the purposes of section (1) If generality of sub-section (1) will be kept as it is, then it will again be prone to litigation In case, there are more situations which are left to be covered in sub-section (2) like common directorship etc, those can be specifically covered.

(xvii) Suggestion: “Section 162(2) should be eliminated which is universally followed practise and accepted in the OECD and UN guidelines and also in all treaties signed by India. This is also an international norm followed in most of the jurisdictions of developed and developing countries except Korea and China. Therefore, section 162(2) should be eliminated leaving only section 162(1) in effect as section 162(1) being the broad principle test covers relationships based on participation in control, capital and management as well.” Analysis: In order to analyse our above suggestion in detail, it is important to critically examine the introductory language of section 92A(2) of the old Income-Tax Act, 1961 and corresponding section 162(2) of the new Income-Tax Bill, 2025 which are reproduced below: “Section 92A of the Income-Tax Act, 1961 (1) ……..…… …… (2) For the purposes of sub-section (1), two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,- (a) to (m) ……..." “Section 162 of the Income-Tax Bill, 2025 (1) …… (2) Without affecting the generality of the provisions of sub-section (1), two enterprises shall be deemed to be associated enterprises if,

at any time during the tax year,- (a) to (m) …… …… (3) ..... ……" On combined reading of sub-sections (1) and (2) of section 92A, it becomes evident that the classification of an entity as an associated enterprise requires fulfilment of conditions stipulated in both sub-section (1) and (2) of section 92A of the Income-Tax Act, 1961. The above requirement stems from the fact that sub-section (1) talks about participation through control, capital and management which establishes general control whereas sub-section (2) elaborates various examples of participation through control, capital and management thus stating specific relationship. However, under section 162 of the Income-Tax Bill, 2025, the situation is reversed. To classify an entity as an associated enterprise, it is now sufficient if any one of the two sub sections of Section 162 is satisfied independently. This interpretation stems from the wording of sub-section (2), which begins with the phrase "Without affecting the generality of the provisions of sub-section (1)" - clearly indicating that each sub-section can apply on its own. Furthermore, clauses (a) to (m) under sub-section (2) serve merely as illustrations of specific scenarios that fall within the broader principles of participation through capital, management and control as outlined in sub-section (1).

162.5 Examination by the Committee:

The Ministry in their written replies have responded to the suggestions as furnished below:-

(i) "The change is made to reflect the intent that cl. 162(1) is general definition of associated enterprise and cl. 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. Since the specific instances do not override the general provisions but they only provide for certainty in specified circumstances, the phrase "without affecting the generality of the provisions of sub-section (1)" has been rightly used in cl. 162(2) of the Bill. The intention was the same in section 92A(2) of the IT Act, but it was being wrongly interpreted in some cases. A deeming provision either adds to the substantive law by giving an artificial meaning (that is, a 'deeming fiction') or it clarifies the substantive provision. It should not serve to narrow or dilute the scope of the substantive or general law provision. This shall remove the existing ambiguity and minimise the probable future disputes on said matter. The amendment has been made with a view to rationalise the provision so as to provide tax

certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

There is some change in the drafting of clause 162(2) of the Bill vis-à-vis section 92A(2) of the Income-tax Act, 1961. The said change has been carried out to provide clarity on the intended provisions of the relevant section. This shall remove the existing ambiguity and minimise the probable dispute on said matter".

(ii) "The change is made to reflect the intent that cl. 162(1) is general definition of associated enterprise and cl. 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. Since the specific instances do not override the general provisions but they only provide for certainty in specified circumstances,

the phrase "without affecting the generality of the provisions of sub-section (1)" has been rightly used in cl. 162(2) of the Bill. The intention was the same in section 92A(2) of the IT Act, but it was being wrongly interpreted in some cases. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary. There is some change in the drafting of clause 162(2) of the Bill vis-à-vis section 92A(2) of the Income-tax Act, 1961. The said change has been carried out to provide clarity on the intended provisions of the relevant section. This shall remove the existing ambiguity and minimise the probable dispute on said matter".

(iii) "Stakeholder seeks clarity on the proposed definition of 'Associated Enterprise' in clause 162. The change is made to reflect the intent that cl. 162(1) is general definition of associated enterprise and cl. 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. This shall remove the existing ambiguity and minimise the probable future disputes on said matter. Clause 162 (section 92A) has been rationalised to provide clarity on the intended provisions of the relevant section. This shall remove the existing ambiguity and minimise the probable dispute on said matter."

(iv) "Stakeholder seeks to state that provisions of clause 162(3) and clause 164 are similar. In the Bill, the provisions of International transaction and specified domestic transaction have been aligned and clause 162(3) has been inserted to provide reference of 'associated enterprise' in the context of specified domestic transaction. Clause 162(3) defines the 'associated

enterprise' in the context of specified domestic transaction and clause 164 defines the specified domestic transaction itself. Therefore the observation is incorrect. Therefore, the observation/suggestion is incorrect. Clause 162 (section 92A) has been rationalised to provide clarity on the intended provisions of the relevant section. This shall remove the existing ambiguity and minimise the probable dispute on said matter".

(v) "Stakeholders seeks to inter alia expand the provisions of clause 162(1) by explicitly defining 'management', 'control 'and 'capital', introducing control and ownership thresholds specifically in sub-clause (j) and (k) of clause 162(2). The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. The extant provisions of clause 162 (1) provide general definition of associated enterprise and clause 162(2) provides specific instances. In specific instances percentage participation, control, contribution etc. has been specified. In clauses 162(2)(j) and (k), specific percentage control has not be specified as it is in the context where an individual and HUF is having control over the both enterprises. Clause 162 (section 92A) has been rationalised to provide clarity on the intended provisions of the relevant section. This shall remove the existing ambiguity and minimise the probable dispute on said matter".

(vi) "Stakeholder seeks deletion of clause 162(2) of the Bill. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. The present provision has been rationalised to remove ambiguity and minimise dispute arising out of multiple interpretation. The suggestion to remove clause 162(2) has no rationale as said clause covers the specific circumstances/instances where two enterprises may be considered as 'associated enterprise'. Hence, brings clarity and minimises litigation".

162.5.2 Clause 162 of the Income-Tax Bill, 2025 explains the meaning of Associated Enterprise referred to under Section 92A of the Income-Tax Act, 1961. A marked change has been noticed in the wordings of Clause 162 (2) which substitutes the words "without affecting the generality of the provisions of sub-section (1)" for the earlier used "for the purpose of sub-section (1)" in the Section 92A of the Income-Tax Act, 1961. In this context, the Ministry of Finance were requested to categorically state, whether:-

(i) meeting either of the conditions of sub-section (1) or (2) is sufficient enough to be called Associated Enterprises (AE); or

(ii) satisfaction of any of the clauses (a) to (m) of sub-section (2), *ipso facto* renders the status of AE without fulfilling the conditions of sub-section (1);

(iii) to clarify their response taking into consideration the established and settled Judicial pronouncements:-

(iv) the Ministry was further requested to elucidate the rationale behind the introduction of the phrase “without affecting the generality of the provisions of sub-section (1)” for the earlier used “for the purpose of sub-section (1)”, more so, when the probability of increased disputes and litigations are being anticipated by the experts/stakeholders.

In their elaborate written response, the Ministry have submitted the following details:-

(i) “The change is made to reflect the intent that cl. 162(1) is general definition of associated enterprise and cl. 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. The intention was the same in section 92A(2) of the IT Act, but it was being wrongly interpreted in some cases.

(ii) Since the specific instances do not override the general provisions but they only provide for certainty in specified circumstances, the phrase “without affecting the generality of the provisions of sub-section (1)” has been rightly used in cl. 162(2) of the Bill. A deeming provision either adds to the substantive law by giving an artificial meaning (that is, a ‘deeming fiction’) or it clarifies the substantive provision. It should not serve to narrow or dilute the scope of the substantive or general law provision.

(iii) The existing sub-section (1) of section 92A provides for the following:

“**Meaning of associated enterprise.**

92A. (1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, "associated enterprise",

relation to another enterprise, means an enterprise—

a	which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or
b	in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise

(iv) Sub-section (1) is by way of a general principle. Following this, sub-section (2) of section 92A begins as follows:

> "For the purposes of sub-section (1), two enterprises shall be deemed to be associated enterprises if, …"

(v) It then enumerates conditions (a) to (m), which are separated by the word 'or', thereby meaning that if any one is fulfilled, the two enterprises shall be treated as 'associated enterprises' "for the purposes of sub-section (1)". Sub-section (2) has been incorporated as a deeming provision. A deeming provision can play both roles - providing an artificial meaning as well as having a clarificatory nature. Thus, a deeming provision can extend or enlarge the scope of the general provision, but it is not brought in to limit the scope of the general provision.

(vi) Had there been only sub-section (1) on the statute, it would have led to wide variance in reporting associated enterprises. Sub-section (2) deems certain situations, which provide a determinable measure or a quantitative norm in this regard. This was for bringing certainty. This is evident from Annexure to Form No. 3CEB, which is to be furnished under section 92E (containing description of the associated enterprises and the international transactions). Column 10 of Part B of this Annexure unequivocally and unambiguously refers to section 92A(2) in the following manner:

PART B (International Transactions)

10.	*List of associated enterprises with whom the assessee has entered into international transactions, with the following details:* (*a*) Name of the associated enterprise. (*b*) Nature of the relationship with the associated enterprise as referred to in section 92A(2). (*c*) Brief description of the business carried on by the associated enterprise	

(vii) This reference to section 92A(2) clearly shows that what was envisaged for the purposes of implementation and certainty to taxpayers, the situations provided in sub-section (2) as a deeming fiction were to be taken into account for furnishing Form 3CEB. The general provision was required to deal with specific anti-avoidance circumstances or cases, as transfer pricing provisions are in the nature of 'special ant-avoidance rule' (SAAR).

(viii) Some taxpayers were of the view that even when sub-section (2) was in the nature of a deeming fiction, the general conditions contained in sub-section (1) needed to be satisfied in addition to any one of the conditions mentioned in sub-section (2). In other words, sub-section (1) was considered as being subsumed in sub-section (2), that is, first the specific condition in sub-section (2) needed to be satisfied and then the principle mentioned in sub-section (1) was to be applied. This led to litigation.

(ix) It is felt that as provisions of sub-section (1) are general and subjective in nature, the requirement of its fulfilment in spite of the fulfilment of the deeming fiction will lead to more litigation.

(x) Sub-section (2) has the role of providing both an artificial meaning and clarification, and it does so in a quantitative and deterministic manner so that the taxpayers can file their Form 3CEB with certainty and thereby preventing any further litigation in this regard. The general provision remains on the statute as the internationally accepted general principle, in accordance with the status of transfer pricing regulation being in the nature of an anti-avoidance rule.

(xi) It is necessary to mention here that the associated enterprises are part of a general tax treaty principle. For example, Article 9 of the India-USA DTAA provides the following:

"1. Where :

(*a*)	an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State ; or
(b)	the same persons participate directly or indirectly in the management, control, or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which, but for those conditions would have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly."

(xii) The general principle of control, management etc is captured in sub-section (1) of section 92A. The US IRS Code does not have any quantitative formulation has contained in sub-section 2 of section 92A. The general rule is given in section 482(1)(a) of the US IRS Code as follows:

> In general -- (1) Purpose and scope. The purpose of section 482 is to ensure that taxpayers clearly reflect income attributable to controlled transactions, and to prevent the avoidance of taxes with respect to such transactions. Section 482 places a controlled taxpayer on a tax parity with an uncontrolled taxpayer by determining the true taxable income of the controlled taxpayer.

(xiii) The term 'controlled' is then defined in section 482(1)(i) as follows:

> ***"Controlled*** includes any kind of control, direct or indirect, whether legally enforceable or not, and however exercisable or exercised, including control resulting from the actions of two or more taxpayers acting in concert or with a common goal or purpose. It is the reality of the control that is decisive, not its form or the mode of its exercise. A presumption of control arises if income or deductions have been arbitrarily shifted."

(xiv) 'controlled taxpayer' is then defined as follows:

> ***Controlled taxpayer*** means any one of two or more taxpayers owned or controlled directly or indirectly by the same interests, and includes the taxpayer that owns or controls the other taxpayers. *Uncontrolled taxpayer* means any one of two or more taxpayers not owned or controlled directly or indirectly by the same interests.

(xv) It is mentioned in the OECD Transfer Pricing Country profile for the USA that:

> "This is a facts and circumstances analysis **without pre-determined thresholds,** as control includes "any kind of control, direct or indirect, whether legally enforceable or not, and however exercisable or exercised, including control resulting from the actions of two or more taxpayers acting in concert or with a common goal or purpose."

(xvi) It can be seen that these are not quantitative. Thus, having pre-defined thresholds or formulaic provision and then applying the general

principle to them defeats the purpose of the general principle. If we apply this to sub-section (2) of section 92A, then it would itself become a truncated provision.

(xvii) The IT Bill, 2025 has accordingly, placed the general and deeming provision separate.

(xviii) An analysis considering the decisions of ITAT as mentioned in clause (iii) is of the point 8 is enclosed as “Annexure A””

162.5.3 About Clause 162(3) regarding 'associated enterprise' in the context of specified domestic transaction, the representative of the Ministry of Finance clarified before the Committee as mentioned below:-

> “in the meaning of ‘associated enterprises’ for specified domestic transactions, we have said that these items also should be covered. In case of specified domestic transactions, these are the few other items which should be categorized in the definition of associated enterprises. And then there is clause164, where we have specified what are specified domestic transactions because the transfer pricing provisions apply on international transactions and also specified domestic transactions. So, the stakeholder is saying that clause 162(3), which provides for additional items, and then clause 164, which provides for what is a specified domestic transaction are similar. We are saying that they are not similar. They are entirely different. Clause 164 is about SDT and clause 162(3) is relating to associated enterprises for the purposes of SDT”.

162.5.4 In a subsequent sitting, the representatives of the Ministry of fInance, further explained their pont of view before the Committee as under:-

> “सर, जो हमारी ट्रांसफर प्राइसिंग होती है और हमारा जो इंटरनेशनल टैक्सेशन है, the law is that any transaction with an associated enterprise has to be at arm's length price. Now, the question is who is an associated enterprise? So, Section 92A provides this. In this, there are two categories. One is general definition and the other is deeming provisions, which state that for the purposes of this clause, following will be deemed to be associated enterprises. There was litigation on this issue, whether both clauses are to be separately fulfilled or both had to be read together. So, even ITATs are not on the same level. The stakeholder has given many case laws here. So, all the case laws are not on similar length. These are specific examples. Some say, if a condition of clause 2 is fulfilled, or some enterprise is holding 26 per cent shareholding in the other enterprise, or someone is purchasing the entire products of the other enterprise. So,

they said, if it is fulfilled, it will be AE. Others said No, along with second, you have to read first also. So, we have tried to give a detailed explanation. We have also studied the global practices. We have given example of United States, which only incorporates the first part. It gives no example, as we have given in the second part. When we provided the second part, it was to bring tax certainty, that once you fall in this, you should treat the other international party as your AE, and accordingly you file your Form 3CEB. Our Form 3CEB also incorporates this clause. If you see our reply, we have given what is incorporated in our form. It clearly says:

"List of associated enterprises with whom the assessee has entered into international transactions with the following detail:- Name of the associated enterprise, nature of the relationship with the AE, as referred to in Section 92A2."

Sir, even one ITAT decision has held our view and said that the deeming provision cannot restrict the general provision; it only expands it. It brings certainty to the general provision. So, to settle the issue, in sub-section 2 of the Bill, we have brought that without affecting the generality of sub-section 1, following will be deemed to be the associated enterprises so that whoever falls in this second part, they are certain that yes, these are our associated enterprises and we should report the transactions with them in our Form 3CEB. So, our submission is that this change will bring more tax certainty to the issue…….. सर, जो ये डिसीज़न्स दिए हुए हैं, उनको हमने एग्जामिन किया है और नोट में लिखा है। उनके बीच में भी आपस में सेम व्यू नहीं है। हमारा यह कहना है। आईटीएटी के जो डिसीजन्स हैं, वे भी अलग-अलग फॉर्म पर चल रहे हैं। हमारा यह कहना है कि जो डीमिंग प्रोविज़न्स है, once it is deemed, that should become final…….. : Sir, with the earlier wording, they are saying that even if you fulfil any of the conditions in 2, you still have to fulfil the conditions of 1. In another decision of ITAT in 2015, they have also said that the deeming provisions should expand general provisions. They should not limit it. So, once they are saying that even after 2, you have to go to 1. So, there is diversity of use of the ITAT itself.Like ORCHID case which they have referred to. In ORCHID case, we have used the word ‘control, participation in management’ under 1 whereas the examples of that are given in 2. So, once we fulfil any of the conditions, that should become the AE. But they say, no, you somehow go back to 1 after 2,and 1 is a general provision which is very difficult to fulfil. So, our submission is that the present words are leading to more litigation whereas we want to end to that litigation”.

162.5.5 Intervening, the Secretary, Ministry of Finance (Department of Revenue) further deposed before the Committee, as produced below:-

> "I would just like to explain this. I think both of us are probably meaning the same. We would just like to understand it a little bit. What we are saying is also the same. I will not go into whether what we have legally drafted represents that. But I will explain the concept or thought behind it. Section 162(1) defines what is associated, and as you rightly pointed out, 162(2) lists out all the reasons, or any one of them, which, if it is satisfied, will make it an associated enterprise. The legal problem that you have pointed out is that this language, which I also appreciate, would result in a case where, suppose I do not meet any of these, somebody may still go and use the first clause and say, you are associated, independent of you not having met any of those clauses. In two, if you look at the last sub-clause, that is, (m), which anyway says that between two enterprises exists any relationship of mutual interest as prescribed. So, there is a window being made available there also. What the Department is arguing here was that under the current formulation, some ITATs interpreted, what we wanted, that if somebody has met one of the two clauses, then you should treat it as associated. Some ITATs, after having met that also, went back to that general clause, and interpreted saying, under general clause prove something more, and that resulted in dilution of the interpretation itself. So, the intention is same. We also want to represent correctly that '2' is nothing but listing out of the first. The way we have drafted probably is giving an impression that after having met this specific, we still want to keep a freedom to do something under 1, whereas our intention is to prevent that either way. So, we can draft it".

162.6 <u>Observations/Recommendations of the Committee:</u>

On scrutinizing the proposed Clause 162 of the Bill which seeks to define the expression "associated enterprise" and corresponds to section 92A of the Act, the Committee find that the words "for the purposes of sub-section (1)" are replaced with the words "Without affecting the generality of the provisions of sub-section (1)"in sub-clause (2) of the proposed Clause 162 of the Bill. This alteration has attracted a number of suggestions raising concerns for future

litigation. The Committee went through the merit of each argument closely and took into consideration the different point of views. The Committee examined the detailed reply of the Ministry in this regard wherein it has been contended that there is an ambiguity in interplay of sub-section (1) and (2) of section 92A in view of words "for the purposes of sub-section (1)" appearing in the beginning of sub-section (1) in the IT Act, 1961. In order to remove the ambiguity and give intended interpretation, the change is made to reflect the intent that clause 162(1) is general definition of associated enterprise and clause 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. It can be seen that with the altered language proposed in the Clause 162, there is a possible interpretation that the condition for being an associated enterprise is fulfilled by meeting the conditions under 162 (2) or 162 (1) independently and that the two sub-sections have become mutually exclusive. The discussion with the Ministry on this aspect enlightened the Committee that the intent behind the change was to reduce litigation and bring in more clarity. However, the Committee are of the opinion that reinstating the earlier phrase "for the purposes of sub-section (1)" in sub-clause (2) of the proposed Clause 162 of the Bill in the place of "Without affecting the generality of the provisions of sub-section (1)", would serve the intent of defining Associated Enterprises in a better way, as earlier in the IT Act, 1961. Thus, the Committee, recommend the Ministry to reinstate the position of the proposed Clause 162 in consonance with the Section 92A of the IT Act, 1961 vis-à-vis the reinstatement of the earlier phrase "for the purposes of sub-section (1)" in the opening line of sub-clause (2) of the proposed

Clause 162 of the Bill in the place of proposed phrase "Without affecting the generality of the provisions of sub-section (1)".

Clause – 163 – <u>Meaning of international transaction.</u>

163.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

163. (1) In this Chapter, "international transaction" means a transaction between two or more associated enterprises, one of which is necessarily a non-resident, and includes— (a) the purchase, sale, transfer, lease or use of tangible property, including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing; (b) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature; (c) capital financing, lending and borrowing of money, including,— (i) any type of long-term or short-term borrowing, lending or guarantee; or (ii) purchase or sale of marketable securities; or (iii) any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business; (d) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service; (e) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has any bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date; (f) a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises; and (g) any other transaction having a bearing on the profits, income, losses or assets of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise ("other person") shall, for sub-section (1), be deemed to be an international transaction entered into between two associated enterprises, if— (a) there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or (b) the terms of the relevant transaction are determined, in substance, between such other person and the associated enterprise, and the enterprise or the associated enterprise or both of them are non-residents, irrespective of whether the other person is a non-resident or not.

(3) The expression "intangible property" shall include the following,— (a) marketing related intangible assets, such as, trademarks, trade names, brand names, logos; (b) technology related intangible assets, such as, process patents, patent applications,

technical documentation such as laboratory notebooks, technical know-how; (c) artistic related intangible assets, such as, literary works and copyrights, musical

compositions, copyrights, maps, engravings; (d) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters; (e) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation; (f) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders; (g) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements; (h) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts; (i) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights; (j) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value; (k) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists or technical data; and (l) any other similar item that derives its value from its intellectual content rather than its physical attributes.

163.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Meaning of international transaction.

92B. (1) For the purposes of this section and sections 92, 92C, 92D and 92E, "international transaction" means a transaction between two or more associated enterprises, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses or assets of such enterprises, and shall include a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise shall, for the purposes of sub-section (1), be deemed to be an international transaction entered into between two associated enterprises, if there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise, or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise where the

enterprise or the associated enterprise or both of them are non-residents irrespective of whether such other person is a non-resident or not.

Explanation.—For the removal of doubts, it is hereby clarified that—

(*i*) the expression "international transaction" shall include—

(*a*) the purchase, sale, transfer, lease or use of tangible property including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;

(*b*) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;

(*c*) capital financing, including any type of long-term or short-term borrowing, lending or guarantee, purchase or sale of marketable securities or any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;

(*d*) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;

(*e*) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

(*ii*) the expression "intangible property" shall include—

(*a*) marketing related intangible assets, such as, trademarks, trade names, brand names, logos;

(*b*) technology related intangible assets, such as, process patents, patent applications, technical documentation such as laboratory notebooks, technical know-how;

(*c*) artistic related intangible assets, such as, literary works and copyrights, musical compositions, copyrights, maps, engravings;

(*d*) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters;

(*e*) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation;

(*f*) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders;

(*g*) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements;

(*h*) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts;

(*i*) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights;

(*j*) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value;

(*k*) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data;

(*l*) any other similar item that derives its value from its intellectual content rather than its physical attributes.

163.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 163 of the Bill seeks to define the expression "international transaction". The clause corresponds to section 92B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

163.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some of the key suggestions from the stakeholders are summarized as below:-

(i) It is suggested to remove clauses (h) and (i), as they currently classify "organized workforce" and "location savings" as intangible properties for transfer pricing purposes. The OECD Transfer Pricing Guidelines (2017) redefined the concept of "Intangibles" by specifically excluding "organised workforce" and "location savings" from being classified as intangible assets. Need for Alignment with Global Standards: The definition of “Intangible property” under Income-Tax Act, 1961 and Income-Tax Bill, 2025 does not align with the updated OECD standards This can lead to inconsistencies in transfer pricing practices, especially for multinational companies involved in cross-border transactions.

(ii) Provisions may be amended to provide that such capital account transaction are not required to be reported and correspondingly Form 3CEB (under old Act) can be modified, Clause 16 of Form 3CEB requires the reporting of purchase or sale of marketable securities, issue and buyback of securities. Assessees are bound to report issue/purchase of shares transaction as international transaction in Form 3CEB even if it does not impact taxable income.

163.5 <u>Examination by the Committee:</u>

The Ministry in their written replies to the suggestions have submitted as under:-

(i) “The stakeholder seeks to align the definition of 'intangibles' in the Act/Bill as per OECD guidelines. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Under Clause 163(3)(h) specific human capital related intangible such as trained and organised work force, employment agreements and union contracts have been included and under Clause 163(3)(i) specific location related intangibles assets, such as leasehold interest, mineral exploitation rights, easements, air rights, water rights have been included. It is therefore evident that definition of intangibles under clause 163(3)(h)and (i) are specific and may fall under the broad guidance of intangibles issued by OECD”

(ii) “Stakeholder seeks removal of reporting requirement of purchase or sale of marketable securities, issue and buyback of securities from clause 16 of Form 3CEB. Amendment of Form 3CEB is a matter of rules and subordinate legislation. Being a sub-ordinate legislation matter, it is out of the purview of Bill. The rationale given is that international transaction includes ‘purchase or sale of marketable

securities' and CBDT has clarified that premium arising on issue of shares is a capital account transaction and it does not give rise to income. Hence, it is not liable to transfer pricing adjustment. Transfer pricing provisions ensure fair valuation of economic activity (production of goods, services and other transactions) undertaken in a country and tackles artificial shifting of taxable profits. Therefore, though premium in excess of fair market value received on a issuance of shares may not be taxable due to non application of section 56(2)(viib) with effect from 1.4.2025, the transaction is shares may have relevance from the angle of transfer pricing provisions. It could be appreciated that transaction in shares may also result in capital gains subsequently, which would certainly attract Transfer Pricing provisions. In view of the above, amendment on proposed suggestion is……"

163.5.2 On the issue of aligning the definition of 'intangibles' in the Act/Bill as per OECD guidelines, the representatives of the Ministry of Finance, during the sitting of the Committee, submitted as under:-

"the suggestion is that there is a definition of intangibles in the Act as well as Bill. So, the suggestion is that it should be aligned to the OECD guidelines. So, our view is that we have given specific definition of intangibles and then we go by our Act rather than referring to some international guidelines as far as definition of intangibles is concerned".

163.5.3 Elaborating further on the same issue, during the sitting, the representative of the ministry of Finance submitted as under:-

"Regarding 454, the stakeholder is asking that there is a reporting requirement of purchase or sale of marketable securities. That reporting requirement is in Form 3CEB. So, the stakeholder is saying that you remove this reporting requirement. We are saying it is a matter of rules and subordinate legislation. And then regarding removal of this, the stakeholder is saying that you do not apply transfer pricing provisions to such transactions. We have explained that issue and buyback of securities, purchase or sale of marketable securities and issue and buyback of securities are a transaction where transfer pricing provisions have to apply because that can result in profit shifting".

163.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, having examined the contents of proposed Clause 163 of the Bill pertaining to the meaning of international transaction, alongwith the corresponding Section 92B of the IT Act, 1961, find that there is content migration from the earlier section to the current Bill. Other than textual simplification, nothing more has been disturbed. The Committee also find the justification of the Ministry against the suggestions of the stakeholders cogent and sound enough, adding clarity to the text in defining the expression "international transaction". Therefore, the Committee, accept the proposed clause 163 without any changes.

Clause – 164 –Meaning of specified domestic transaction.

164.1 Provisions proposed in the Income-Tax Bill, 2025:

164. In this Chapter, “specified domestic transaction” in case of an assessee means any of the following transactions, not being an international transaction— (a) any transaction referred to in section 122; (b) any transfer of goods or services referred to in section 140(9); (c) any business transacted between the assessee and other person as referred to in section 140(13); (d) any transaction, referred to in any other section under Chapter VIII or section 144, to which provisions of section 140(9) or (13) are applicable; (e) any business transacted between the persons referred to in section 205(4); (f) any other transaction as prescribed, and where the aggregate of such transactions entered into by the assessee in a tax year exceeds a sum of twenty crore rupees.

164.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Meaning of specified domestic transaction.

92BA. For the purposes of this section and sections 92, 92C, 92D and 92E, "specified domestic transaction" in case of an assessee means any of the following transactions, not being an international transaction, namely:—

(*i*) [***]

(*ii*) any transaction referred to in section 80A;

(*iii*) any transfer of goods or services referred to in sub-section (8) of section 80-IA;

(*iv*) any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;

(*v*) any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or

(*va*) any business transacted between the persons referred to in sub-section (6) of section 115BAB;

[5][(*vb*) any business transacted between the assessee and other person as referred to in sub-section (4) of section 115BAE;]

(*vi*) any other transaction as may be prescribed,

and where the aggregate of such transactions entered into by the assesse in the previous year exceeds a sum of twenty crore rupees.

164.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 164 of the Bill seeks to define the expression "specified domestic transaction". The clause corresponds to section 92BA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

164.4 Important Views/Suggestions given by Experts/Stakeholders:

Some of the important suggestions from the stakeholders are mentioned below:-

(i) Propose to change the reference in clause (e) from 205(4) to 205(5), Since section 205(5) refers to the transaction between the related enterprises that requires the amount of profits to be determined having regard to arm's length.

(ii) The said provision should be eliminated because most of the incentive provisions are phased out and if not, are being gradually phased out.
Presently, income tax is levied on companies by classifying the companies into 5 categories namely:
Newly setup companies who commenced manufacturing on or before the 31st March, 2024 taxable at 15% under section 115BAB
Domestic Companies taxable at the rate of 22% under section 115BAA
Domestic Companies whose turnover does not exceed Rs. 400 Cr taxable at the rate of 25% under section 115BA
Companies taxable under normal provisions at the rate of 30% which is subject to MAT provisions
Companies incorporated in gift city are exempted for 10 years but subject to MAT under section 115JB at the rate of 9%.
(Surcharge and Cess shall be levied separately on all the above mentioned tax rates)
Therefore, even if in principle, the provisions of this transaction needs to be continued, transfer pricing provisions should be made applicable to transactions between category (i) to (iv) with category (v) type of companies.

164.5 Examination by the Committee:

(i) "Accepted: Drafting error. May be corrected by substituting reference of clause 205(4) with clause 205(5) in clause 164. The proposed provisions of the Bill are similar to the provisions of the I T Act".

(ii) **"**Stakeholder seeks deletion of provisions concerning 'Specified Domestic Transaction'. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Like in transfer pricing provisions, determination of arm's length price in specified domestic transaction between two related parties to ensure fair valuation of economic activity (production of goods, services and other transactions) undertaken between such parties and tackles artificial shifting of taxable profits to tax efficient entity. In view of the above, amendment on the proposed suggestion is not feasible. The proposed provisions of the Bill are similar to the provisions of the I T Act".

164.5.2 On the aspect of deletion of provisions concerning 'Specified Domestic Transaction'**,** the representative of the Ministry of Finance submitted before the Committee, during the sitting, as under:-

"Sir, there are international transactions and there are specified domestic transactions for which transfer pricing provisions are applicable. The stakeholders' request is that we delete the provisions concerning specified domestic transactions. That means on specified domestic transactions, no transfer pricing provision should be applicable. In domestic area also, beyond a threshold, we have provided that wherever there are associate enterprises, they also can use the provisions because if there is a profit-making company, it can reduce its profit and transfer its profit to its associate enterprises. That way, both get tax arbitrage and in certain cases tax abuse also. That is why these SDD provisions are there".

164.6 <u>Observations/Recommendations of the Committee:</u>

The Committee find that Clause 164 of the Bill seeks to define the expression "specified domestic transaction". The clause corresponds to section 92BA of the Act. However, the scrutiny of the text reveal that there is a incorrect reference in Clause 164 (e) to 205 (4). The actual reference should be to 205 (5) since section 205(5) refers to the transaction between the related enterprises that requires the amount of profits to be determined having regard to arm's length. On pointing to the Ministry, it has been identified to be a drafting error. Therefore, the Committee, other than recommending the Ministry to carry out the change of

reference in clause 164 (e) from 205(4) to 205(5), find the provisions of the existing section to be a textual simplification and accept the proposed Clause.

Clause – 165 –Determination of arm's length price.

165.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

165. (1) The arm's length price in relation to an international transaction or specified domestic transaction shall be determined by any of the following methods, being the most appropriate method— (a) comparable uncontrolled price method; (b) resale price method; (c) cost plus method; (d) profit split method; (e) transactional net margin method; (f) such other method as prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be,— (a) selected having regard to the nature of transaction or class of transaction or class of associated enterprise or functions performed by such enterprises or such other relevant factors as the Board may prescribe; (b) applied for determination of arm's length price in such manner as prescribed.

(3) The arm's length price shall be— (a) in case, only one price is determined by the most appropriate method,— (i) the price determined by that method; or (ii) the price at which the international transaction or specified domestic transaction has actually been undertaken, if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding 3% of the latter, notified by the Central Government in this behalf; or (b) in case, more than one price is determined by the most appropriate method, the price determined in such manner as prescribed.

(4) The Assessing Officer, during the course of any proceeding for the assessment of income, may proceed to determine the arm's length price in relation to an international transaction or specified domestic transaction as per sub-sections (1), (2) and (3) if, on the basis of material or information or document in his possession, he is of the opinion that— (a) the price charged or paid in an international transaction or specified domestic transaction has not been determined as per sub-sections (1), (2) and (3); or (b) any information and document relating to an international transaction or specified domestic transaction has not been kept and maintained by the assessee as per section 168(1); or (c) the information or data used in determination of the arm's length price by the assessee is not reliable or correct; or (d) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under section 171(2).

(5) The Assessing Officer, before determining the arm's length price under sub-section (4), shall give a notice calling upon the assessee to show cause, on the date and time to be specified in the notice, why the arm's length price should not be determined on the basis of material or information or document in his possession.

(6) The Assessing Officer, on determination of arm's length price under sub-section (4), may compute the total income of the assessee having regard to the arm's length price so determined.

(7) No deduction shall be allowed under section 144 or under Chapter VIII in respect of income by which the total income of the assessee is enhanced after computation of income under sub-section (6).

(8) When the total income of an associated enterprise is computed under sub-section (6) on determination of the arm's length price paid to another associated enterprise from which tax has been deducted or was deductible under the provisions of Chapter XIX-B, the income of the other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of the first mentioned enterprise.

165.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Computation of arm's length price.

92C. (1) The arm's length price in relation to an international transaction or specified domestic transaction shall be determined by any of the following methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe, namely :—

(*a*) comparable uncontrolled price method;

(*b*) resale price method;

(*c*) cost plus method;

(*d*) profit split method;

(*e*) transactional net margin method;

(*f*) such other method as may be prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be applied, for determination of arm's length price, in the manner as may be prescribed :

Provided that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices:

Provided further that if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding three per cent of the latter, as may be notified by the Central Government in the Official Gazette in this behalf, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price :

Provided also that where more than one price is determined by the most appropriate method, the arm's length price in relation to an international transaction or specified domestic transaction undertaken on or after the 1st day of April, 2014, shall be computed in such manner as may be prescribed and accordingly the first and second proviso shall not apply.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of the second proviso shall also be applicable to all assessment or reassessment proceedings pending before an Assessing Officer as on the 1st day of October, 2009.

(2A) Where the first proviso to sub-section (2) as it stood before its amendment by the Finance (No. 2) Act, 2009 (33 of 2009), is applicable in respect of an international transaction for an assessment year and the variation between the arithmetical mean referred to in the said proviso and the price at which such transaction has actually been undertaken exceeds five per cent of the arithmetical mean, then, the assessee shall not be entitled to exercise the option as referred to in the said proviso.

(2B) Nothing contained in sub-section (2A) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154 for any assessment year the proceedings of which have been completed before the 1st day of October, 2009.

(3) Where during the course of any proceeding for the assessment of income, the Assessing Officer is, on the basis of material or information or document in his possession, of the opinion that—

(*a*) the price charged or paid in an international transaction or specified domestic transaction has not been determined in accordance with sub-sections (1) and (2); or

(*b*) any information and document relating to an international transaction or specified domestic transaction have not been kept and maintained by the assessee in accordance with the provisions contained in sub-section (1) of section 92D and the rules made in this behalf; or

(*c*) the information or data used in computation of the arm's length price is not reliable or correct; or

(*d*) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under sub-section (3) of section 92D,

the Assessing Officer may proceed to determine the arm's length price in relation to the said international transaction or specified domestic transaction in accordance with sub-sections (1) and (2), on the basis of such material or information or document available with him:

Provided that an opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the arm's length price should not be so determined on the basis of material or information or document in the possession of the Assessing Officer.

(4) Where an arm's length price is determined by the Assessing Officer under sub-section (3), the Assessing Officer may compute the total income of the assessee having regard to the arm's length price so determined :

Provided that no deduction under section 10A or section 10AA or section 10B or under Chapter VI-A shall be allowed in respect of the amount of income by which the total income of the assessee is enhanced after computation of income under this sub-section :

Provided further that where the total income of an associated enterprise is computed under this sub-section on determination of the arm's length price paid to another associated enterprise from which tax has been deducted or was deductible under the provisions of Chapter XVIIB, the income of the other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of the first mentioned enterprise.

165.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 165 of the Bill provides for determination of arm’s length price and the methods for determining the arm’s length price. The clause corresponds to section 92C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

165.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Few important suggestions on the Clause are summarized as under:-

(i) Transfer Pricing ('TP') provisions seek to avoid base erosion and shifting of profits using transactions with related parties. However, currently there is litigation even when there is no flight of profits from India. Example:-

I Co importing services from its related parties for $100 and the arms' length price (ALP) is $125.00. When I Co pays lower amount, there is no flight of profits from India. But TPO, though satisfied from I Co perspective, argues F Co should have charged extra $25.00 and taxes it in F Co's assessment, without appreciating that if F Co charges $25 extra, I Co (taxed @ 30% or 22%) would claim higher deduction while F Co pays tax @10%.) Amendment must be made in section 92C of the Act (Section 165 of the Bill) to clarify that if the transaction has been found to be at arms' length from the perspective of the Indian company, then there should be no scrutiny or adjustments for the same transaction from the perspective of the Foreign Company.

(ii) The proposed section 165(3) needs to be modified. Sub-clause (i) be made part of clause (a) and sub-clause (ii) shall be made clause (c) because the present clause (ii) will apply to both one price and more than one price. It should read as follows: (3) The arm's length price shall be — (a) in case, only one price is determined by the most appropriate method, the price determined by that method; or (b) in case, more than one price is determined by the most appropriate method, the price determined in such manner as prescribed. (c) the price at which the international transaction or specified domestic transaction has actually been undertaken, if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding 3% of the latter, notified by the Central Government in this behalf.

(iii) Section 171(1) refers to the maintenance, and keeping of information and documents in respect of the transaction entered into. This appears to be an inadvertent error in referencing and needs correction.

(iv) The new Income-Tax Bill now provides a flat 3% range which is now applicable to the determined ALP even when only a single comparable is used. However, a rate of 1% for wholesalers, maximum rate for manufacturing industry and 3% for trade should be appropriate.

The new bill drops references to metric like arithmetic mean which is welcomed. However, the Percentile-based ranges (like interquartile) should continue to apply as it is accepted internationally.
The words “as may be prescribed’ should be deleted in the new Income-Tax Bill and the reference should be drawn in the statute itself. Comparatively, the existing provisions are better than the bill because discretion giving to the officers is mostly misused giving rise to uncountable litigations out of which 94% cases are against the department. The time has come to go back to Rule 10 and Formulary Apportionment Method on Transfer pricing When even OECD who is the originator of Transfer Pricing have started thinking about the Formulary Apportionment Method in the Base Erosion and Profit Sharing project [BEPS], it is time for us to implement this method which is already contained in the rules and could be extended to transfer pricing purpose as well.

(v) In order to be consistent with the international practices, it is suggested that inter quartile range may be adopted for computing the arm’s length range in cases where the application of most appropriate method results in more than one comparable transaction. An approach consistent with international practices would reduce cross-border tax disputes and facilitate smoother compliance for multinational enterprises operating in multiple jurisdictions

(vi) The new Income-Tax Bill now provides a flat 3% range which is now applicable to the determined ALP even when only a single comparable is used. However, a rate of 1% for wholesalers, maximum rate for manufacturing industry and 3% for trade should be appropriate. The new bill drops references to metric like arithmetic mean which is welcomed. However, the Percentile based ranges (like interquartile) should continue to apply as it is accepted internationally. The words “as may be prescribed’ should be deleted in the new Income-Tax Bill and the reference should be drawn in the statute itself. Comparatively, the existing provisions are better than the bill because discretion giving to the officers is mostly misused giving rise to uncountable litigations out of which 94% cases are against the department. We believe the time has come to go back to Rule 10 and Formulary Apportionment Method on Transfer pricing. When even OECD who is the originator of Transfer Pricing have started thinking about the Formulary Apportionment Method in the Base Erosion and Profit Sharing project [BEPS], it is time for us to implement this method which is already contained in the rules and could be extended to transfer pricing purpose as well.” Section 165 of the Income-Tax Bill, 2025 provides a flat 3% range which is now applicable to the determined Arm’s Length Price even when a single comparable is used. However, such 3% tolerance level while administratively simple, does not reflect the economic realities across industries. Therefore, a tolerance rate of 1% for wholesalers, maximum rate for manufacturing industry and 3% for trade should be considered to be appropriate. To illustrate the above suggestion, lets understand with the help of an example: Case 1: Wholesale Trade Transaction (High Volume,

Low Margin) ALP Determined Actual Transaction Price Rs. 101 Rs. 100 Difference Rs. 1 [1% of the actual price] This would pass under the 3% tolerance level. But in wholesale, where margins are often below 2%, this 1% variance could be significant, leading to profit shifting. In wholesale, even small deviations can materially affect margins. This tighter band helps safeguard base erosion in thin-margin wholesale operations. Case 2: Manufacturing Sector (Complex, Differentiated Products) ALP Determined Actual Transaction Price Rs. 107 Rs. 100 Difference Rs. 7 [7% of the actual price] This fails the 3% rule. But

manufacturing involves variability in costs, asset base, etc. Hence, strict 3% tolerance level may reject genuine transactions. A flexible or maximum range up to 5% would be appropriate for this sector, with necessary guidelines based on industry standards. Case 3: Retail Trade (Moderate Margin, Price Sensitivity) ALP Determined Actual Transaction Price Rs. 102.8 Rs. 100 Difference Rs. 2.8 [2.8% of the actual price] This passes under the 3% tolerance level. However, retail margins tend to vary, and pricing is dynamic. Therefore, a 3% fixed band is appropriate which allows normal price fluctuations. The above example emphasize that industry specific tolerance levels would better balance the ease of compliance to enhance accuracy of transfer pricing.

(vii) It is recommended that India also follow the internationally accepted range concept, i.e., interquartile range (25th – 75th percentile) to align with international standards.

165.5 <u>Examination by the Committee:</u>

The Ministry in their written replies have submitted as under:-

(i) “The principle of arms length price is that the price is to be determined as if the transaction is between two unrelated parties. The principle of ALP ensures that none of the companies are able to decrease their profits liable to tax in India. In the example stated, if the payment to the foreign company is in the nature of royalty/FTS, the foreign company will benefit on account of lower liability to taxes and consequently lower withholding. In view of the reasons stated, the suggestion has no merit. The proposed provision is similar to provisions of the Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no policy change has been proposed in the Bill”.

(ii) “The stakeholder seeks to provide provisions of 'tolerance band/range' of not exceeding 3 percent as provided in clause 165(3)(a)(ii) [corresponding to second proviso to section 92C(2)] to cases where more than one price is determined.Tolerance band where two prices are determined is already enabled through Rule. Therefore, the suggestion is already taken care of. The proposed provisions of the Bill are similar to the provisions of the I T Act”.

(iii) "Stakeholder seeks an amendment of rule 10CA to provide that inter quartile range may be adopted for computing the arm's length range in cases where the application of most appropriate method results in more than one comparable transaction. The suggestion relates to rules which is a matter of subordinate legislation. Amendment of rule is a policy matter and outside the purview of Bill. The proposed provisions of the Bill are similar to the provisions of the I T Act".

(iv) "**Accepted:** It is a drafting error. May be corrected by reference of 168(1) with 171(1) in clause 165(4). The proposed provisions of the Bill are similar to the provisions of the I T Act".

(v) "Stakeholder seeks amendment in the manner of computation of Arms length price(ALP). The suggestion is in respect of continuation of percentile based ranges, ALP to be determined based on formulatory apportionment under rule 10, deletion of prescription for ALP computation etc. The suggestion is the nature of change to subordinate legislation, which is beyond the scope of I T Bill, 2025. The manner of computation of ALP has been provided in detail in rule 10CA of the Income-tax Rules, 1962. The said rule inter alia include percentile based ranges. Further for each Assessment Year 'range' is notified as per the provisions of section 92C read with rule 10CA. Also, amendment of the rule is a matter of subordinate legislation. Therefore, it is out of the purview of the Bill. Hence, the suggested amendment is not feasible". The proposed provisions of the Bill are similar to the provisions of the I T Act".

165.5.2 When enquired upon the issue of Transfer Pricing, the representative of Ministry of Finance, during the Sitting, submitted before the Committee as under:-

"सर, ट्रांसफर प्राइसिंग के बारे में एक सिम्पल सा प्रिंसिपल है, जो यह डिटरमिन करता है कि ट्रांजैक्शन का आर्म्सलेंथ प्राइस कितना है। अगर मैं अनरिलेटेड पार्टी से ट्रांजैक्शन करता और अब मैंने रिलेटेड पार्टी में ट्रांजैक्शन किया है, तो उसका डिफरेंस कितना है, उसको हम ट्रांसफर प्राइसिंग में ले लेते हैं और अनरिलेटेड पार्टी के जितना ट्रांजैक्शन वैल्यू कर देते हैं।"

165.5.3 When asked to elaborate on the basis for arm's length price, the representative of the Ministry of Finance further submitted as below:-

"वे कम्पेरेबल देखते हैं कि मैंने अपने पेरेंट से एक सौ रुपए का कुछ खरीदा। अगरअपने पेरेंट से खरीदा तो क्या मैंने फेयर वैल्यू दी कि नहीं, आर्म्सलेंथ प्राइस दी गई कि नहीं, इसको डिटरमिन करने के लिए मैं बाकी कम्पेरेबल देखता हूँ कि अगर मैं किसी और से खरीदता तो कितने का खरीदता। अगर मैं 110 रुपए का खरीदता, तो उस ट्रांजैक्शन की वैल्यू 110 रुपए की मानते।"...."यह प्रिंसिपल है। इसमें यह होता है कि मैं यहाँ की इनकम इनक्रीज

करता हूँ, जब भी आर्म्सलेंथ की ट्रांसफर प्राइसिंग की जाती है, तो यहाँ की इनकम इनक्रीज करता हूँ। लेकिन यह भी लिखा है कि अगर आर्म्सलेंथ प्राइस की इनकम रिड्यूस होती है, तो मैं उसको इफेक्ट नहीं दूँगा। कोरेस्पांडिंगली, जब यहाँ इनक्रीज हुई, तो फॉरेन एंटिटी की डिक्रीज होगी या न्यूट्रल भी रह सकती है। यह कहा जा रहा है कि आप डिपली स्टडी करें ही न, ऐसे केसेज में, जब फ्लाइटऑफ प्रॉफिट न हो रहा हो। लेकिन हम डिपली स्टडी किये बिना इस पर अराइव नहीं कर सकते हैं।"

165.5.4 Elaborating further on the aspect of tolerance band in transfer pricing, the representative of the Ministry of Finance submitted as under:-

"When we do this transfer pricing, if there are two prices which are determined by our exercise, then we take average of two prices and there is a tolerance range of three per cent. The stakeholder is saying that this tolerance band should be provided in case there are more than one price determined. That is exactly the provision as per the current law".

165.6 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that Clause 165 of the Bill provides for determination of arm's length price and the methods for determining the arm's length price. The provisions and text of the clause corresponds to section 92C of the IT Act, 1961. During the examination, the Committee note that in Clause 165 (4) there is a reference to any information and document relating to an international transaction or specified domestic transaction that has not been kept and maintained by the assessee as per Clause 168(1). However, the Committee find that Clause 171(1) refers to the maintenance, and keeping of information and documents in respect of the transaction entered into. This appears to be an inadvertent error in referencing and needs correction. This anomaly was pointed to the Ministry and subsequently it has been identified as a drafting error which may be corrected by reference to 171(1) in clause 165(4). Thus, the Committee recommend the Ministry to rectify this drafting error and reflect the correct reference to Clause 171(1) in 165 (4) in place of 168 (1) and further accept the

remaining portion of the proposed clause in the wake of textual simplification and retention of the same intent.

Clause – 166 –Reference to Transfer Pricing Officer.

166.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

166. (1) Where,— (a) the assessee has entered into an international transaction or specified domestic transaction in any tax year; and (b) the Assessing Officer considers it necessary or expedient so to do, he may refer the determination of the arm's length price in relation to such transaction to the Transfer Pricing Officer, with the previous approval of the Principal Commissioner or Commissioner.

(2) No reference under sub-section (1) for computation of the arm's length price in relation to an international transaction or a specified domestic transaction shall be made, if the Transfer Pricing Officer has declared that option exercised by the assessee in sub-section (9) in relation to such transaction is valid for such tax year.

(3) If any reference for an international transaction or a specified domestic transaction under sub-section (1), in respect of a tax year, for which the option is declared valid under sub-section (9) is made before or after such declaration by the Transfer Pricing Officer, the provisions of sub-section (1) shall have the effect as if no reference is made for such transaction.

(4) Where a reference is made under sub-section (1), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date specified therein, any evidence on which the assessee may rely in support of the determination made by him of the arm's length price in relation to such transaction.

(5) Where,— (a) any international transaction or specified domestic transaction, other than an international transaction or a specified domestic transaction referred under sub-section (1); or (b) any international transaction or a specified domestic transaction that the assessee has not included in the report under section 172, comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such transaction is a transaction referred to him under sub-section (1).

(6) On the date specified in the notice under sub-section (4), or as soon thereafter as may be,— (a) after hearing such evidence as the assessee may produce, including any information or documents referred to in section 171(2); (b) after considering such evidence as the Transfer Pricing Officer may require on any specified points; and (c) after taking into account all relevant materials which he has gathered, the Transfer Pricing Officer shall, by order in writing, determine the arm's length price in relation to the international transaction or specified domestic transaction as per section 165(4) and send a copy of his order to the Assessing Officer and to the assessee.

(7) Where a reference was made under sub-section (1), an order under sub-section (6) may be made at any time before sixty days before the expiry of limitation period referred to in section 286, or 296, for making the order of assessment or reassessment or recomputation or fresh assessment.

(8) If the period of limitation available to the Transfer Pricing Officer for making an order under sub-section (6) is less than sixty days in the circumstances referred to in section 286(3)(b) or (i) ,such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to have been extended accordingly.

(9) The arm's length price, being determined in relation to the international transaction or the specified domestic transaction under sub-section (6) for any tax year shall apply to similar international transaction or specified domestic transaction for the two consecutive tax years immediately following such tax year, on fulfilment of the following conditions:— (a) the assessee exercises an option or options to the above effect for the said two consecutive tax years; (b) such option or options are exercised in such form, manner and within such period as prescribed; and, (c) the Transfer Pricing Officer shall, within one month from the end of the month in which such option or options are exercised, by an order in writing, declare that such option or options are valid subject to the conditions, as prescribed.

(10) The provisions of sub-section (9) shall not apply to any proceedings under Chapter XVI-B.

(11) On receipt of the order under sub-section (6), the Assessing Officer shall compute the total income of the assessee under section 165(6) in conformity with the arm's length price as so determined by the Transfer Pricing Officer.

(12) Irrespective of anything contained in sub-section (11), where the Transfer Pricing Officer has declared an option exercised by the assessee as valid option under sub-section (9), he shall examine and determine the arm's length price in relation to such similar transaction for two consecutive tax years immediately following such tax year, in the order referred to in sub-section (4) and on receipt of such order, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive tax years as per the provisions of section 288.

(13) For rectifying any mistake apparent from the record, the Transfer Pricing Officer,— (a) may amend any order passed by him under sub-section (6), and the provisions of section 287 shall, so far as may be, apply accordingly; and (b) shall send a copy of such order to the Assessing Officer who shall thereafter amend the order of assessment in conformity with such order of the Transfer Pricing Officer.

(14) The Transfer Pricing Officer may exercise all or any of the powers specified in section 246(1)(a) to (d) or 252(1)(a) or 253 for the purposes of determining the arm's length price under this section.

(15) If any difficulty arises in giving effect to the provisions of sub-sections (9) and (12), the Board may, with the prior approval of the Central Government, issue guidelines for the purpose of removing such difficulty.

(16) No guideline under sub-section (15) shall be issued after the expiration of two years from the 1st April, 2026.

(17) Every guideline issued by the Board under sub-section (15) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(18) In this section, "Transfer Pricing Officer" means a Joint Commissioner or Deputy Commissioner or Assistant Commissioner authorised by the Board to perform all or any of the functions of an Assessing Officer specified in sections 165 and 171 in respect of any person or class of persons.

166.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

<u>Reference to Transfer Pricing Officer.</u>

92CA. (1) Where any person, being the assessee, has entered into an international transaction or specified domestic transaction in any previous year, and the Assessing Officer considers it necessary or expedient so to do, he may, with the previous approval of the Principal Commissioner or Commissioner, refer the computation of the arm's length price in relation to the said international transaction or specified domestic transaction under section 92C to the Transfer Pricing Officer.

Following provisos shall be inserted in sub-section (1) of section 92CA by the Finance Act, 2025, w.e.f. 1-4-2026:

Provided *that no reference for computation of the arm's length price in relation to an international transaction or a specified domestic transaction shall be made, if the Transfer Pricing Officer has declared that option exercised by the assessee in sub-section (3B) in relation to such transaction is valid for such previous year:*

Provided further *that if any reference for an international transaction or a specified domestic transaction, in respect of a previous year, for which the option is declared valid under sub-section (3B) is made before or after such declaration by the Transfer Pricing Officer, the provisions of this sub-section shall have the effect as if no reference is made for such transaction.*

(2) Where a reference is made under sub-section (1), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date to be specified therein, any evidence on which the assessee may rely in support of the computation made by him of the arm's length price in relation to the international transaction or specified domestic transaction referred to in sub-section (1).

(2A) Where [6][*any other international transaction or specified domestic transaction* [*other than an international transaction or a specified domestic transaction*]referred under sub-section (1)], comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as [7][*if such other international transaction or a specified domestic transaction is an international transaction or a specified domestic transaction*]referred to him under sub-section (1).

(2B) Where in respect of an international transaction [8][*or a specified domestic transaction*], the assessee has not furnished the report under section 92E and such transaction comes to the notice of the Transfer Pricing Officer during the course of the proceeding before him, the provisions of this Chapter shall apply as if [9][*such transaction is an international transaction or a specified domestic transaction*]referred to him under sub-section (1).

(2C) Nothing contained in sub-section (2B) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year, proceedings for which have been completed before the 1st day of July, 2012.

(3) On the date specified in the notice under sub-section (2), or as soon thereafter as may be, after hearing such evidence as the assessee may produce, including any information or documents referred to in sub-section (3) of section 92D and after considering such evidence as the Transfer Pricing Officer may require on any specified points and after taking into account all relevant materials which he has gathered, the Transfer Pricing Officer shall, by order in writing, determine the arm's length price in relation to the international transaction or specified domestic transaction in accordance with sub-section (3) of section 92C and send a copy of his order to the Assessing Officer and to the assessee.

(3A) Where a reference was made under sub-section (1) before the 1st day of June, 2007 but the order under sub-section (3) has not been made by the Transfer Pricing Officer before the said date, or a reference under sub-section (1) is made on or after the 1st day of June, 2007, an order under sub-section (3) may be made at any time before sixty days prior to the date on which the period of limitation referred to in section 153, or as the case may be, in section 153B for making the order of

assessment or reassessment or recomputation or fresh assessment, as the case may be, expires:

Provided that in the circumstances referred to in clause (*ii*) or clause (*x*) of *Explanation 1* to section 153, if the period of limitation available to the Transfer Pricing Officer for making an order is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to have been extended accordingly.

Following sub-section (3B) shall be inserted after sub-section (3A) of section 92CA by the Finance Act, 2025, w.e.f. 1-4-2026:

(3B) The arm's length price, being determined in relation to the international transaction or the specified domestic transaction under sub-section (3) for any previous year shall apply to similar international transaction or specified domestic transaction for the two consecutive previous years immediately following such previous year, on fulfilment of the following conditions, namely:—

*(*a*)* *the assessee exercises an option or options to the above effect for the said two consecutive previous years;*

*(*b*)* *such option or options are exercised in such form, manner and within such period as prescribed; and*

*(*c*)* *the Transfer Pricing Officer shall, within one month from the end of the month in which such option or options are exercised, by an order in writing, declare that such option or options are valid subject to the conditions, as prescribed:*

Provided*that the provisions of this sub-section shall not apply to any proceedings under Chapter XIV-B.*

(4) On receipt of the order under sub-section (3), the Assessing Officer shall proceed to compute the total income of the assessee under sub-section (4) of section 92C in conformity with the arm's length price as so determined by the Transfer Pricing Officer.

Following sub-section (4A) shall be inserted after sub-section (4) of section 92CA by the Finance Act, 2025, w.e.f. 1-4-2026:

(4A) Notwithstanding anything contained in sub-section (4), where the Transfer Pricing Officer has declared an option exercised by the assessee as valid option under sub-section (3B), he shall examine and determine the arm's length price in relation to such similar transaction for two consecutive previous years immediately following such previous year, in the order referred to in sub-section (3) and on receipt of such order, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive previous years as per the provisions of sub-section (21) of section 155.

(5) With a view to rectifying any mistake apparent from the record, the Transfer Pricing Officer may amend any order passed by him under sub-section (3), and the provisions of section 154 shall, so far as may be, apply accordingly.

(6) Where any amendment is made by the Transfer Pricing Officer under sub-section (5), he shall send a copy of his order to the Assessing Officer who shall thereafter proceed to amend the order of assessment in conformity with such order of the Transfer Pricing Officer.

(7) The Transfer Pricing Officer may, for the purposes of determining the arm's length price under this section, exercise all or any of the powers specified in clauses (*a*) to (*d*) of sub-section (1) of section 131 or sub-section (6) of section 133 or section 133A.

(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of determination of the arm's length price under sub-section (3), so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Transfer Pricing Officer and the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based determination of arm's length price with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

[10][***]

(10) Every notification issued under sub-section (8) and sub-section (9) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Following sub-sections (11) and (12) shall be inserted after sub-section (10) of section 92CA by the Finance Act, 2025, w.e.f. 1-4-2026:

(11) If any difficulty arises in giving effect to the provisions of sub-sections (3B) and (4A), the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing such difficulty:

Provided *that no such guideline shall be made after the expiration of two years from the 1st April, 2026.*

(12) Every guideline issued by the Board under sub-section (11) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

Explanation.—For the purposes of this section, "Transfer Pricing Officer" means a Joint Commissioner or Deputy Commissioner or Assistant Commissioner authorised by the Board to perform all or any of the functions of an Assessing Officer specified in sections 92C and 92D in respect of any person or class of persons.

166.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 166 of the Bill provides for referral of cases by the Assessing Officer to the Transfer Pricing Officer for determining the arm’s length price. The clause corresponds to section 92CA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

166.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Some important suggestions from the stakeholders are summarized as follows:-

(i) The taxpayer may be permitted to exercise the option for either one or two consecutive years 2 The taxpayer may be given an option to exercise rollback for the two immediately preceding previous years, subject to fulfilment of specified conditions Rollback may not be permitted in cases where the determination of ALP of the said international transaction has been subject matter of an appeal before the Appellate Tribunal and the Appellate Tribunal has passed an order disposing of such appeal at any time before exercise of option 3 The phrase “similar transaction” may be elucidated to ensure clarity. Providing flexibility to opt for either one or two consecutive years allows the

taxpayer to align the option with their business cycle and promotes voluntary compliance Allowing rollback enhances certainty and reduces prolonged litigation for past years, encouraging taxpayers to opt for the arrangement.

(ii) We appreciate the spirit of sub-section 9 to introduce block assessment in transfer pricing provisions.
For smooth and efficient working of transfer pricing, a specialised Transfer Pricing wing should be created where fully trained officers are deployed. Since in the existing transfer pricing framework, officers dedicate their first year into understanding the transfer pricing system and methodologies. In the same year, they often tend to replicate previous year's orders without fully understanding evolving economic conditions of the period under examination, which is a basic requirement of economic conditions. Subsequently, in the second and third year they follow the orders of previous years which renders the entire transfer pricing process as ineffective. Further, the practice of assessment based on situations and circumstances of earlier years should be eliminated.

166.5 <u>Examination by the Committee:</u>

In response to the suggestions, the Ministry have submitted in their written replies as under:-

(i) "Stakeholder seeks amendment in the multi year transfer pricing provisions which were introduced vide Finance Act, 2025. The suggestion is to inter alia include roll back provisions and flexibility to apply for one or two consecutive previous year. The multi year Transfer Pricing audit provisions have been inserted in the I T Act vide Finance Act, 2025 after due consideration. The said provisions are effective from 1.4.2026 and shall apply to assessment year 2026-27 and subsequent assessment year. As new provisions for multi year audit have not yet come into effect, the suggestion to bring additional changes, without assessing the actual acceptance/impact is premature and may not be feasible. The proposed provisions of the Bill are similar to the provisions of the I T Act".

(ii) "Stakeholder has suggested the manner in which transfer pricing assessment should be conducted. The suggestions are administrative in the nature. The proposed provisions of the Bill are similar to the provisions of the I T Act".

166.5.2 On the provision of block years for transfer pricing, the representatives of the Ministry of Finance, submitted before the Committee as produced below:-

"Again, it is again multi-year transfer pricing provision that has come by Finance Act 2025. The provisions are effective from 1st April, 2026. The suggestion is that this should include the rollback provisions and flexibility to apply for one or two consecutive previous years also. So, it should go back to the earlier years. For earlier years, we have APAs where a taxpayer enters into a unilateral or bilateral agreement. Whatever agreement is entered into, it applies for the five future years and also applies for four rollback years….Sir, this is a very new provision which we have brought as a block concept for transfer pricing".

166.5.3 On the issue of deployment of fully trained Officers for transfer pricing cases, the representatives of the Ministry of Finance stated before the Committee as produced below:-

"What they are saying is actually happening. Our assessments are done by assessing officers. Naturally, they are juniormost direct recruits or promotee officers…… We already have one transfer pricing wing and that is not faceless. If any matter related to transfer pricing comes in faceless assessment also, reference is made to transfer pricing officer. He does the transfer pricing order and sends it back to the assessing officer…. Every year they do the FAR analysis. Every assessment is a new assessment…. In the first year, since they don't understand the full issue, they tend to replicate the earlier year's orders. Whenever transfer pricing officers are posted, we have their training also. There is range head or Commissioner also who is already an experienced person to guide them. It is an administrative issue. We have taken note of it"

166.5.4 The Committee noted that Clause 166 of IT Bill, 2025 is similar to the Section 92CA of the IT Act, 1961. However, with the introduction of two consecutive year application, the Ministry were requested to provide few clarifications on "Similar Transactions", the criteria for what constituted a "similar" transaction for multi-year application and what were the steps for ensuring that Transfer Pricing Officers (TPOs) adhered to strict timelines, especially in complex cases involving multiple transactions. In their written response, the Ministry have stated as under:-

"The concept of muti year transfer pricing audit has been introduced vide Finance Act, 2025. The rules are yet to be prescribed which will clarify the procedure in detail.'

166.6 <u>Observations/Recommendations of the Committee:</u>

The Committee after going through the details of the proposed Clause 166 of the Bill find that it provides for reference of cases by the Assessing Officer to the

Transfer Pricing Officer for determining the arm's length price. The clause corresponds to section 92CA of the IT Act, 1961. No substantial change has been noticed and the proposed clause elicits streamlining and simplification. The Committee, therefore, finding the justification provided by the Ministry, being satisfactory in nature, accept the proposed clause in its entirety without further recommendation.

Clause – 167– Power of Board to make safe harbour rules.

167.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

167. (1) The determination of— (a) income referred to in section 9(2); or (b) arm's length price under section 165 or 166, shall be subject to safe harbour rules.

(2) For the purposes of sub-section (1), the Board may make rules for safe harbour.

(3) In this section, "safe harbour" means circumstances in which the income tax authorities shall accept,— (a) the transfer price; or (b) the income, deemed to accrue or arise under section 9(2), declared by the assesse.

167.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Power of Board to make safe harbour rules.

92CB. (1) The determination of—

(*a*) income referred to in clause (*i*) of sub-section (1) of section 9; or

(*b*) arm's length price under section 92C or section 92CA,

shall be subject to safe harbour rules.

(2) The Board may, for the purposes of sub-section (1), make rules for safe harbour.

Explanation.—For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price or income, deemed to accrue or arise under clause (*i*) of sub-section (1) of section 9, as the case may be, declared by the assessee.

167.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 167 of the Bill provides for power of Board to make safe harbour rules to simplify compliance and reduce litigation. The clause corresponds to section 92CB of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

167.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Important suggestions pertaining to Safe Harbour Rules are produced below:-

(i) Industry stakeholders and MeitY may be consulted before notifying the rules pertaining to the Safe Harbour. Safe Harbour rules should not involve extensive paperwork or audit requirements, as they are time consuming and

could lead to operational inefficiencies. Therefore, while framing the rules, the Income Tax authorities should be cognizant of these factors; otherwise, the solution will remain sub-optimal.

(ii) To make safe harbour provisions more attractive and reduce administrative and compliance burden, primacy needs to be given to the fact that the eligible entities are small and bear insignificant risks. Safe harbour rates for software development and IT- enabled services should be considered in the range of 14% and are seen as closer to the commercial realities for small insignificant risk bearing entities. The current safe harbour rates for IT-enabled services are 17%/ 18%, whereas rates for knowledge process outsourcing services, having employee costs of 40% or more is 21% / 24%. These rates are similar to the rates determined by the Transfer Pricing Officers in TP assessments, thus virtually negating the efficacy of safe harbour provisions. Considering that the eligible entities are not of significant size and bear insignificant risks, a range of 19% to 20% could be considered. On similar grounds, for contract R&D services, rates ranging from 20% to 21% could be considered. These rates would also result in a reasonable distinction (rather than a disproportionate distinction) with the 17%/ 18% rates. Considering the general increase in the scale of the GCC operating in India and to make the safe harbour provisions more attractive, the current limits of Rs. 100 crore and Rs. 200 crores for software development services, IT-enabled services, knowledge outsourcing services and contract R&D services should be enhanced to Rs. 300 crores and Rs. 500 crores respectively. Introduction of a safe harbour range could be considered instead of a fixed rate.The prescribed safe harbour rates for outbound loans cast an obligation of having credit rating of the overseas borrower being approved by CRISIL, is perhaps an additional cost burden for taxpayers who wish to opt for SHRs. Thus, the requirement of credit rating of the overseas borrower to be approved by CRISIL could be removed.SHR is applicable only in case of receipt of low value- adding intra-group services from one or more members of its group. No safe harbour prescribed for outbound low value-adding intra-group services by Indian MNE. Further, the cap of Rs. 10 crores could also be increased so that more such taxpayers can opt for SHRs.To enhance the certainty associated with safe harbour regime, it would be advisable to revert to the earlier practice of making the rates applicable for a set of three years, rather than the current practice of publishing rates on an annual basis. This will enable taxpayers to take a medium-term view of the safe harbour provisions. To align with the Government's initiative of "Make in India", a larger number of industries in the manufacturing sector could be prescribed. At the very least, safe harbour rules could be extended to sectors where "profit Linked incentives" scheme is applicable. Safe harbour provisions could be introduced for contract manufacturing companies wherein mark-up on cost could be in range of 5% to 7% as per TNMM analysis with turnover criteria up to Rs. 500 crores. The definitions of "software development" and "Contract R&D in software development" were coined in 2013. Since then, the nature of work undertaken by the captive

service providers has evolved. Further, newer business models have come into existence (e.g. cloud-based services, e-commerce, etc.) Hence, to keep with the changing nature of the industry, these definitions should be modified. The definition of "software development" could be modified to cover most activities in the nature of software development
and only specific high-end activities could get covered under the definition of "Contract R&D in software development". The process should be made easier by doing away with Form 3CEFA and the safe harbour selection could be made either in the Form 3CEB or in the tax return itself, thus saving administrative burden for both – the taxpayer and the revenue authorities. To further ease the burden of compliance / documentation, the requirement for maintaining transfer pricing documentation should be dispensed with where the taxpayer's application for safe harbour has been accepted. While the new Safe harbour rules are being worked upon by the government as per Finance Minister's speech in the Budget Speech for 2024, it should ensure the following three criteria: (1) Global capability centers (GCCs) are generally covered under safe harbour provisions. With the expansion of GCCs in India, carrying out divergent offshore functions, the conditions of "eligible assessee" may be re-evaluated to cover the current functional profile of GCCs. (2) There is no linkage of turnover and the functional profiles of GCCs. Therefore, the safe harbour rules should cover all the GCCs irrespective of turnover threshold. Alternatively, if the government intends to restrict safe harbour to medium and small enterprises, the turnover should align to the turnover threshold of MSMEs which is currently INR 500 cr. (3) To provide the safe harbour rates closer to comparable benchmarks in the industry. This can serve dual purpose of providing tax certainty to taxpayers and easing the burden of the APA.

167.5 <u>Examination by the Committee:</u>

Responding to the suggestions, the Ministry have responded as under:-

(i) "The suggestion is in respect of framing of safe harbour rules. It does not pertain to IT Bill, 2025. The proposed provisions are similar to the provisions in Income-tax Act, 1961.So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025".

(ii) "The suggestion is in respect of framing of safe harbour rules. It is a matter of rules, which pertain to subordinate legislation. The proposed provisions are similar to the provisions in Income-tax Act, 1961.

167.5.1 The representatives of the Ministry of Electronics and Information Technology, on the issue of Safe Harbour Rules, submitted before the Committee, during the course of deliberations as under:-

"The other provision is with regard to Section 167, which gives the Central Board of Direct Taxes the power to make safe harbour rules. These rules were there in the earlier Act also, and they have been retained here. These safe harbour rules are also again very important, especially when

one has to deal with complex subjects which are prone to litigation like transfer pricing and all. So, these provisions also will be helpful for driving investments in India. What we have suggested is that since we are seeing investments in global capability centres and more investments coming in for global companies, the safe harbour rules, whenever they are notified, should be done in consultation with the industry. But it will again be a very progressive measure which will drive investments in this sector".

167.5.2 While the provisions under Clause 167 and Section 92 CB of IT Act, 1961 are similar, the Ministry were further requested to highlight about the nuances of Safe Harbour Rules pertaining to the necessity of the creation of Safe Harbour Rules and whether broadening of Safe Harbour Rules would have an impact on Arm's Length Principle and on double taxation/non taxation. The Ministry in their written response have stated as under:-.

"Safe harbour provides simplified method of determining arm's length price on international transactions. It provides tax certainty and minimises litigation. (ii) Safe harbour is an optional mechanism. So, if applied judicially considering business activity, nature of transaction/income, profit margin etc. it benefits the assessee in terms of disputes resolution and tax certainty and the Government in terms of tax administration and revenue realisation with certainty".

167.6 <u>Observations/Recommendations of the Committee:</u>

The Committee while examining Clause 167 of the Bill note that it provides for power of Board to make safe harbour rules to simplify compliance and reduce litigation. The clause corresponds to section 92CB of the Act. The Committee note from the replies that the Ministry, taking into account the importance of safe harbour rules have suggested for consultation with the industries before the notification of the same. The Committee acknowledge the stance of the Ministry and opine that the justification of the Ministry is satisfactory regarding the proposed Clause and considering that no substantial changes have been brought

about, concur with the simplification and accept the proposed clause in its entirety.

Clause – 168–Advance pricing agreement.

168.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

168. (1) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the— (a) arm's length price or specifying the manner in which the arm's length price is to be determined, in relation to an international transaction to be entered into by that person; (b) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident.

(2) The manner of determination of the arm's length price referred to in sub-section (1)(a) or (b) may include, respectively,–– (a) the methods referred to in section 165(1); or (b) the methods provided by rules made under this Act, with such adjustments or variations, as may be necessary or expedient so to do.

(3) Irrespective of anything contained in section 165 or 166 or the methods provided by rules made under this Act,— (a) the arm's length price of any international transaction; or (b) the income referred to in sub-section (1)(b), in respect of which the advance pricing agreement has been entered into, shall be determined as per the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (1) shall be valid for such period not exceeding five consecutive tax years as specified in the agreement.

(5) The advance pricing agreement entered into shall be binding— (a) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and (b) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.

(6) The agreement referred to in sub-section (1) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

(7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be void ab initio, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

(8) Upon declaring the agreement void ab initio,— (a) all the provisions of the Act shall apply to the person as if such agreement had never been entered into; (b) irrespective of anything contained in the Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (7) shall be excluded for the purpose of computing any period of limitation under this Act; and (c) if immediately after the

exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) For the purposes of this section, the Board may prescribe a scheme specifying therein the manner, form, procedure and any other matter in respect of the advance pricing agreement.

(10) The agreement referred to in sub-section (1), may, subject to such conditions, procedure and manner as prescribed, provide for determining the— (a) arm's length price or specify the manner in which the arm's length price shall be determined in relation to the international transaction entered into by the person; (b) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations, transactions and activities carried out in India by or on behalf of that non-resident person, during any period not exceeding four tax years preceding the first of the tax years referred to in sub-section (4).

(11) Where an application is made by a person for entering into an agreement referred to in sub-section (1), the proceedings shall be deemed to be pending in the case of the person for the purposes of this Act till such agreement is entered into, or such proceedings are closed as per rules prescribed.

168.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Advance pricing agreement.

92CC. (1) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the—

(*a*) arm's length price or specifying the manner in which the arm's length price is to be determined, in relation to an international transaction to be entered into by that person;

(*b*) income referred to in clause (*i*) of sub-section (1) of section 9, or specifying the manner in which said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident.

(2) The manner of determination of the arm's length price referred to in clause (*a*) or the income referred to in clause (*b*) of sub-section (1), may include the methods referred to in sub-section (1) of section 92C or the methods provided by rules made under this Act,

respectively, with such adjustments or variations, as may be necessary or expedient so to do.

(3) Notwithstanding anything contained in section 92C or section 92CA or the methods provided by rules made under this Act, the arm's length price of any international transaction or the income referred to in clause (*b*) of sub-section (1), in respect of which the advance pricing agreement has been entered into, shall be determined in accordance with the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (1) shall be valid for such period not exceeding five consecutive previous years as may be specified in the agreement.

(5) The advance pricing agreement entered into shall be binding—

(*a*) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and

(*b*) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.

(6) The agreement referred to in sub-section (1) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

(7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be *void abinitio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

(8) Upon declaring the agreement *void ab initio*,—

(*a*) all the provisions of the Act shall apply to the person as if such agreement had never been entered into; and

(*b*) notwithstanding anything contained in the Act, for the purpose of computing any period of limitation under this Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (7) shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) The Board may, for the purposes of this section, prescribe a scheme specifying therein the manner, form, procedure and any other matter generally in respect of the advance pricing agreement.

(9A) The agreement referred to in sub-section (1), may, subject to such conditions, procedure and manner as may be prescribed, provide for determining the—

(*a*) arm's length price or specify the manner in which the arm's length price shall be determined in relation to the international transaction entered into by the

person;

(*b*) income referred to in clause (*i*) of sub-section (1) of section 9, or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident,

during any period not exceeding four previous years preceding the first of the previous years referred to in sub-section (4), and the arm's length price of such international transaction or the income of such person shall be determined in accordance with the said agreement.

(10) Where an application is made by a person for entering into an agreement referred to in sub-section (1), the proceeding shall be deemed to be pending in the case of the person for the purposes of the Act.

168.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 168 of the Bill provides for advance pricing agreement (APA) between the taxpayer and the tax authorities to pre-determine the arm's length price for specified transactions. The clause corresponds to section 92CC of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Further, the provision for closure of proceedings as per prescribed rules have clearly been specified in the Bill to provide for certainty for the APA procedure".

168.4 <u>Examination by the Committee:</u>

In the context of Clause 168 (7) which provides for APAs to be declared void ab initio for fraud or misrepresentation, the Committee were desirous to be informed about the Procedural safeguards (e.g., right to be heard, appeal mechanisms) etc. for the assesse from the Ministry. The Ministry in their written replies have submitted as under:-

"The template of the APA as approved by the MoL&J, clearly specifies that the Applicant will be given an opportunity to be heard. No

action will be taken under this provision without giving the Applicant an opportunity to be heard. In any case, since the inception of the programme, no agreement has been terminated for fraud or misrepresentation. The APA programme is one where the Applicant is involved in every step of the way". **(RLoP III, pg. 8)**

168.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 168 of the Bill provides for advance pricing agreement (APA) between the taxpayer and the tax authorities to pre-determine the arm's length price for specified transactions. While the Clause corresponds to section 92CC of the Act, the Committee find that the provision for closure of proceedings as per prescribed rules have clearly been specified in the Bill to provide for certainty for the APA procedure. The Committee agree with the minor alteration brought about to simplify the comprehension of the text and provision. Hence, the Committee accept the proposed clause without any further changes.

Clause – 169–Effect to advance pricing agreement.

169.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

169. (1) If a return of income for any tax year covered by an advance pricing agreement has been furnished by any person, before the date of entering into the said agreement, he shall, irrespective of anything to the contrary contained in section 263, furnish a modified return, in accordance with and limited to the agreement, in respect of such tax years, within three months from the end of the month in which the agreement was entered into.

(2) Except as provided in this section, all other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 263.

(3) Where a modified return is furnished under sub-section (1), and assessment or reassessment proceedings, in respect of a tax year to which the agreement applies, were initiated before the filing of such return then,— (a) if such proceedings have been completed, the Assessing Officer shall pass an order modifying the total income of the relevant tax year; or (b) if such proceedings are pending on the date of filing of modified return, the Assessing Officer shall proceed to complete them, as per the agreement after taking into consideration the modified return so furnished.

(4) Irrespective of anything contained in section 275 or 286 or 296,— (a) the order in respect of a case falling under sub-section (3)(a) shall be passed within one year from the end of the financial year in which the modified return under sub-section (1) is furnished; (b) in respect of a case falling under sub-section (3)(b), the period of limitation as provided in section 275 or 286 or section 296 for completion of pending assessment or reassessment proceedings shall be extended by twelve months.

(5) In this section,— (a) “agreement” means an agreement referred to in section 168(1); (b) the assessment or reassessment proceedings for a tax year shall be deemed to have been completed where— (i) an assessment or reassessment order has been passed; or (ii) no notice has been issued under section 270(8) till the expiry of the limitation period provided under the said section.

169.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Effect to advance pricing agreement.

92CD. (1) Notwithstanding anything to the contrary contained in section 139, where any person has entered into an agreement and prior to the date of entering into the agreement, any return of income has been furnished under the provisions of section

139 for any assessment year relevant to a previous year to which such agreement applies, such person shall furnish, within a period of three months from the end of

the month in which the said agreement was entered into, a modified return in accordance with and limited to the agreement.

(2) Save as otherwise provided in this section, all other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 139.

(3) If the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the agreement applies have been completed before the expiry of period allowed for furnishing of modified return under sub-section (1), the Assessing Officer shall, in a case where modified return is filed in accordance with the provisions of sub-section (1), pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, as the case may be, having regard to and in accordance with the agreement.

(4) Where the assessment or reassessment proceedings for an assessment year relevant to the previous year to which the agreement applies are pending on the date of filing of modified return in accordance with the provisions of sub-section (1), the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so furnished.

(5) Notwithstanding anything contained in section 153 or section 153B or section 144C,—

(*a*) the order under sub-section (3) shall be passed within a period of one year from the end of the financial year in which the modified return under sub-section (1) is furnished;

(*b*) the period of limitation as provided in section 153 or section 153B or section 144C for completion of pending assessment or reassessment proceedings referred to in sub-section (4) shall be extended by a period of twelve months.

(6) For the purposes of this section,—

(*i*) "agreement" means an agreement referred to in sub-section (1) of section 92CC;

(*ii*) the assessment or reassessment proceedings for an assessment year shall be deemed to have been completed where—

(*a*) an assessment or reassessment order has been passed; or

(*b*) no notice has been issued under sub-section (2) of section 143 till the expiry of the limitation period provided under the said section.

169.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 169 of the Bill, inter alia, seeks to provide for giving effect to advance pricing agreement entered into by an assessee and consequential procedures. The clause corresponds to section 92CD of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

169.4 Examination by the Committee:

The Committee requested the Ministry to clarify the scope of issues that can be modified in the return-if it is limited to transfer pricing adjustments only or whether related consequential items (e.g., interest, penalties) can also be revised. The Ministry in their written replies have submitted as under:-

> "The effect of this provision is to modify the operating income arising from the international transactions covered by the APA. The interest that may have been levied prior to the APA taking effect, will also be modified for the completed APA years. Penalty proceedings (in respect of penalties already imposed before signing of the APA), continue in the normal litigation process." **(RLoP III, pg. 8)**

169.5 Observations/Recommendations of the Committee:

The Committee find Clause 169 of the Bill providing for giving effect to advance pricing agreement entered into by an assessee and consequential procedures. Other than the textual simplification in the body of text and migration of existing modalities in Section 92CD of the IT Act, 1961 to the proposed clause, there is no finding of any substantial changes to the existing Act. Thus, considering the satisfactory justification provided by the Ministry, the Committee accept the proposed Clause in its entirety.

Clause – 170–Secondary adjustment in certain cases.

170.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

170. (1) An assessee shall make a secondary adjustment in every case where primary adjustment of one crore rupees or more to transfer price— (a) has been made on his own in his return of income; (b) made by the Assessing Officer has been accepted by him; Effect to advance pricing agreement. (c) is determined by an advance pricing agreement entered into by him under section 168; (d) is made as per the safe harbour rules made under section 167; or (e) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 159 for avoidance of double taxation.

(2) The excess money or part thereof available with its associated enterprise shall be deemed to be an advance made by the assessee to such associated enterprise if— (a) as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee; and (b) such excess money or part thereof is not repatriated to India within the time as prescribed.

(3) The excess money or part thereof referred to in sub-section (2) may be repatriated from any of the associated enterprises of the assessee which is not a resident in India. (4) The interest on advance as referred to in sub-section (2) shall be computed in such manner as prescribed.

(5) Without prejudice to the provisions of sub-section (2), where the excess money or part thereof has not been repatriated within the prescribed time, the assessee may, at his option, pay additional income-tax at the rate of 18% on such excess money or part thereof, as the case may be.

(6) The tax on the excess money or part thereof so paid by the assessee under sub-section (5) shall be treated as the final payment of tax in respect of the excess money or part thereof not repatriated and no further credit thereof shall be claimed by the assessee or by any other person in respect of tax so paid.

(7) Deduction under any other provision of this Act shall not be allowed to the assessee in respect of the amount on which tax has been paid as per sub-section (5).

(8) In a case where the additional income-tax referred to in sub-section (5) is paid by the assessee, he shall not be required to make secondary adjustment under sub-section (1) and compute interest under sub-section (4) from the date of payment of such tax.

(9) In this section,— (a) “arm’s length price” shall have the meaning assigned to it in section 173(a); (b) “excess money” means the difference between the arm’s length price determined in primary adjustment and the price at which the international transaction

has actually been undertaken; (c) “primary adjustment” to a transfer price, means the determination of transfer price as per the arm’s length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee; (d) “secondary adjustment” means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

170.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Secondary adjustment in certain cases.

92CE. (1) Where a primary adjustment to transfer price,—

(*i*) has been made *suomotu* by the assessee in his return of income;

(*ii*) made by the Assessing Officer has been accepted by the assessee;

(*iii*) is determined by an advance pricing agreement entered into by the assessee under section 92CC, on or after the 1st day of April, 2017;

(*iv*) is made as per the safe harbour rules framed under section 92CB; or

(*v*) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or section 90A for avoidance of double taxation,

The assessee shall make a secondary adjustment:

Provided that nothing contained in this section shall apply, if,—

(*i*) the amount of primary adjustment made in any previous year does not exceed one crore rupees; or

(*ii*) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016:

Provided further that no refund of taxes paid, if any, by virtue of provisions of this sub-section as they stood immediately before their amendment by the Finance (No. 2) Act, 2019 shall be claimed and allowed.

(2) Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the

excess money or part thereof, as the case may be, which is available with its associated enterprise, if not repatriated to India within the time as may be

prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed.

Explanation.—For the removal of doubts, it is hereby clarified that the excess money or part thereof may be repatriated from any of the associated enterprises of the assessee which is not a resident in India.

(2A) Without prejudice to the provisions of sub-section (2), where the excess money or part thereof has not been repatriated within the prescribed time, the assessee may, at his option, pay additional income-tax at the rate of eighteen per cent on such excess money or part thereof, as the case may be.

(2B) The tax on the excess money or part thereof so paid by the assessee under sub-section (2A) shall be treated as the final payment of tax in respect of the excess money or part thereof not repatriated and no further credit therefor shall be claimed by the assessee or by any other person in respect of the amount of tax so paid.

(2C) No deduction under any other provision of this Act shall be allowed to the assessee in respect of the amount on which tax has been paid in accordance with the provisions of sub-section (2A).

(2D) Where the additional income-tax referred to in sub-section (2A) is paid by the assessee, he shall not be required to make secondary adjustment under sub-section (1) and compute interest under sub-section (2) from the date of payment of such tax.

(3) For the purposes of this section,—

(*i*) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;

(*ii*) "arm's length price" shall have the meaning assigned to it in clause (*ii*) of section 92F;

(*iii*) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(*iv*) "primary adjustment" to a transfer price, means the determination of transfer price in accordance with the arm's length principle resulting in an increase in

the total income or reduction in the loss, as the case may be, of the assessee;

(*v*) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

170.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause 170 of the Bill provides for secondary adjustment in certain cases to ensure that the actual allocation of profits between the associated enterprises aligns with the arm’s length price. The clause corresponds to section 92CE of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

170.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion from the stakeholder is produced below:-

> In certain cases, secondary adjustments create unnecessary compliance burdens without meaningful benefits, such as: > When the Ultimate Parent Entity (UPE) is in India, as funds remain within the same economic jurisdiction > When the adjustment is determined in the hands of Non-Residents (NR), including NR-to-NR and NR-to-Resident transactions, where repatriation or fund movement complexities arise > In cases of Deemed International Transactions (DIT), where no actual cash flow occurs, making secondary adjustments redundant Providing exemptions in these scenarios would align with practical business considerations, reduce unnecessary administrative costs, and improve ease of compliance. Secondary adjustments are intended to ensure that transfer pricing adjustments reflect actual cash repatriation, but in certain cases, they create unnecessary complexities without adding value In transactions between two Non-Residents (NR to NR), the transaction occurs entirely outside India, with no direct impact on Indian tax jurisdiction Imposing secondary adjustments in such cases leads to undue compliance burdens without aligning with the arm’s length principle When the Ultimate Parent Entity (UPE) is in India, secondary adjustments become redundant since the overall economic impact remains within the country Enforcing such adjustments does not contribute to revenue protection but increases administrative challenges In Deemed International Transactions (DIT) cases, where transfer pricing adjustments are determined in the hands of a non-resident, applying secondary adjustments may lead to complexities, particularly when the non resident does not have a substantial economic nexus with India This could result in double taxation, excessive compliance requirements, or reporting obligations without

any real economic impact on India's tax base Aligning secondary adjustment requirements with practical realities would streamline compliance, reduce unnecessary administrative costs, and ensure a fairer application of transfer pricing regulations Further repatriation of profits are subject to FEMA restrictions.

170.5 <u>Examination by the Committee:</u>

The Ministry in their written response to the suggestion have stated as under:-

"Stakeholder seeks non application of secondary adjustment provisions in certain cases like in case of deemed international transaction, where When the Ultimate Parent Entity (UPE) is in India, as funds remain within the same economic jurisdiction orWhen the adjustment is determined in the hands of Non-Residents (NR) etc. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Secondary adjustments provisions were introduced to align with best international practices in transfer pricing domain. The need for secondary adjustment arises to plug the gap between book entries and actual fund transactions. It is fundamental to base erosion and profit shifting initiatives and ensure greater transparency and tax compliances. Therefore, the suggestion may not be considered. The proposed provisions of the Bill are similar to the provisions of the I T Act".

170.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note the importance of Clause 170 of the Bill which provides for secondary adjustment in certain cases to ensure that the actual allocation of profits between the associated enterprises aligns with the arm's length price. The Committee find that the clause corresponds to section 92CE of the Act and the contents of the proposed Clause is a textually simplified version of the corresponding Section 92CE of IT Act, 1961 without any policy change. Considering the sound justification provided by the Ministry to be satisfactory in

nature, the Committee, accept the proposed Clause in its entirety without any further changes.

Clause – 171–Maintenance, keeping and furnishing of information and document by certain persons.

171.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

171. (1) Every person,— (a) who has entered into an international transaction or specified domestic transaction; or (b) is a constituent entity of an international group, shall keep and maintain such information and document in respect thereof and for such period and in such manner, as prescribed.

(2) The Assessing Officer or the Commissioner (Appeals) may, during any proceeding under this Act, require any person referred to in sub-section (1)(a) to furnish any information or document referred therein within ten days from the date of receipt of a notice issued in this regard.

(3) The Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of ten days by a further period not exceeding thirty days.

(4) Every person referred to in sub-section (1)(b) shall furnish the information and document referred to in sub-section (1) to the authority prescribed under section 511(1), in such manner, on or before such date, as prescribed.

(5) In this section,— (a) “constituent entity” shall have the meaning assigned to it in section 511 (10)(d); (b) “international group” shall have the meaning assigned to it in section 511 (10)(g).

171.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Maintenance, keeping and furnishing of information and document by certain persons.

92D. (1) Every person,—

(*i*) who has entered into an international transaction or specified domestic transaction shall keep and maintain such information and document in respect thereof as may be prescribed;

(*ii*) being a constituent entity of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed.

Explanation.—For the purposes of this clause,—

(*A*) "constituent entity" shall have the meaning assigned to it in clause (*d*) of sub-section (9) of section 286;

(*B*) "international group" shall have the meaning assigned to it in clause (*g*) of sub-section (9) of section 286.

(2) Without prejudice to the provisions contained in sub-section (1), the Board may prescribe the period for which the information and document shall be kept and maintained under the said sub-section.

(3) The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person referred to in clause (*i*) of sub-section (1) to furnish any information or document referred therein, within a period of [11][ten] days from the date of receipt of a notice issued in this regard:

Provided that the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of [11] [ten] days by a further period not exceeding thirty days.

(4) The person referred to in clause (*ii*) of sub-section (1) shall furnish the information and document referred therein to the authority prescribed under sub-section (1) of section 286, in such manner, on or before such date, as may be prescribed.

171.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 171 of the Bill provides for maintenance, keeping and furnishing of information and document by certain persons and documents by entities involved in international or specified domestic transactions. The clause corresponds to section 92D of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

171.4 <u>Observations/Recommendations of the Committee:</u>

Clause 171 of the Bill provides for maintenance, keeping and furnishing of information and document by certain persons and documents by entities involved in international or specified domestic transactions. The Committee on examining this clause find that it corresponds to section 92D of the IT Act, 1961 and that no changes have been caused to the intent of the Section. The

Committee find the justification and reply of the Ministry pertaining to this Clause satisfactory and accept the proposed Clause in its entirety without any change.

Clause – 172– Report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction

172.1 Provisions proposed in the Income-Tax Bill, 2025:

172. Every person who has entered into an international transaction or specified domestic transaction during a tax year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the manner as prescribed by such accountant and setting forth such particulars as prescribed

172.2 Relevant Provisions of the Principal Act (Income-Tax Act, 1961):

Report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction.

92E. Every person who has entered into an international transaction or specified domestic transaction during a previous year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the prescribed manner by such accountant and setting forth such particulars as may be prescribed.

172.3 Reasons/Justification given by the Ministry for the proposed provisions:

"Clause 172 of the Bill provides for report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction. The clause corresponds to section 92E of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

172.4 Important Views/Suggestions given by Experts/Stakeholders:

Few important suggestions from the stakeholders are summarized as under:-

(i) Every person who has entered into an international transaction or specified domestic transaction during a tax year shall obtain a report from a chartered accountant in practice or cost accountant in practice and furnish such report on or before the specified date in the prescribed form duly signed and verified in the manner as prescribed a chartered accountant in practice or cost accountant in practice and setting forth such particulars as prescribed.

(ii) The report from the accountant should be binding on the assessing officer unless he rejects the books of accounts.

172.5 <u>Examination by the Committee:</u>

Responding to the suggestions, the Ministry have submitted their written replies as under:-

(i) "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The proposed provisions are similar to the provisions in Income-tax Act, 1961. The term accountant has been defined in clause 2(1) and has meaning as assigned to in clause 515(3)(b) of the I T Bill. The said provision is similar to the provisions contained in Explanation to section 288 of the I T Act".

(ii) "Stakeholder seeks that report of the TP audit should be binding on the Assessing Officer. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The suggestion would mean dispensing with TP adjustments. This will have significant revenue impact. The report under section 92E is a procedural requirement and does not qualify the correctness of the transfer pricing methodology. Therefore, the suggestion to make it binding on the Assessing Officer has no rationale. Therefore, the suggested amendment is not feasible. The proposed provisions of the Bill are similar to the provisions of the I T Act".

172.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that the proposed Clause 172 of the Bill provides for report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction and that the clause corresponds to section 92E of the IT Act, 1961. The Committee find the underlying objective of the Section being untouched and the rationale provided by the Ministry regarding the suggestions, also satisfactory in nature, in terms of no policy change being effected here. Keeping this in view the Committee accept the proposed Clause with the textual simplification.

Clause – 173– Definitions of certain terms relevant to determination of arm's length price, etc.

173.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

173 In this section and sections 161, 162, 163, 165, 171 and 172, unless the context otherwise requires,— (a) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions; (b) "enterprise" means a person (including a permanent establishment of such person) who is, or has been, or is proposed to be, engaged in any activity relating to— (i) the production, storage, supply, distribution, acquisition or control of articles or goods; or (ii) know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature; or (iii) any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or (iv) provision of services of any kind; or (v) carrying out any work in pursuance of a contract; or (vi) investment or providing loan; or (vii) business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places; (c) "permanent establishment", referred to in clause (b), includes a fixed place of business through which the business of the enterprise is wholly or partly carried on; Report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction. Definitions of certain terms relevant to determination of arm's length price, etc. (d) "specified date" means the date one month before the due date for furnishing the return of income under section 263 (1) for the relevant tax year; (e) "transaction" includes an arrangement, understanding or action in concert,— (i) whether or not such arrangement, understanding or action is formal or in writing; or (ii) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.

173.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Definitions of certain terms relevant to computation of arm's length price, etc.

92F. In sections 92, 92A, 92B, 92C, 92D and 92E, unless the context otherwise requires,—

(*i*) "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288;

(*ii*) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

(*iii*) "enterprise" means a person (including a permanent establishment of such person) who is, or has been, or is proposed to be, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights, or the provision of services of any kind, or in carrying out any work in pursuance of a contract, or in investment, or providing loan or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places;

(*iiia*) "permanent establishment", referred to in clause (*iii*), includes a fixed place of business through which the business of the enterprise is wholly or partly carried on;

(*iv*) "specified date" means the date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139 for the relevant assessment year;

(*v*) "transaction" includes an arrangement, understanding or action in concert,—

(*A*) whether or not such arrangement, understanding or action is formal or in writing; or

(*B*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.

173.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 173 of the Bill provides for definitions of certain terms relevant to determination

of arm's length price. The clause corresponds to section 92F of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

173.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Few important suggestions on this Clause from the stakeholders are as below:-

(i) The term enterprise under this definition should mean only enterprise and include permanent establishment. The phrase "enterprise to mean a person" should be eliminated.

(ii) "The term enterprise under this definition should mean only enterprise and include permanent establishment. The phrase "enterprise to mean a person" should be eliminated. Consider the following example: A Head Office (HO) in India sells goods to its Dubai branch, which is located outside India and qualifies as a permanent establishment. Suppose the HO purchases goods from the local market and transfers them to the Dubai branch with a 10% profit margin. This markup may be considered at arm's length, supported by data from publicly available sources. However, if the Dubai branch subsequently sells these goods to a U.S. enterprise for a significantly higher price - say Rs. 45, earning a profit of Rs. 35 - Indian transfer pricing authorities would not have the jurisdiction to make adjustments or report the transaction, as it falls outside the scope of India's transfer pricing regulations. However, contrary of the above-mentioned illustration does not hold true".

173.5 <u>Examination by the Committee:</u>

The Ministry in their written responses have submitted as under:-

(i) "Stakeholder seeks that the term 'enterprise' for the purpose of computation of arm's length price should not include a person. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025.

There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. No. rationale has been provided for the suggestion. The 'person' under the I T Act/ IT Bill represents a legal identifier. Even a firm, AOP and Company is considered as person under the Act/Bill.

Therefore, there is no cause of concern to change the definition of term 'enterprise' under said clause. The proposed provisions of the Bill are similar to the provisions of the I T Act.

173.5.2 On being queried upon by the Committee that the term 'enterprise' for the purpose of computation of arm's length price should not include a person, the representatives of the Ministry of Finance submitted before the Committee as under:-

> "The suggestion is that in associate enterprise, the enterprise for the purpose of computation of arm's length price should not include a person. So, persons are in the Act and also in the Bill. That is a kind of legal term which includes other legal identifiers also, include firm, AOP. So, in that way, it is applicable on all transfer pricing provisions. They are applicable on all persons".

173.5.3 When the Committee sought further clarification on whether enterprise is considered a legal person, the representative of Ministry of Law submitted during the Sitting as under:-

> "Yes, Sir. It is an inclusive definition".

173.6 <u>Observations/Recommendations of the Committee:</u>

Proposed Clause 173 of the Bill provides for definitions of certain terms relevant to determination of arm's length price. The committee, while examining this important Clause did not find any material changes/alteration in the text of this Clause corresponding to section 92F of the IT Act, 1961. Finding the reply and justification provided by the Ministry cogent for carrying no policy changes and only simplification of text had been carried out, the Committee accept the proposed Clause in its entirety.

Clause – 174– Avoidance of income-tax by transactions resulting in transfer of income to non-residents.

174.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

174. (1) Where there is a transfer of assets before and after the commencement of this Act, and by virtue or in consequence of it,— (a) either alone; or (b) in conjunction with associated operations, any income becomes payable to a non-resident, the provisions of this section shall apply.

(2) If any person ("first mentioned person"), by means of any transfer referred to in sub-section (1), either alone or in conjunction with associated operations, acquires any rights,— (a) by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident; and (b) such income would have been chargeable to income-tax if it were such first mentioned person's income, then, that income shall, whether or not it would have been chargeable to income-tax under any other provisions of this Act, be deemed to be the income of such first mentioned person for all the purposes of this Act.

(3) If any such first mentioned person receives or is entitled to receive any capital sum,– – (a) the payment of which is in any way connected with the transfer or any associated operations; and (b) whether before or after any such transfer, then any income, which has become the income of a non-resident by virtue or in consequence of such transfer, either alone or in conjunction with associated operations, shall be deemed to be the income of such first mentioned person for all the purposes of this Act, whether or not it would have been chargeable to income-tax under any other provisions of this Act.

(4) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(5) The provisions of this section shall not apply if the first mentioned person in sub-section (2) or (3) shows to the satisfaction of the Assessing Officer that— (a) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or (b) the transfer and all associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(6) In this section,— (a) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred; (b) any body corporate incorporated

outside India shall be treated as if it were a non-resident; (c) a person shall be deemed to have power to enjoy the income of a non resident if— (i) the

income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to ensure for the benefit of the first mentioned person in sub-section (2) or (3); or (ii) the receipt or accrual of the income operates to increase the value to such first mentioned person of any assets held by him or for his benefit; or (iii) such first mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or shall be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income; or (iv) such first mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income; or (v) such first mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income; (d) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(7) In this section,— (a) “assets” includes property or rights of any kind and “transfer” in relation to rights includes the creation of those rights; (b) “associated operation” in relation to any transfer, means an operation of any kind effected by any person in relation to— (i) any of the assets transferred; or (ii) any assets representing, whether directly or indirectly, any of the assets transferred; or (iii) the income arising from any such assets; or (iv) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets; (c) “benefit” includes a payment of any kind; (d) “capital sum” means— (i) any sum paid or payable by way of a loan or repayment of a loan; and (ii) any other sum paid or payable otherwise than as income, being a sum, which is not paid or payable for full consideration in money or money’s worth.

174.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Avoidance of income-tax by transactions resulting in transfer of income to non-residents.

93. (1) Where there is a transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income becomes payable to a non-resident, the following provisions shall apply—

(*a*) where any person has, by means of any such transfer, either alone or in conjunction with associated operations, acquired any rights by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident person which, if it were income of the first-mentioned person, would be chargeable to income-

tax, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of the first-mentioned person for all the purposes of this Act;

(*b*) where, whether before or after any such transfer, any such first-mentioned person receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operations, then any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a non-resident shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act.

Explanation.—The provisions of this sub-section shall apply also in relation to transfers of assets and associated operations carried out before the commencement of this Act.

(2) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(3) The provisions of this section shall not apply if the first-mentioned person in sub-section (1) shows to the satisfaction of the Assessing Officer that—

(*a*) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or

(*b*) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

Explanation.—For the purposes of this section,—

(*a*) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those

accumulations are or have been transferred;

(*b*) any body corporate incorporated outside India shall be treated as if it were a non-resident;

(*c*) a person shall be deemed to have power to enjoy the income of a non-resident if—

(*i*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person in sub-section (1), or

(*ii*) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or

(*iii*) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income, or

(*iv*) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(*v*) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income;

(*d*) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(4) (*a*) "Assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights ;

(*b*) "associated operation", in relation to any transfer, means an operation of any kind effected by any person in relation to—

(*i*) any of the assets transferred, or

(*ii*) any assets representing, whether directly or indirectly, any of the assets transferred, or

(*iii*) the income arising from any such assets, or

(*iv*) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets ;

(*c*) "benefit" includes a payment of any kind ;

(*d*) "capital sum" means—

(*i*) any sum paid or payable by way of a loan or repayment of a loan ; and

(*ii*) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth.

174.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 174 of the Bill provides for avoidance of income-tax by transactions resulting in transfer of income to non-residents. The clause corresponds to section 93 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

174.4 <u>Examination by the Committee:</u>

On the issue of Avoidance of Income Tax by transactions resulting in transfer of income to non-residents as provided for in S. 93 of the IT Act, 1961, the Committee were curious to know as to how Clause 174 provides greater alignment to international anti-avoidance norms, particularly the BEPS (Base Erosion and Profit Shifting) framework, the Ministry in their written response have submitted as below:-

> “Section 93 is one of the oldest provisions in the Income-tax Act, 1961. It has evolved largely from Section 44D of the Income-tax Act, 1922, making it one of earliest enactments to prevent tax avoidance. As there were very few provisions in that Act to contain or prevent tax avoidance and resultant tax base erosion and profit shifting, it can be considered a provision that is historically, a precursor of international anti-avoidance norms that evolved into the Base Erosion & Profit Shifting (BEPS) project of G20/OECD in 2013-15 and developed several elaborate rules for the purpose of preventing tax avoidance. Sub-section (1) of Section 93 lays down that in cases where assets are transferred to a non resident (which

would not be taxable in India) even though the beneficial owner of the income arising from such assets is a resident of India, then such income will be deemed to be the income of such resident in India. Thus, it intends to prevent tax avoidance by nominal shifting of legal ownership, e.g. from a resident to a non-resident just for the purpose of avoiding the tax liability of the resident taxpayer in India. This provision has a policy alignment with the Principal Purpose Test (PPT) in Article 7 of the Multilateral Instrument (MLI) developed under Action 15 of Base Erosion & Profit Shifting (BEPS) Project with the objective of enabling the application of anti-avoidance and other measures agreed under Actions 6, 7 and 14 of BEPS project. The PPT provides that, "Notwithstanding any provisions of a Covered Tax Agreement, a benefit under the Covered Tax Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Covered Tax Agreement. PPT is a minimum standard agreed by all G20 and OECD countries, and is hence applicable on every covered tax agreement, that is subjected to MLI. The MLI has already been signed and ratified by India and a large number of other countries and is applicable to several thousand tax treaties, making it an international norm. Sub-section 3 of Section 93 provides relief in case of bona fide transactions or where the avoidance of tax was not one of the purposes. This again is similar to the BEPS PPT. Thus, section 93 is closely aligned with the international norms developed under BEPS. It intends to achieve a result under the Act that is similar to PPT and thereby supplements the international tax avoidance norms developed in BEPS and applied in the treaties."

174.5 <u>Observations/Recommendations of the Committee:</u>

The Committee find during examination that the proposed Clause 174 of the Bill provides for *avoidance* of income-tax by transactions resulting in transfer of income to non-residents. This clause corresponds to section 93 of the IT Act, 1961 both in terms of content and intent. Moreover, the justification provided by

the Ministry is also found to be satisfactory in nature. Keeping this in mind and appreciating the textual simplification carried out, the Committee accept the proposed Clause in its entirety.

Clause – 175– Avoidance of tax by certain transactions in securities.

175.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

175 (1) Where the owner of any securities (hereinafter referred to as “the owner”) sells or transfers such securities and buys back or reacquires them or buys or acquires any similar securities, any interest that becomes payable in respect of such securities,— (a) is receivable by a person other than the owner, shall be deemed, for all purposes of this Act, to be the income of the owner; and Avoidance of tax by certain transactions in securities. 204 (b) shall not be the income of the other person, irrespective of whether it would have been chargeable to income-tax under any other provision of this Act.

(2) Where similar securities as referred to in sub-section (1) are bought or acquired, the owner shall not be under greater liability to income-tax than he would if the original securities had been bought back or reacquired.

(3) If any person has had a beneficial interest in any securities at any time during a tax year, and the result of any transaction relating to such securities or the income from it is that, in respect of such securities within such year,— (a) either no income is received by him; or (b) the income received by him is less than what would have been if the income from such securities had accrued from day to day and been apportioned accordingly, the income from such securities for such year shall be deemed to be the income of such person.

(4) The provisions of sub-sections (1), (2) and (3) shall not apply if the owner, or the person who has had a beneficial interest in the securities, proves to the satisfaction of the Assessing Officer that— (a) there has been no avoidance of income-tax; or (b) the avoidance of income-tax was exceptional and not systematic and also that in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-sections (1), (2) or (3) was not there in his case.

(5) If a person carrying on a business which consists wholly or partly in dealing in securities, buys or acquires any securities and sells back or retransfers the securities, then, if the result of the transaction is that interest in respect of the securities receivable by him is not deemed to be his income by reason of the provisions contained in sub-section (1), no account shall be taken of the transaction in computing the profits arising from or loss sustained in the business for any of the purposes of this Act.

(6) The provisions of sub-section (5) shall have effect, subject to any necessary modifications, as if references to selling back or retransferring the securities included references to selling or transferring similar securities.

(7) The Assessing Officer may, by notice in writing, require any person to provide within specified time, which shall not be less than twenty-eight days, details in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities.

(8) If— (a) any person buys or acquires any securities or unit within three months before the record date; (b) such person sells or transfers— (i) such securities within three months after such date; or (ii) such unit within nine months after such date; (c) the dividend or income on such securities or unit received or receivable by such person is exempt, then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

(9) If— (a) any person buys or acquires any securities or unit within three months before the record date; (b) such person is allotted additional securities or unit without any payment on the basis of holding of such securities or unit on such date; (c) such person sells or transfers all or any of the securities or unit referred to in clause (a) within nine months after such date, while continuing to hold all or any of the additional securities or unit referred to in clause (b), then, the loss, if any, arising to him on account of such purchase and sale of all or any of such securities or unit shall be ignored for the purposes of computing his income chargeable to tax.

(10) Irrespective of any other provision of this Act, loss ignored as per sub-section (9) shall be deemed to be the cost of purchase or acquisition of such additional securities or unit referred to in sub-section (9)(b) as are held by him on the date of such sale or transfer.

(11) In this section,— (a) “interest” includes a dividend; (b) “record date” means such date as may be fixed by— (i) a company; (ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the Explanation to section 10(35) of the Income-tax Act, 1961; or (iii) a business trust defined in section 2(21); or (iv) an Alternative Investment Fund defined in regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992, for the purposes of entitlement of the holder of the securities or unit to receive dividend, income, or additional securities or unit without any consideration; (c) “securities” includes stocks and shares; (d) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, irrespective of any difference in the total nominal

amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred; (e) “unit” shall mean,— (i) a unit of a business trust defined in section 2(21); (ii) a unit defined in section 208(3)(c); or (iii) beneficial interest of an investor in an Alternative Investment Fund, referred to in clause (b)(iv), and shall include shares or partnership interests.

175.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Avoidance of tax by certain transactions in securities.

94. (1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as "the owner") sells or transfers those securities, and buys back or reacquires the securities, then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this sub-section, be deemed, for all the purposes of this Act, to be the income of the owner and not to be the income of any other person.

Explanation.—The references in this sub-section to buying back or reacquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to income-tax than he would have been under if the original securities had been bought back or reacquired.

(2) Where any person has had at any time during any previous year any beneficial interest in any securities, and the result of any transaction relating to such securities or the income thereof is that, in respect of such securities within such year, either no income is received by him or the income received by him is less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, then the income from such securities for such year shall be deemed to be the income of such person.

(3) The provisions of sub-section (1) or sub-section (2) shall not apply if the owner, or the person who has had a beneficial interest in the securities, as the case may be, proves to the satisfaction of the Assessing Officer—

(*a*) that there has been no avoidance of income-tax, or

(*b*) that the avoidance of income-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-section (1) or sub-

section (2).

(4) Where any person carrying on a business which consists wholly or partly in dealing in securities, buys or acquires any securities and sells back or retransfers the securities, then, if the result of the transaction is that interest becoming payable in respect of the securities is receivable by him but is not deemed to be his income by reason of the provisions contained in sub-section (1), no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(5) Sub-section (4) shall have effect, subject to any necessary modifications, as if references to selling back or retransferring the securities included references to selling or transferring similar securities.

(6) The Assessing Officer may, by notice in writing, require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities.

(7) Where—

(*a*) any person buys or acquires any securities or unit within a period of three months prior to the record date;

(*b*) such person sells or transfers—

(*i*) such securities within a period of three months after such date; or

(*ii*) such unit within a period of nine months after such date;

(*c*) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

(8) Where—

(*a*) any person buys or acquires any securities or units within a period of three months prior to the record date;

(*b*) such person is allotted additional securities or units without any payment on the basis of holding of such securities or units on such date;

(*c*) such person sells or transfers all or any of the securities or units referred to in clause (*a*) within a period of nine months after such date, while continuing to hold all or any of the additional securities or units referred to in clause (*b*),

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such securities or units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional securities or units referred to in clause (*b*) as are held by him on the date of such sale or transfer.

Explanation.—For the purposes of this section,—

(*a*) "interest" includes a dividend ;

(*aa*) "record date" means such date as may be fixed by—

(*i*) a company;

(*ii*) a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the *Explanation* to clause (*35*) of section 10; or

(*iii*) a business trust defined in clause (*13A*) of section 2; or

(*iv*) an Alternative Investment Fund defined in clause (*b*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992),

for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or units without any consideration, as the case may be;

(*b*) "securities" includes stocks and shares ;

(*c*) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred;

(*d*) "unit" shall mean,—

(*i*) a unit of a business trust defined in clause (*13A*) of section 2;

(*ii*) a unit defined in clause (*b*) of the *Explanation* to section 115AB; or

(*iii*) beneficial interest of an investor in an Alternative Investment Fund, defined in clause (*b*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange

Board of India Act, 1992 (15 of 1992), and shall include shares or partnership interests.

175.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

"Clause 175 of the Bill provides for avoidance of tax by certain transactions in securities. The clause corresponds to section 94 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

175.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

An important suggestion from the stakeholder is mentioned below:-

> The term can be defined suitably under clause 175(11) itself as against providing for any reference to the Income-Tax Act, 1961. The clause being a definition clause, the same can be incorporated in the clause 175(11) itself Reference to old Act is unwarranted as the same leads to complexity and requires one to always refer to Old Act for all times to come.

175.5 <u>Examination by the Committee:</u>

Responding to the suggestion, the Ministry have submitted as under:-

> "Accepted: Drafting error. May be corrected. The correct reference shall be "note 6(a) and (g) below Schedule

XV". The proposed provisions of the Bill are similar to the provisions of the I T Act."

175.6 <u>Observations/Recommendations of the Committee:</u>

The Committee, while examining the Clause 175 of the Bill which provides for avoidance of tax by certain transactions in securities find that it corresponds to section 94 of the IT Act, 1961 and that the term 'mutual fund or Administrator of the specified undertaking or the specified company' has been stated to be as referred to in Explanation to section 10(35) of the Income-Tax Act, 1961. The Committee opine that the definition could have been produced in the text itself without any reference to the IT Act, 1961. The Ministry, in this regard have treated this as a drafting error which shall be referenced as "note 6(a) and (g) below Schedule XV". In view of the indicated change, the Committee recommend the Ministry to rectify the drafting error and make a correct referencing as indicated. The content of rest of the proposed Clause 175 is accepted.

Clause – 176– Special measures in respect of transactions with persons located in notified jurisdictional area.

176.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

176. (1) The Central Government may, by notification specify any country or territory outside India, as a notified jurisdictional area, having regard to the lack of effective exchange of information with such jurisdiction.

(2) Irrespective of anything contrary in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then,— (a) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 162; Special measures in respect of transactions with persons located in notified jurisdictional area. (b) any transaction of the nature described in section 163(1) and (2) shall be deemed to be an international transaction within the meaning of section 163, and the provisions of sections161, 162, 163, 165 except the benefit of variation specified in sections 165(3)(a)(ii), 166, 167, 171, 172 and 173 shall apply accordingly.

(3) Irrespective of anything to the contrary in this Act, no deduction shall be allowed— (a) for any payment made to any financial institution located in a notified jurisdictional area, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on behalf of such assessee; and (b) for any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area, unless the assessee maintains such other documents and furnishes such information as prescribed, in this behalf.

(4) Irrespective of anything to the contrary in this Act, if, in any tax year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and— (a) the assessee does not provide any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum); or (b) the explanation provided by the assessee, in the opinion of the Assessing Officer, is not satisfactory, then such sum shall be deemed to be the income of the assessee for that tax year.

(5) Irrespective of anything to the contrary in this Act, if any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XIX-B, the tax shall be deducted at the highest of the following rates— (a) at the rate or rates in force; (b) at the rate specified in the relevant provisions of this Act; (c) at the rate of 30%.

(6) In this section,— (a) “person located in a notified jurisdictional area” shall include,— (i) a person who is resident of the notified jurisdictional area; (ii) a person,

not being an individual, which is established in the notified jurisdictional area; or (iii) a permanent establishment of a person not falling in sub-clause (i) or (ii), in the notified jurisdictional area; (b) “permanent establishment” shall have the meaning assigned to it in section 173(c); (c) “transaction” shall have meaning assigned to it in section 173(e).

176.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Special measures in respect of transactions with persons located in notified jurisdictional area.

94A. (1) The Central Government may, having regard to the lack of effective exchange of information with any country or territory outside India, specify by notification in the Official Gazette such country or territory as a notified jurisdictional area in relation to transactions entered into by any assessee.

(2) Notwithstanding anything to the contrary contained in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then—

(*i*) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 92A;

(*ii*) any transaction in the nature of purchase, sale or lease of tangible or intangible property or provision of service or lending or borrowing money or any other transaction having a bearing on the profits, income, losses or assets of the assessee including a mutual agreement or arrangement for allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided by or to the assessee shall be deemed to be an international transaction within the meaning of section 92B,

and the provisions of sections 92, 92A, 92B, 92C [except the second proviso to sub-section (2)], 92CA, 92CB, 92D, 92E and 92F shall apply accordingly.

(3) Notwithstanding anything to the contrary contained in this Act, no deduction,—

(*a*) in respect of any payment made to any financial institution located in a notified jurisdictional area shall be allowed under this Act, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from

the said financial institution on behalf of such assessee; and

(*b*) in respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional

area shall be allowed under any other provision of this Act, unless the assessee maintains such other documents and furnishes such information as may be prescribed, in this behalf.

(4) Notwithstanding anything to the contrary contained in this Act, where, in any previous year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and the assessee does not offer any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum) or the explanation offered by the assessee, in the opinion of the Assessing Officer, is not satisfactory, then, such sum shall be deemed to be the income of the assessee for that previous year.

(5) Notwithstanding anything contained in any other provisions of this Act, where any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVII-B, the tax shall be deducted at the highest of the following rates, namely:—

(*a*) at the rate or rates in force;

(*b*) at the rate specified in the relevant provisions of this Act;

(*c*) at the rate of thirty per cent.

(6) In this section,—

(*i*) "person located in a notified jurisdictional area" shall include,—

(*a*) a person who is resident of the notified jurisdictional area;

(*b*) a person, not being an individual, which is established in the notified jurisdictional area; or

(*c*) a permanent establishment of a person not falling in sub-clause (*a*) or sub-clause (*b*), in the notified jurisdictional area;

(*ii*) "permanent establishment" shall have the same meaning as defined in clause

(*iiia*) of section 92F;

(*iii*) "transaction" shall have the same meaning as defined in clause (*v*) of section 92F.

176.3 Reasons/Justification given by the Ministry for the proposed provisions:

“Clause176 of the Bill seeks to provide for special measures in respect of transactions with persons located in notified jurisdictional area. The clause corresponds to section 94A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause”.

176.4 Examination by the Committee:

With regard to special measures in respect of transactions with persons located in notified jurisdictional areas, the Committee queried from the Ministry on the probable aspect of shifting of burden of proof regarding unexplained receipts on the assessee and its challenges particularly in cases where the taxpayer has limited access to information about the beneficial owner, and whether, there was an overlap with General Anti-Avoidance Rule (GAAR) with the applicability of the provisions of this clause. Clarifying upon this, the Ministry have submitted as under:-

“It is an anti-abuse provision. Section 94A serves as a framework that enables the Indian government to manage tax information exchanges with other countries. It mandates that taxpayers provide the necessary financial details when requested by tax authorities. The government introduced this section to prevent entities from transferring undeclared income to foreign jurisdictions, especially those that refuse to cooperate with India on tax matters. (ii) Both are anti-abuse provisions. However, GAAR provisions wider in term of its application and ramification. On the other hand, provisions of section 94A simply lays down certain measures in respect of transaction with persons located in notified jurisdictions”.

176.5 Observations/Recommendations of the Committee:

The Committee scrutinised the proposed Clause 176 of the Bill which provisions for special measures in respect of transactions with persons located in notified

jurisdictional area. Noting the importance of this clause in terms of establishing accountability, the Committee went through the justification provided by the Ministry and found that the clause corresponds to section 94A of the Income-Tax Act, 1961. Observing that the provisions of the existing section have been textually simplified and retained with the same intent in this proposed Clause, the Committee accept the Clause as proposed.

Clause – 177–Limitation on interest deduction in certain cases.

177.1 <u>Provisions proposed in the Income-Tax Bill, 2025:</u>

177. (1) Irrespective of anything contrary in this Act, any expenditure by way of interest or similar payment in respect of excess interest, as specified in sub-section (4), shall not be deductible in computation of income chargeable under the head “Profits and gains of business or profession”, if,— (a) it is paid or payable by an Indian company or a permanent establishment of a foreign company in India, in respect of any debt issued by an associated enterprise which is a non-resident; and (b) the sum of such expenditure in a tax year exceeds one crore rupees.

(2) Where a lender, not being an associated enterprise, has issued a debt referred to in sub-section (1), such debt shall be deemed to have been issued by an associated enterprise if an associated enterprise has— (a) provided an implicit or explicit guarantee to the lender in respect of such debt; or (b) deposited a corresponding and matching funds with such lender.

(3) The provisions of this section shall not apply to— (a) interest paid in respect of a debt issued by a lender which is a permanent establishment in India of a non-resident engaged in the business of banking; (b) an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance or a Finance Company located in any International Financial Services Centre, or such class of non-banking financial companies as notified by the Central Government in this behalf.

(4) In sub-section (1), the “excess interest” means— (a) In total interest paid or payable in excess of 30% of earnings before interest, taxes, depreciation and amortisation of the borrower in the tax year; or (b) interest paid or payable to associated enterprises for that tax year, whichever is less.

(5) Interest expenditure not wholly deducted against income under the head “Profits and gains of business or profession” for any tax year shall be— (a) carried forward to the following tax year or years; and (b) allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for such tax year, to the extent of maximum allowable interest expenditure as per sub-section (4).

(6) The interest expenditure referred to in sub-section (5) shall not be carried forward for more than eight tax years immediately succeeding the tax year for which the excess interest expenditure was first computed.

(7) In this section,— (a) “debt” means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other

finance charges that are deductible in the computation of income chargeable under the head “Profits and gains of business or profession”; (b) “Finance Company” means a finance company as defined in regulation 2(1)(e) of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 and which satisfies such conditions and carries on such activities, as prescribed; (c) “permanent establishment” shall have the meaning assigned to it in section 173(c).

177.2 <u>Relevant Provisions of the Principal Act (Income-Tax Act, 1961):</u>

Limitation on interest deduction in certain cases.

94B. (1) Notwithstanding anything contained in this Act, where an Indian com- pany, or a permanent establishment of a foreign company in India, being the borrower, incurs any expenditure by way of interest or of similar nature exceeding one crore rupees which is deductible in computing income chargeable under the head "Profits and gains of business or profession" in respect of any debt issued by a non-resident, being an associated enterprise of such borrower, the interest shall not be deductible in computation of income under the said head to the extent that it arises from excess interest, as specified in sub-section (2) :

Provided that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

(1A) Nothing contained in sub-section (1) shall apply to interest paid in respect of a debt issued by a lender which is a permanent establishment in India of a non-resident, being a person engaged in the business of banking.

(2) For the purposes of sub-section (1), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent of earnings before interest, taxes, depreciation and amortisation of the borrower in the previous year or interest paid or payable to associated enterprises for that previous year, whichever is less.

(3) Nothing contained in sub-section (1) shall apply to an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance [12][*or a Finance Company located in any International Financial Services Centre,*] [13][or such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf].

(4) Where for any assessment year, the interest expenditure is not wholly deducted against income under the head "Profits and gains of business or profession", so much

of the interest expenditure as has not been so deducted, shall be carried forward to the following assessment year or assessment years, and it shall be allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for that assessment year to the extent of maximum allowable interest expenditure in accordance with sub-section (2):

Provided that no interest expenditure shall be carried forward under this sub-section for more than eight assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

(5) For the purposes of this section, the expressions—

(*i*) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;

(*ii*) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

[14][(*iia*) "non-banking financial company" shall have the meaning assigned to it in clause (*vii*) of the *Explanation* to clause (*viia*) of sub-section (1) of section 36;]

(*iii*) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on;

[15][*(*iv*) "Finance Company" means a finance company as defined in clause (*e*) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which satisfies such conditions and carries on such activities, as may be prescribed;*

*(*v*) "International Financial Services Centre" shall have the meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).*]

177.3 <u>Reasons/Justification given by the Ministry for the proposed provisions:</u>

“Clause 177 of the Bill seeks to provide for limitation on interest deduction in certain cases. The clause corresponds to section 94B of the Act. The provisions of the existing section have been textually simplified and retained witzh the same intent in this clause”.

177.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

Few key suggestions from the stakeholders are summarized as below:-

(i) It is suggested that – (a) for the purpose of computing 'excess interest' under section 177(4), the term 'total interest paid or payable' should only include interest paid to the associated enterprises (b) borrowings by Indian companies backed by corporate guarantee may be excluded from applicability of section 177. (c) loan taken from an Indian bank which is guaranteed by a non-resident associated enterprise be excluded from the scope of section 177. Whereas section 177(4) defines excess interest as the total interest payable in excess of 30% of EBITDA, section 177(1)(a) indicates that the disallowance is in relation to interest in respect of debt issued by a non resident associated enterprise of the borrower. The issue under consideration is whether for purpose of determining the amount of excess interest under section 177(4), interest paid to third party lenders (i.e other than associated enterprises) should be included in 'total interest paid or payable' or it should only include interest paid or payable to associated enterprises.

(ii) There is no outflow of interest payments to entity outside India. Further, in case of default, NR AE would pay funds to Indian third-party lender, thereby leading to inflow of funds. Accordingly, clarification should be provided to exclude domestic borrowings guaranteed by non-resident AE. The inherent idea of thin capitalization provisions is to prevent shifting of profits outside India Thus, it is pertinent not to disturb domestic debt scenarios for various sectors. The current provisions may affect domestic funding from third parties.

177.5 <u>Examination by the Committee:</u>

The Ministry in their written responses have submitted as under:-

(i) "Stakeholder seeks that for computing disallowance of excess interest deduction, interest paid to third party lender other than associated enterprise be excluded. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The said provision is one of the fundamental strategy to prevent the Base Erosion and Profit Shifting (BEPS). Following BEPS initiative implemented by The Organisation for Economic Co-operation and Development several reforms were introduced in the domestic tax legislation to plug loopholes, prevent double non-taxation and to strengthen data sharing between the contracting states. The provisions of limitation on interest deduction is one of them. A distinction in tax treatment of equity and debt source of fund minimises chances of tax avoidance by multinational

companies. In view of the above facts, provisions of both clause 177(4)(a) and (b) are necessary to achieve the stated objectives".

The proposed provisions of the Bill are similar to the provisions of the I T Act".

177.5.2 On the aspect of limitation of interest, when queried upon, the representative of the Ministry of Finance submitted before the Committee as under:-

> "there are specific anti-avoidance rules prescribing limitation of interest. So, the interest when it is paid to associate enterprise or even to a third party, that is considered for disallowing interest beyond a certain limit. So, the stakeholder suggestion is that associate enterprise, you can continue for inclusion for disallowing of interest. But if I am paying interest to a third party, why should it be part of limitation of own interest? Actually, the word that has come, first para, last word should be excluded, not included. So, that is a correction"…… "Sir, there are certain exclusions also provided in 94B, and it does not apply to an Indian company or permanent establishment of foreign company, which is engaged in business of banking or insurance or a finance company located in IFSCA or such class of non-banking financial companies as may be notified because if a loan is taken from some other party, there is a chance that the profits are shifted by way of interest on loans. These are thin capitalization provisions, so that the company maintains a healthy ratio of debt as well as equity. This thin capitalization ratio is applicable, used internationally. We have also incorporated it".

177.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 177 of the Bill seeks to provide for limitation on interest deduction in certain cases and is synonymous to Section 94B of the IT Act, 1961. The Committee find the justification for proposing the text in this Clause satisfactory and are also convinced with the response of the Ministry vis-à-vis the suggestions from the stakeholders. Other than textual simplification in the body of text, the intent of the original source, Section 94B of IT Act, 1961 has

not been tinkered with. Thus, the Committee accept the proposed Clause in its entirety without any changes.

Chapter XI-
GENERAL ANTI-AVOIDANCE RULE

Clause – 178-Applicability of General Anti-Avoidance Rule

178.1 Provision proposed in the Income-Tax Bill, 2025:

Provisions of the Section 178 under Chapter XI- General Anti-Avoidance Rule are as under

(1) Irrespective of anything contained in this Act, an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising from it may be determined subject to the provisions of this Chapter.
(2) The provisions of this Chapter may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

178.2Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Applicability of General Anti-Avoidance Rule.

95.(1) notwithstanding anything contained in the Act, an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising there from may be determined subject to the provisions of this Chapter.
(2) This Chapter shall apply in respect of any assessment year beginning on or after the 1st day of April, 2018.
Explanation.—For the removal of doubts, it is hereby declared that the provisions of this Chapter may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

178.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 178 of the Bill provides the framework for the applicability of the General Anti-Avoidance Rule. This clause corresponds to Section 95 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

178.4Examination by the Committee:

178.4.1 In response to concerns about safeguards preventing interpretational shifts in the judicial or administrative application of GAAR—especially its retrospective or prospective applicability—the Ministry stated:

"The apprehension that the proposed GAAR provisions in the Bill may result in interpretational shift in judicial and administrative application has no basis. The proposed provisions are similar as it was in the I T Act. GAAR is a general rule. This is required in exceptional cases. For exceptional cases, the term should take its normal meaning. Clause 183 specifies that the chapter relating to GAAR shall apply in addition to or in lieu of any other basis for determination of tax liability and as per such guidelines and subject to such conditions as prescribed. GAAR provisions are fundamentally for such persons who employ complex tax planning strategies to avoid tax. Such practices are not only detrimental to the nation but unfair to the other genuine tax payers. Therefore, to tackle such situation, and complex strategies of tax evasion, it is necessary to provide inbuilt mechanism is statute itself . However, the assessee is given an opportunity to the prove that the arrangement is for the bonafide reasons and contrary to the presumption that it is mainly for obtaining tax benefit. Further, GAAR provisions are resorted to in some exceptional

circumstances and the mechanism set up implementation of the GAAR provisions has inbuilt checks and balances. The very fact that GAAR can be invoked only with the approval of the GAAR Panel which is headed by a High Court Judge and two other senior members, one of which is an academic is a sufficient safeguard."

178.4.2 In response to the question on why the specific commencement date (1st April 2018) in Section 95(2) was omitted from Clause 178, and whether this implies a change in GAAR's temporal scope, the Ministry stated:

"At present it is governed by the provisions of the I T Act. The day on which the proposed Bill comes into effect, it shall be governed by the said Act. So there is no ambiguity and the apprehension has no basis."

178.5 Observations/Recommendations of the Committee:

After careful consideration of the proposal and the justifications provided by the Ministry of Finance, the Committee concur with the retention and textual simplification of Section 95 of the Income-Tax Act, 1961, as proposed under Clause 178 of the Income-Tax Bill, 2025.Accordingly, the Committee accept the clause as proposed.

Clause - 179. Impermissible avoidance arrangement

179.1 Provision proposed in the Income-Tax Bill, 2025:

(1) An impermissible avoidance arrangement means an arrangement, the main purpose of which is to obtain a tax benefit, and it—

(a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;

(b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;

(c) lacks commercial substance or is deemed to lack commercial substance under section 180, in whole or in part; or

(d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for bonafide purposes.

(2) An arrangement shall be presumed, unless it is proved to the contrary by the assessee, to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, irrespective of the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

179.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Impermissible avoidance arrangement.

96. (1) An impermissible avoidance arrangement means an arrangement, the main purpose of which is to obtain a tax benefit, and it—

(a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;

(b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;

(c) lacks commercial substance or is deemed to lack commercial substance under section 97, in whole or in part; or

(d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for bona fide purposes.

(2) An arrangement shall be presumed, unless it is proved to the contrary by the assessee, to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, notwithstanding the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

179.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

179.3 The justification furnished by the Ministry for the proposed Clause is as under:

"Clause 179 of the Bill seeks to define impermissible avoidance arrangements under the General Anti-Avoidance Rule. The clause corresponds to section 96 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

179.4 Important Views/Suggestions given by Experts/Stakeholders:

The meaning of "arm's length" may be defined as follows: 'arm's length' shall be understood to mean a relationship that reflects independent and commercially rational conduct between unrelated parties" In the alternative, arm's length can be defined to have the meaning assigned in section 173(a) . Definition of 'arm's length' may be incorporated to provide clarity or reduce litigations. Alternatively, specific reference may be given to clause (a) of section 173 of the Income-tax Bill, 2025 which defines the meaning of the term "arm's length price". At present, the meaning of arm's length is defined in clause (a) of section 173 solely for the purpose of transfer pricing provisions.

179.5 Examination by the Committee:

179.5.1 In response to the suggestion that the term 'arm’s length' be defined under the GAAR provisions, the Ministry, in its written reply stated as under:

> “Stakeholder seeks to define term "arm’s length" under GAAR provisions. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. GAAR is a general rule. This is required in exceptional cases. For exceptional cases, the term should take its normal meaning. Clause 183 specifies that the chapter relating to GAAR shall apply in addition to or in lieu of any other basis for determination of tax liability and as per such guidelines and subject to such conditions as prescribed. Therefore, there is no requirement to defining the term 'arms length' as such, when power to issue guidelines and prescribe conditions have been provided under the Chapter itself. Further, no rationale has been provided for suggested change. Therefore, the suggested amendment is not feasible.

179.5.2 Regarding the potential subjectivity in defining a “significant effect,” could the Ministry clarify the objective criteria or guiding principles tax authorities use to make this assessment, the Ministry in its written reply, the stated as under:

> “The term used in the chapter has been defined appropriately and the suggested amendment has no rationale. Further, Clause 183 inter alia specifies that the chapter relating to GAAR shall apply as per such guidelines and subject to such conditions as prescribed. Therefore, in case of any ambiguity, it can be clarified through issuance of guidelines.”

179.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 179 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions effectively simplify and retain the principle of "impermissible avoidance arrangement" in the Income-Tax Bill, 2025. The Clause specifies that an arrangement may be treated as impermissible if its main purpose is to obtain a tax benefit and it (a) creates rights or obligations not ordinarily created in transactions at arm's length; (b) results in the misuse or abuse of the provisions of the Act; (c) lacks commercial substance; or (d) is entered into by means not ordinarily employed for bona fide purposes. Furthermore, a presumption is provided that the main purpose of an arrangement or a part of it is to obtain a tax benefit, unless proved otherwise by the assessee. The Committee find these provisions appropriate for addressing aggressive tax avoidance while preserving fairness and equity in the application of the income tax law. Therefore, the Committee accept the provisions as proposed.

Clause-180- Arrangement to lack commercial substance

180.1 Provision proposed in the Income-Tax Bill, 2025:

(1) An arrangement shall be deemed to lack commercial substance, if—

(a) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or
(b) it involves or includes—
(i) round trip financing; or
(ii) an accommodating party; or
(iii) elements that have effect of offsetting or cancelling each other; or
(iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction; or
(c) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party; or
(d) it does not have a significant effect upon the business risks or net cash flows of any party to the arrangement apart from any effect attributable to the tax benefit that would be obtained (but for the provisions of this Chapter) .
(2) In sub-section (1) , round trip financing includes any arrangement in which, through a series of transactions—
(a) funds are transferred among the parties to the arrangement; and
(b) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter) ,
without having any regard to—
(A) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;

(B) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or

(C) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.

(3) The following may be relevant but shall not be sufficient for determining whether an arrangement lacks commercial substance or not:—

(a) the period of time for which the arrangement (including operations therein) exists;

(b) the fact of payment of taxes, directly or indirectly, under the arrangement;

(c) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

180.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Arrangement to lack commercial substance.

97. (1) An arrangement shall be deemed to lack commercial substance, if—

(a) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or

(b) it involves or includes—

(i) round trip financing;

(ii) an accommodating party;

(iii) elements that have effect of offsetting or cancelling each other; or

(iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction; or

(c) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party; or

(d) it does not have a significant effect upon the business risks or net cash flows of any party to the arrangement apart from any effect attributable to the tax benefit that would be obtained (but for the provisions of this Chapter) .

(2) For the purposes of sub-section (1) , round trip financing includes any arrangement in which, through a series of transactions—

(a) funds are transferred among the parties to the arrangement; and

(b) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter) ,

without having any regard to—

(A) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;

(B) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or

(C) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.

(3) For the purposes of this Chapter, a party to an arrangement shall be an accommodating party, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement.

(4) For the removal of doubts, it is hereby clarified that the following may be relevant but shall not be sufficient for determining whether an arrangement lacks commercial substance or not, namely:—

(i) the period or time for which the arrangement (including operations therein) exists;

(ii) the fact of payment of taxes, directly or indirectly, under the arrangement;

(iii) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

180.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed Clause is as under:

> "Clause 180 of the Bill seeks to outline the conditions under which an arrangement shall be deemed to lack commercial substance. This clause corresponds to Section 97 of the Act. The provisions of the existing

section have been textually simplified and retained with the same intent in this clause."

180.4 Important Views/Suggestions given by Experts/Stakeholders:

Regarding the subjectivity in assessing whether an arrangement lacks a 'significant effect' on business risks or cash flows under Sub-clause (1) (d) of Clause 180, the Ministry was asked to clarify the objective criteria tax authorities would apply. The Ministry responded as follows:

"The term used in the chapter has been defined appropriately and the suggested amendment has no rationale. Further, Clause 183 inter alia specifies that the chapter relating to GAAR shall apply as per such guidelines and subject to such conditions as prescribed. Therefore, in case of any ambiguity, it can be clarified through issuance of guidelines.

180.5 Observations/Recommendations of the Committee:

The Committee, after careful consideration of the proposal contained in Clause 180, along with the justification provided by the Ministry of Finance, find the proposed provision to be appropriate. The Committee observe that Clause 180 corresponds to the provisions relating to impermissible avoidance arrangements under the General Anti-Avoidance Rule in the Income-Tax Act, 1961, and that the language has been refined to provide greater clarity without altering the substantive intent. Accordingly, the Committee accept the provisions of clause 180 as proposed.

Clause 181- Consequences of impermissible avoidance arrangement

181.1 Provision proposed in the Income-Tax Bill, 2025:

(1) If an arrangement is declared to be an impermissible avoidance arrangement, then, the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in the manner as deemed appropriate.

(2) The consequences of an arrangement declared to be an impermissible avoidance arrangement as referred to in sub-section (1) shall include but shall not be limited to the following:—

(a) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;

(b) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;

(c) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;

(d) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;

(e) reallocating amongst the parties to the arrangement—

(i) any accrual, or receipt, of a capital nature or revenue nature; or

(ii) any expenditure, deduction, relief or rebate;

(f) treating—

(i) the place of residence of any party to the arrangement; or

(ii) the situs of an asset or of a transaction,

at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or

(g) considering or looking through any arrangement by disregarding any corporate structure.

(3) In this section,—

(a) any equity may be treated as debt or viceversa;

(b) any accrual, or receipt, of a capital nature may be treated as of revenue nature or viceversa; or

(c) any expenditure, deduction, relief or rebate may be recharacterised.

181.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Consequences of impermissible avoidance arrangement.

98. (1) If an arrangement is declared to be an impermissible avoidance arrangement, then, the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in such manner as is deemed appropriate, in the circumstances of the case, including by way of but not limited to the following, namely:—

(a) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;

(b) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;

(c) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;

(d) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;

(e) reallocating amongst the parties to the arrangement—

(i) any accrual, or receipt, of a capital nature or revenue nature; or

(ii) any expenditure, deduction, relief or rebate;

(f) treating—

(i) the place of residence of any party to the arrangement; or

(ii) the situs of an asset or of a transaction,

at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or

(g) considering or looking through any arrangement by disregarding any corporate structure.

(2) For the purposes of sub-section (1) ,—

(i) any equity may be treated as debt or vice versa;

(ii) any accrual, or receipt, of a capital nature may be treated as of revenue nature or vice versa; or

(iii) any expenditure, deduction, relief or rebate may be recharacterised.

181.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed Clause is as under:

> "Clause 181 of the Bill provides for the consequences of an impermissible avoidance arrangement under the General Anti-Avoidance Rule. This clause corresponds to Section 98 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

181.4 Important Views/Suggestions given by Experts/Stakeholders

Some of the important views/suggestions from the stakeholders are summarized as under:-

i. When the provisions of GAAR are applicable and an arrangement is classified to be an IAA, the tax consequences of the IAA are to be determined in accordance with the provisions of section 98(1) of the Act 2 The issue with section 181 of the ITB (which is similar to section 98(1) of the Act) arises from the omission of the phrase "in the circumstances of the case" that is present in section 98(1) of the Act The original language in the Act (i.e., 'deemed appropriate', 'in the circumstances of the case') mandates that the tax authority's determination of

consequences must be deemed appropriate in light of the specific circumstances surrounding the case This requirement acts as a safeguard, ensuring that the tax authority's actions are tailored to the context and details of each individual case, including present realities and legitimate considerations for future events 3 The omission of this phrase in the ITB could potentially broaden the tax authority's powers, allowing for a more subjective interpretation of what is deemed appropriate without the obligation to consider the unique facts and nuances of the case. To address the potential for overreach by tax authorities, it is recommended to modify the language of section 181 of the ITB to include the phrase "in the circumstances of the case" when determining the tax consequences of an IAA This would ensure that the tax authority's determinations are appropriate and consider all relevant factors, aligning with the procedural safeguards intended in the Act.

ii. Remove the phrase “but shall not be limited to the following” The consequences of an arrangement being declared as an impermissible avoidance arrangement are overarching and stringent. This phrase“ but shall not be limited to the following” further broadens the scope of GAAR, without providing adequate certainty to taxpayers.

iii. (clause181(1)) read with clause159(6) (in the present form of the ITBill) denies DTAA benefits based on domestic legislative provisions However, DTAAs are bilaterally negotiated agreements between two sovereign states, which contain mutually agreed upon anti-abuse provisions Enabling domestic provisions to unilaterally override negotiated treaty provisions would be in contravention of our obligations as treaty partners However, Chapter XI an be relied on to determine whether a treaty benefit should be available Therefore, we have recommended for removal of clause159(6) in the IT Bill and for certain additions to clause159(8) along these lines, which are in accordance with global best practice. (2) Nothing in this Chapter shall be applicable if: (a) there isa tax treaty to which the taxpayer

is eligible as per section 159(8);or (b) it is established that granting of the concerned tax benefit was in accordance with the object and purpose of the relevant provisions of this Act, read with any rules, regulations, circulars, notifications, guidelines or orders made under this Act, and/or the applicable tax treaty."

181.5 Examination by the Committee:

181.5.1 On the suggestions given by the stakeholders regarding omitting "in the circumstances of the case" from Section 181 may allow excessive discretion to tax authorities, the Ministry of Finance initially had responded responded as under:

"Removal of phrases like "in the circumstances of the case" was made to reduce the number of words used and to make the Act leaner and concise. The phrase has no added advantage as any determination of consequences of any impermissible avoidance arrangement has to be done in the circumstances of the case only. Thus the phrase was in nature of overdrafting and hence has been removed. The suggestion has no merits. In view of the above, the suggestion has no merit and may not be considered acceptable.

"Upon further examination and deliberation on the matter, the Ministry stated the following: Stakeholder seeks inclusion of the phrase ""in the circumstances of the case" in clause 181 of the Bill. The suggestion is same as as sent earlier. The said suggestion has been examined and found to be acceptable. This has also been communicated in reply to 40 Question to the committee."

181.5.2 The stakeholders suggested removing the phrase 'but shall not be limited to the following' from Clause 181 of the GAAR provisions under Section 183, citing concerns that it may grant excessive discretion to tax authorities. In response, the Ministry of Finance stated the following:

"Stakeholder seeks to remove the phrase "but shall not be limited to the following" from clause 181 of the GAAR provisions. The suggestion is the nature

of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. GAAR provisions are fundamentally for such persons who employ complex tax planning strategies to avoid tax. Such practices are not only detrimental to the nation but unfair to the other genuine tax payers. Therefore, to tackle such situation, and complex strategies of tax evasion, it is necessary to provide inbuilt mechanism is statute itself. However, the assessee is given an opportunity to the prove that the arrangement is for the bonafide reasons and contrary to the presumption that it is mainly for obtaining tax benefit .Further, GAAR provisions are resorted to in some exceptional circumstances and the mechanism set up implementation of the GAAR provisions has inbuilt checks and balances. In view of the above, the suggestion may not be considered."

181.5.3 With regard to the suggestion that the GAAR provisions should not override the provisions of the DTAA, the Ministry, in its written reply, stated the following:

"Stakeholder seeks that provisions of GAAR should not override provisions of DTAA. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Application of GAAR irrespective of treaty is required to protect the tax base. It is an accepted international practice. GAAR provisions are fundamentally for such persons who employ complex tax planning strategies to avoid tax. Such practices are not only detrimental to the nation but unfair to the other genuine tax payers. Therefore, to tackle such situation, and complex strategies of tax evasion, it is necessary to provide inbuilt mechanism is statute itself."

181.5.4 Regarding the need for a comprehensive and clear definition of GAAR, the ministry during the sitting of the select committee deposed as under:

“GAAR is a general anti-avoidance rule and then the taxpayer can come up with any kind of device to escape tax. That is why, the general anti-avoidance rule is built in like this fashion that certain impermissible avoidance arrangementsare defined that what would be its nature, and then the certain steps which can be disregarded while making assessment while invoking GAAR provisions. But then again, some window has to be left that it shall not be limited to the following. So, any device which the taxpayer may adopt, that device also should be enabled to be captured under the GAAR. That is its nature to capture any kind of impermissible avoidance arrangement. : It is very difficult to define it exactly. Daily new schemes are coming. For financial evasion, tax evasion or even financial scams, we encounter some different type of scams every day. So, this takes care of that. Then, GAAR provisions, as I earlier told also, are to be implemented under very strict supervision of a very high-powered Committee.”

181.6 Observations/Recommendations of the Committee:

The Committee examined Clause 181 of the Bill, which seeks to provide for the consequences of an impermissible avoidance arrangement under the General Anti-Avoidance Rules. The Committee note that this largely corresponds to Section 98 of the Income-Tax Act, 1961, and that the provisions have been simplified in the Bill while retaining their original intent.

The Committee also considered submissions from several stakeholders who expressed reservations about removing the phrase "in the circumstances of the case," which had served as a safeguard to ensure that the application of GAAR remained reasonable and sensitive to the specific context.Recognizing the merit of this concern, the Committee are of the view that while deterrence against tax avoidance must remain robust, it must also be tempered with procedural fairness and contextual sensitivity. The Committee, therefore, accept the provisions under Clause 181 with the modification that the words "in the circumstances of the case" shall be expressly reinstated to clarify that the consequences of impermissible avoidance arrangements will be determined having regard to the specific facts and context of each case. This addition will ensure that the determination of consequences under GAAR will continue to be guided by the specific facts and context of each case, thereby preserving the balance between effective enforcement and taxpayer protection.

Clause 182- Treatment of connected person and accommodating party

182.1Provision proposed in the Income-Tax Bill, 2025:

In this Chapter, in determining whether a tax benefit exists,—

(a) the parties who are connected persons in relation to each other may be treated as one and the same person;

(b) any accommodating party may be disregarded;

(c) the accommodating party and any other party may be treated as one and the same person;

(d) the arrangement may be considered or looked through by disregarding any corporate structure.

182.2Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Treatment of connected person and accommodating party.

99. For the purposes of this Chapter, in determining whether a tax benefit exists,—

(i) the parties who are connected persons in relation to each other may be treated as one and the same person;

(ii) any accommodating party may be disregarded;

(iii) the accommodating party and any other party may be treated as one and the same person;

(iv) the arrangement may be considered or looked through by disregarding any corporate structure.

182.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 182 of the Bill provides for the treatment of connected persons and accommodating parties under the General Anti-Avoidance Rule. This clause corresponds to Section 99 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

182.4 Examination by the Committee:

On the question as to how Clause 182(d)'s broad power to disregard corporate structures will be balanced with protecting legitimate business arrangements and preventing misuse where genuine commercial substance exists, Ministry stated as under:-

> "The apprehension that the proposed GAAR provisions in the BIll may result in interpretational shift in judicial and administrative application has no basis. The proposed provisions are similar as it was in the I T Act. Further, Clause 183 inter alia specifies that the chapter relating to GAAR shall apply as per such guidelines and subject to such conditions as prescribed. GAAR can be invoked only after a reference is made by the Principal Commissioner to the Approving panel which is headed by a Retd. High Court Judge and also includes an academia as an independent member. One member is a senior officer of the Income-tax Department. There are sufficient safeguards in place. There is no cause for any apprehension."

182.5Observations/Recommendations of the Committee:

The Committee, after careful consideration of the provisions contained in Clause 182, along with the justification provided by the Ministry of Finance, find the proposed provision to be appropriate. The Committee observe that Clause 182 corresponds to Section 99 of the Income-Tax Act, 1961, and that the language has been simplified without altering the substantive intent. Accordingly, the Committee accept the provisions under clause 182 as proposed.

Clause- 183-Application of this Chapter

183.1 Provision proposed in the Income-Tax Bill, 2025:

The provision of the clause 183 are as under:

The provisions of this Chapter—
(a) in addition to, or inlieu of, any other basis for determination of tax liability;
(b) as per such guidelines and subject to such conditions, as prescribed.

183.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 100 and 101are as under:

Application of this Chapter.
100. The provisions of this Chapter shall apply in addition to, or in lieu of, any other basis for determination of tax liability.
Framing of guidelines.
101. The provisions of this Chapter shall be applied in accordance with such guidelines and subject to such conditions, as may be prescribed.

183.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed clause are as under:

> "Clause 183 of the Bill seeks to provide for the applicability of General Anti-Avoidance Rule. The clause corresponds to section 100 and 101 of the Act. The two sections 100 and 101 of the Act have been merged. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause."

183.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

> Upon reviewing Clause 183, which aligns with Section 100 of the existing provisions, it is evident that the phrase "shall apply" is omitted in the new bill prior to the insertion of the sub-clause. To ensure ease of reading, it is recommended that the words "shall apply" be inserted before the sub clauses.
>
> Section 183 to be redrafted as follows - The provisions of this Chapter shall apply — (a) in addition to, or in lieu of, any other basis for determination of tax liability; (b) as per such guidelines and subject to such conditions, as prescribed. The sentence is incomplete and is not conveying the desired meaning without the words “shall apply” Hence, it needs to be redrafted to include these 183 101 Framing of guidelines words.

183.5 Examination by the Committee:

On the question of drafting error or omission of shall apply in the new Bill, the ministry of Finance stated as under:

> “It is a drafting error. May be corrected by inserting the words "shall apply" in the opening line. In view of the above the suggestion may be considered acceptable.”

183.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the provisions made in the Clause under examination, including the views/suggestions of the stakeholders and the justification given by the Ministry and note that Clause 183 seeks to provide for the applicability of General Anti-Avoidance Rule. The clause corresponds to Section 100 and Section 101 of the Income-Tax Act, 1961. The Ministry explained in its justification that these two sections have been merged and the provisions of the existing sections have been textually simplified while retaining the same intent in this clause.

The Committee are of the view that the proposed modifications to be acceptable; however, the Committee observe that the phrase "shall apply" is missing in the first line of the clause 183, which may clarity of its application. To provide ease of reading and to convey its intended meaning more accurately, the Committee recommend that the first line of the sentence be amended to "The provisions of this Chapter shall apply — (a) in addition to, or in lieu of, any other basis for determination of tax liability; (b) as per such guidelines and subject to such conditions, as prescribed."

Therefore, the Committee accept the proposed provisions under Clause 183 subject to the above modification.

Clause 184-Definitions

184.1 Provision proposed in the Income-Tax Bill, 2025:

In this Chapter, unless the context otherwise requires,—

(1) “accommodating party” means a party to an arrangment, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement;

(2) “arrangement” means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;

(3) “asset” includes property, or right, of any kind;

(4) “benefit” includes a payment of any kind whether in tangible or intangible form;

(5) “connected person” means any person who is connected directly or indirectly to another person and includes,—

(a) any relative of the person, if such person is an individual;

(b) any director of the company or any relative of such director, if the person is a company;

(c) any partner or member of a firm or association of persons or body of individuals or any relative of such partner or member, if the person is a firm or association of persons or body of individuals;

(d) any member of the Hindu undivided family or any relative of such member, if the person is a Hindu undivided family;

(e) any individual who has a substantial interest in the business of the person or any relative of such individual;

(f) a company, firm or an association of persons or a body of individuals, whether incorporated or not, or a Hindu undivided family having a substantial interest in

the business of the person or any director, partner, or member of the company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member;

(g) a company, firm or association of persons or body of individuals, whether incorporated or not, or a Hindu undivided family, whose director, partner, or member has a substantial interest in the business of the person, or family or any relative of such director, partner or member;

(h) any other person who carries on a business, if—

(i) the person being an individual, or any relative of such person, has a substantial interest in the business of that other person; or

(ii) the person being a company, firm, association of persons, body of individuals, whether incorporated or not, or a Hindu undivided family, or any director, partner or member of such company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member, has a substantial interest in the business of that other person;

(6) “fund” includes—

(a) any cash;

(b) cash equivalents; and

(c) any right, or obligation, to receive or pay, the cash or cash equivalent;

(7) “party” includes a person or a permanent establishment which participates or takes part in an arrangement;

(8) “relative” shall have the meaning assigned to it in section 92(5) (g) ;

(9) a person shall be deemed to have a substantial interest in the business, if,—

(a) in a case where the business is carried on by a company, such person is, at any time during the financial year, the beneficial owner of equity shares carrying atleast 20% of the voting power; or

(b) in any other case, such person is, at any time during the financial year, beneficially entitled to atleast 20% of the profits of such business;

(10) “step” includes a measure or an action, particularly one of a series taken in order to deal with or achieve a particular thing or object in the arrangement;

(11) “tax benefit”includes,—

(a) a reduction or avoidance or deferral of tax or other amount payable under this Act; or

(b) an increase in a refund of tax or other amount under this Act; or

(c) a reduction or avoidance or deferral of tax or other amount that would be payable under this Act, as a result of a tax treaty; or

(d) an increase in a refund of tax or other amount under this Act as a result of a tax treaty; or

(e) a reduction in total income; or

(f) an increase in loss,

in the relevant tax year or any other tax year;

(12) “tax treaty” means an agreement referred to in section 159(1) or (2) .

184.2Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 102 are as under :

Definitions.

102. In this Chapter, unless the context otherwise requires,—

(1) "arrangement" means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;

(2) "asset" includes property, or right, of any kind;

(3) "benefit" includes a payment of any kind whether in tangible or intangible form;

(4) "connected person" means any person who is connected directly or indirectly to another person and includes,—

(a) any relative of the person, if such person is an individual;

(b) any director of the company or any relative of such director, if the person is a company;

(c) any partner or member of a firm or association of persons or body of individuals or any relative of such partner or member, if the person is a firm or association of persons or body of individuals;

(d) any member of the Hindu undivided family or any relative of such member, if the person is a Hindu undivided family;

(e) any individual who has a substantial interest in the business of the person or any relative of such individual;

(f) a company, firm or an association of persons or a body of individuals, whether incorporated or not, or a Hindu undivided family having a substantial interest in the business of the person or any director, partner, or member of the company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member;

(g) a company, firm or association of persons or body of individuals, whether incorporated or not, or a Hindu undivided family, whose director, partner, or member has a substantial interest in the business of the person, or family or any relative of such director, partner or member;

(h) any other person who carries on a business, if—

(i) the person being an individual, or any relative of such person, has a substantial interest in the business of that other person; or

(ii) the person being a company, firm, association of persons, body of individuals, whether incorporated or not, or a Hindu undivided family, or any director, partner or member of such company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member, has a substantial interest in the business of that other person;

(5) "fund" includes—

(a) any cash;

(b) cash equivalents; and

(c) any right, or obligation, to receive or pay, the cash or cash equivalent;

(6) "party" includes a person or a permanent establishment which participates or takes part in an arrangement;

(7) "relative" shall have the meaning assigned to it in the Explanation to clause (vi) of sub-section (2) of section 56;

(8) a person shall be deemed to have a substantial interest in the business, if,—

(a) in a case where the business is carried on by a company, such person is, at any time during the financial year, the beneficial owner of equity shares carrying twenty per cent or more, of the voting power; or

(b) in any other case, such person is, at any time during the financial year, beneficially entitled to twenty per cent or more, of the profits of such business;

(9) "step" includes a measure or an action, particularly one of a series taken in order to deal with or achieve a particular thing or object in the arrangement;

(10) "tax benefit" includes,—

(a) a reduction or avoidance or deferral of tax or other amount payable under this Act; or

(b) an increase in a refund of tax or other amount under this Act; or

(c) a reduction or avoidance or deferral of tax or other amount that would be payable under this Act, as a result of a tax treaty; or

(d) an increase in a refund of tax or other amount under this Act as a result of a tax treaty; or

(e) a reduction in total income; or

(f) an increase in loss,

in the relevant previous year or any other previous year;

(11) "tax treaty" means an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A.

184.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed clause is as under:
"Clause 184 of the Bill seeks to provide for definition of General Anti-Avoidance Rule. The clause corresponds to section 102 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

184.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

i. It is recommended that all terms used two or more times in the Act/Bill can be defined in the definition clause itself. This will prevent taxpayers from having to repeatedly cross-reference different sections. Therefore, Clause 2 should comprehensively include all definitions, ensuring that definitions for different purposes are consolidated in a single section for ease of reference.

ii. Introduce a specific definition for the terms 'beneficial owner' and 'beneficially entitled'. The terms “beneficial owner” and “beneficially entitled” are used here to determine when a person is considered to have a substantial interest in a business. However, these terms do not have uniform definitions across various laws. It is therefore recommended that specific definitions be introduced in the GAAR provisions to provide greater clarity and avoid unnecessary confusion.

iii. Sub-clause (3) may be substituted with the following : (3) “asset” includes property, or right, of any kind or Virtual Digital Asset; 1.Computation of tax benefit on deferral of tax (which is merely a timing difference) needs to be clarified 2. In sub-clauses (e) and (f) of clause (11) , the reference to income/loss should not be the base for defining the term ‘tax benefit’ Sub-clauses (e) and (f) of clause (11) may be appropriately worded to correspond with the ‘tax’ amount 3. For the sake of clarity, it may be specified that “tax benefit” for the purposes of the threshold shall include only income tax and shall not include other amounts like interest, etc. Computation of tax benefit on deferral of tax (which is merely a timing difference) needs to be clarified In cases of tax deferral, the only benefit to the taxpayer is not paying taxes in one year but paying it in a later year Overall, there may not be any tax benefit but the benefit is in terms of the present value of money 2 Sub-clauses (e) and (f) in the definition refer to “reduction of total income” and “increase in loss” as tax benefit An ambiguity arises as to how tax benefit is conditioned at income / loss level This may also defeat the objective of tax benefit threshold to be provided in Rules 3 The term “tax benefit” has been defined to include tax or other amount payable under this Act or reduction in income or increase in loss .The other amount could cover interest. Virtual Digital Asset’ as defined in 2(111) of Income-Tax Bill, 2025 may be specifically included in the definition of asset.

iv. Introduce a clear definition of “investments” as provided below: “Investments ”include assets held by all taxpayers in order to earn income by way of dividends, interest, rentals and for capital appreciation Lease contracts and loan arrangements are, by themselves, not investments.” GAAR does not apply to income from transfer of investments made before April1, 2017, under Chapter X-A of the IT IT Bill Some guidance is provided in communications such as CBDT’sCircularNo.7of2017.This definition is based on Question of the said Circular Act read with Rule 10U(1) (d) of the Income-taxRules,1962(“IT Rules”) However, the term “investment” is not defined under IT Act or IT Rules or the.

184.5 Examination by the Committee:

184.5.1 On the query of whether the definition in Chapter X (GAAR) can take its meaning from the general definition, the Ministry of Finance stated as under:

> “Definition of relative has been provided differently in different contexts in theBill. While there is already a general definition in cl. 2(94) of the Bill, there are specific definitions in cl. 92(5) (g) and also in cl. 129(3) (e) of the Bill. Therefore, the definition in Chapter X (GAAR) can not take its meaning from the general definition. In view of the reasons stated, the suggestion has no merit. Based on the context (beneficial provision or restrictive or anti-abuse provision) , general definitions provided in clause 2 of the Bill have been contextually modified at specific places.In view of the above, the suggestion has no merits.’

184.5.2 Regarding the suggestion on definition of the terms 'beneficial owner' and 'beneficially entitled' in GAAR provisions, the ministry of finance in its written reply stated as under:

> “Stakeholder seeks to definition of the terms 'beneficial owner' and 'beneficially entitled' in GAAR provisions. The suggestion is the nature of

policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Clause 184 inter alia defines the term 'benefit', 'connected person' and 'a person who shall be deemed to have substantial interest in the business'. Therefore, the term used in the chapter has been defined appropriately and the suggested amendment has no rationale. Further, Clause 183 inter alia specifies that the chapter relating to GAAR shall apply as per such guidelines and subject to such conditions as prescribed. Therefore, in case of any ambiguity, it can be clarified through issuance of guidelines."

184.5.3 Regarding the suggestion on definition of the terms 'asset ' in GAAR provisions, the ministry of finance in its written reply stated as under:

"Stakeholder seeks to definition of the term 'asset' in GAAR provisions. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The terms used in the chapter have been defined appropriately and the suggested amendment has no rationale. Further, Clause 183 inter alia specifies that the chapter relating to GAAR shall apply as per such guidelines and subject to such conditions as prescribed. Therefore, in case of any ambiguity, it can bee clarified through issuance of guidelines."

184.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 184 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions align with the policy objective of simplifying and clarifying the legal framework.The Committee note that the provisions proposed under Clause 184 of the Bill provide for definitions of various terms used in this Chapter. The Committee note that the Clause defines terms such as "accommodating party", "arrangement", "asset", "benefit", "connected person", "fund", "party", "relative", "step", "tax benefit" and "tax treaty". The Committee further observe that these definitions largely correspond to Section 102 of the Income-Tax Act, 1961, and that the provisions have been simplified in the Bill while retaining their original intent. The Committee therefore accept the provisions under Clause 184 as it is.

Chapter XII

MODE OF PAYMENT IN CERTAIN CASES ETC.

Clause 185-Mode of taking or accepting certain loans, deposits and specified sum

185.1 Provision proposed in the Income-Tax Bill, 2025:

(1) No person shall take or accept from another person any loan or deposit or specified sum, except through—

(a) an account payee cheque;

(b) account payee bank draft;

(c) electronic clearing system through a bank account; or

(d) any other prescribed electronic mode,

if,—

(i) the amount or the aggregate amount of such loan, deposit, or specified sum; or

(ii) the amount or the aggregate amount of any previously taken or accepted loan or deposit or specified sum by such person from such another person, which is remaining unpaid, whether due for repayment or not, as on the date of taking or accepting such amount as referred to in clause (i) ; or

(iii) the aggregate of the amountsreferred to in of clauses (i) and (ii) ,

is twenty thousand rupees or more.

(2) Sub-section (1) shall not apply to loans or deposits or specified sums taken or accepted from or by,—

(a) the Government;

(b) any banking company, post office savings bank, or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined under section 2(45) of the Companies Act, 2013;

(e) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(3) The provisions of sub-section (1) shall not apply to any loan or deposit or specified sum where, the person taking or accepting such loan or deposit or specified sum and person from whom such loan or deposit or specified sum is taken or accepted, both, have agricultural income and neither has any income chargeable to tax under this Act.
(4) In sub-section (1) , “two lakh rupees” shall be substituted for “twenty thousand rupees” in the case of any deposit or loan, where—
(a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or
(b) such loan is taken from a primary agricultural credit society or primary co-operative agricultural and development bank by its member.
(5) In this section,“loan or deposit” means loan or deposit of money.

185.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961) :**

Existing provisions of the Section 269SS are as under :

Chapter XX-BREQUIREMENT AS TO MODE OF ACCEPTANCE, PAYMENT ORREPAYMENT IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

Mode of taking or accepting certain loans, deposits and specified sum.
269SS. No person shall take or accept from any other person (herein referred to as the depositor) , any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, if,—
(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or
(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not) , the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b) ,
is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—
(a) the Government;
(b) any banking company, post office savings bank or co-operative bank;
(c) any corporation established by a Central, State or Provincial Act;
(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013) ;
(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:
Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act:
90[Provided also that the provisions of this section shall have effect, as if for the words "twenty thousand rupees", the words "two lakh rupees" had been substituted in the case of any deposit or loan where,--
(a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or
(b) such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member.]
Explanation.—For the purposes of this section,—
(i) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

91[(ii) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;]
(iii) "loan or deposit" means loan or deposit of money;
(iv) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

185.3Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed clause is as under:
”Clause 185 of the Bill provides for mode of taking or accepting certain loans, deposits and specified sum. This clause corresponds to section 269SS of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

185.4Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

i. In case of credit cooperative society or mutuality concept associations whether provisions of Sec. 185 or so are applicable or not it must be clarified. If any mutuality benefit association or credit cooperative society accept deposit or amount in savings account of 20000 or more during whole year it may attract provisions of Sec. 185 and similar other provisions therefore it must be clarified that whether these provisions of sec, 185 for amount of 20000 or more during a year are applicable or not.

ii. In proposed section 185(1) (iii) ‘of’ before ‘clauses’ be deleted. (

iii. Mode of Receipt or Repayment in Certain Cases Etc. 1 Word “or” may be inserted after clause (a) as well as clause (b) in sub-section (1) : The opening para be redrafted as follows - (1) No person shall take or accept from another person any loan or deposit or specified sum, except through— (a) an account payee cheque; or (b) account payee bank draft; or (c) electronic clearing system through a bank account; or (d) any other prescribed electronic mode, (1) No person shall take or accept from another person any loan or deposit or specified sum, except through specified banking or online mode 2 Alternatively, a consolidated section has been suggested for sections 185, 186 and 188. The section has been given at the end and presented in tabular format. 1 Since receipt of loan or deposit or specified sum is allowed in any of the modes mentioned in clauses (a) to (d) of sub section (1) , it is necessary to use the word “or” after each of the clauses (a) , (b) and (c) to convey the correct intent of the provision online mode” This term has been defined in clause (36) of section 66 It may be incorporated in section 2 so that it is applicable for all sections in the Act 2 A consolidated section may be considered for sections 185, 186 and 188 in the form of a table for simplification. Alternatively, it may be referred to as “specified banking. The Chapter heading may be modified to include receipts and repayments as well since section 185 and 186 deal with receipts and section 188 deals with repayment. (ii) A consolidated section may be considered for sections 185, 186 and 188 in the form of a table for simplification.

184.5.1 Examination by the Committee:

185.5.1 On the suggestion to delete “of” in Clause 185(1) (iii) , the Ministry stated in its written reply:

> “The suggestion seeks to delete "of" in clause 185(1) (iii) . In proposed section 185(1) (iii) , ‘of’ before ‘clauses’ will be deleted.

185.5.2 On the suggestion seeking to insert'or' after each clause of proposed sub-section 185(1) , the ministry in its written reply stated as under:

> “The suggestion seeks to insert 'or' after each clause of proposed sub-section 185(1) . The drafting rules mandate that if 'or' is used between the last clause and the penultimate clause, then 'or' has to be read between all the previous clauses. The drafting has been correctly made. Therefore, suggestion is not feasible.”

185.5.3 On the suggestion to consolidate three sclauses185,186 and 188, the ministry in its written reply stated as under

> “The suggestion seeks to consolidate three sections 185,186 and 188. Considering the different nature of all the three sections, clubbing of these sections would not be feasible. Further, any such clubbing will result in serious implications on cross-referencing across the Act without any tangible benefit. Therefore, suggestion is not acceptable.

185.5.4 On the issue of presenting Clauses 185, 186, and 188 in a tabular format for greater clarity, the Secretary, Ministry of Finance, deposed as follows during the sitting:

> “If you look at Clause 185, this is how it is presently formulated. So, Clause 185 says that no person shall accept from other person loan and deposit and so and so. Subsequently, there are conditions, and then it talks about what it will not

apply to, like money received from Government, bank, established corporations, etc. So, Clause 185 is about taking i.e. taking from another person as loan or deposit. If you go to Clause 186 which is just below this, it says that no person shall receive two lakh rupees or more in aggregate from a person in respect of so and so and then again it will not apply to receipts from Government, etc. Clause 187 is about acceptance through electronic mode. अगर टैबुलर फॉर्म में एक साथ रखना होगा तो, probably he feels that recipient is on one side and giver of money is on another side and show it in the form of a table. But that does not seem to be the construct. This is independent for those who give the other one to receive. But we will have a look, if it can be made in the form of a table independently. That part, we will examine. Like we have used tabular form elsewhere, will it improve? We will examine it. But putting it together does not like it has that kind of a connection. अभी तक हम लोगों ने टैबुलर फॉर्म कई सेक्शन्स में डाले हैं। Will it read better, we will just look at it once we structure it. But together, it would not be a good idea because they look to be independent and not connected which can be made in the form of a common table."

185.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 185 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions are broadly acceptable. The Committee note that Clause 185 seeks to provide for the mode of taking or accepting certain loans, deposits, and specified sums. The clause corresponds to Section 269SS of the Income-Tax Act, 1961. The Ministry clarified in its justification that there is no policy change and the provisions of the existing section have been textually simplified while retaining the same intent in this clause. However, the Committee accept the provisions under Clause 185 with a modification that the word 'of' be deleted in Clause 185(1) (iii) to align the drafting with legislative norms.

Therefore, the Committee recommend that the clause be written as follows:

***"185(1)*(iii) the aggregate of the amounts referred to in clauses (i) and (ii),is twenty thousand rupees or more."**

Clause- 186 -Mode of undertaking transactions

186.1 Provision proposed in the Income-Tax Bill, 2025:

(1) No person shall receive two lakh rupees or more—
(a) in aggregate from a person in a day; or
(b) in respect of a single transaction; or
(c) in respect of transactions relating to one event or occasion from a person,
except through—
(i) an account payee cheque;
(ii) account payee bank draft;
(iii) electronic clearing system through a bank account; or
(iv) any other electronic mode, as prescribed.
(2) Sub-section (1) shall not apply to—
(a) any receipt by Government, any banking company, post office savings bank, or co-operative bank;
(b) transactions of the nature referred to in section 185;
(c) such other persons or class of persons or receipts, as notified by the Central Government.

186.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 269ST are as under :

Mode of undertaking transactions.

269ST. No person shall receive an amount of two lakh rupees or more—

(a) in aggregate from a person in a day; or

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,otherwise than by an account payee cheque or an account payee bank draft or use of electronic

clearing system through a bank account or through such other electronic mode as may be prescribed:

Provided that the provisions of this section shall not apply to—

(i) any receipt by—

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in section 269SS;

(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) "banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;

(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.

186.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> “Clause 186 of the Bill provides for mode of undertaking transactions. This clause corresponds to section 269ST of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

186.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

> Amount from one person in one day should be reduced from Rs 2 lakhs to Rs 10000/- Cash transaction in business or profession will decrease, will reduce revenue leakage.

186.5 Examination by the Committee:

Regarding the proposal to reduce the threshold for receiving cash from one person in a single day from the existing ₹ 2 lakh to ₹ 10 thousand, the Ministry stated as follows:

> "The suggestion seeks to change the threshold of receiving amount in cash from one person in one day from existing Rs. 2 lakhs to Rs. 10 thousand. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a vis Act. There are many critical services like hospitals and other emergency services where Rs. 2 lakh limit would be required. In such situations, Rs. 10000 limit will hamper day to day work. Thus, the suggestion is not feasible. "

186.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 186 under examination, including justification given by the Ministry of Finance, find that the proposed provisions are acceptable. The Committee note that Clause 186 corresponds to Section 269ST of the Income-Tax Act, 1961, and the provisions have been textually simplified while retaining their original intent. Accordingly, the Committee accept the clause as it stands.

Clause-187- Acceptance of payment through prescribed electronic modes

187.1 Provision proposed in the Income-Tax Bill, 2025:

Every person shall provide facility for accepting payment, through electronic modes as prescribed, in addition to other electronic modes, if any, being provided by him, where—
(a) such person is carrying on business; and
(b) total sales, turnover, or gross receipts in such business exceeds fifty crore rupees during the immediately preceding tax year

.

187.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Provisions of the Section 269SUare as under :

Acceptance of payment through prescribed electronic modes.
269SU. Every person, carrying on business, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes, of payment, if any, being provided by such person, if his total sales, turnover or gross receipts, as the case may be, in business exceeds fifty crore rupees during the immediately preceding previous year.

187.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 187 of the Bill provides for acceptance of payment through prescribed electronic modes. This clause corresponds to section 269SU of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

187.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

i. It is suggested that the provisions of this section may be confined to be applicable only in respect of B2C transactions and the B2B transactions may be kept outside the purview of this section In relation to Section 269SU of the Income-tax Act, 1961, the CBDT has issued a Circular No 12/2020 dated 20 May 2020 which clarified that the provision applies only for B2C transactions and not for B2B transactions Since now a new Act is being enacted, it would be appropriate if this intention of the CBDT is duly codified into law itself.

ii. A word 'Profession' should be added after the business under clause (a) .

iii. In the section heading, the words "specified advances" may be inserted – Mode of repayment of certain loans or deposits or 1.The opening para of subsection (1) may be redrafted as follows - (1) No branch of a banking company or co-operative bank and no other company or cooperative society and no firm or other person shall repay— (a) any loan or deposit made with it; or (b) any specified advance received by it, except through specified banking or online mode if 2 Alternatively, a consolidated section has been suggested for sections 185, 186 and 188 The section has been given at the end and presented in tabular format. (i) Since the section covers mode of repayment of certain loans, deposits as well as specified advances, reference to "specified advances" to be included in the section heading." (ii) Reference may be given to "specified banking and online mode" This term has been defined in clause (36) of section 66 It may be incorporated in section 2 so that it is applicable for all sections in the Act. (iii) A consolidated section may be considered for sections 185, 186 and 188 in the form of a table for simplification.

187.5.Examination by the Committee:

187.5.1 On the suggestion seeking to restrict the scope of clause 187 only to B2C transactions by keeping B2B transactions outside the purview of this section, the ministry stated as under:

> “The suggestion seeks to restrict the scope of clause 187 only to B2C transactions by keeping B2B transactions outside the purview of this section. B2B transactions are already enabled by any mode by the CBDT clarification dt. 20.5.2020, whereby 95% of payment in a year is by any mode other than cash. The matter is administrative and not required to be built in the Bill as it will make the Bill unwieldy. The suggestion may not be feasible. Further, the difference between B2C and B2B may not be feasible and difficult to implement, therefore cannot be brought on the statute.”

187.5.2 On the suggestion seeking to expand the scope of clause 187 by including the word 'profession', the ministry stated as under:

> “The suggestion seeks to expand the scope of clause 187 by including the word 'profession' so that professional with receipts of more than 50 crores in a year shall provide the facility of prescribed electronic modes. There is no change in the provisions of the Bill vis-a vis Act. However, the suggestion can be considered.”

187.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 187 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be acceptable; however, the Committee are of the opinion that the word "profession" should be added after "business" in clause (a) to provide greater clarity in its application. Furthermore, this change will provide professionals with total receipts exceeding ₹50 crore in a year the facility of prescribed electronic modes of payment. Therefore, the Committee accept the provisions under Clause 187 subject to the following modification:

The clause be written as:

"Every person shall provide facility for accepting payment, through electronic modes as prescribed, in addition to other electronic modes, if any, being provided by him, where —

(a) such person is carrying on business or profession; and.

Clause-188 -Mode of repayment of certain loans or deposits

188.1 Provision proposed in the Income-Tax Bill, 2025:

(1) No branch of a banking company or co-operative bank and no other company or co-operative society andno firm or other person shall repay—
(a) any loan or deposit made with it; or
(b) any specified advance received by it,
except through—
(i) an account payee cheque; or
(ii) account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance; or
(iii) by use of electronic clearing system through a bank account, or any other prescribed electronic mode,
if,—
(A) loan or deposit or specified advance, together with the interest, if any, payable thereon; or
(B) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm or other person (either individually or jointly) on the date of such repayment together with interest, if any, payable thereon; or
(C) the aggregate amount of the specified advances received by such person (either individually or jointly) on the date of such repayment together with the interest, if any, payable thereon,
is twenty thousand rupees or more.
(2) Irrespective of the provision in sub-section (1) , a branch of a banking company or co-operative bank, may also make the repayment by crediting such loan or deposit to the savings bank account or current account, if any, with such branch of the person to whom such loan or deposit has to be repaid.
(3) Sub-section (1) shall not apply to repayment of any loan, deposit, or specified advance taken or accepted from—

(a) Government;
(b) any banking company, post office savings bank, or co-operative bank;
(c) any corporation established by a Central, State, or Provincial Act;
(d) any Government company as defined in section 2 (45) of the Companies Act, 2013;
(e) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.
(4) In sub-section (1) , “two lakh rupees” shall be substituted for “twenty thousand rupees” in the case of any deposit or loan where—
(a) such deposit is paid to a member by a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or
(b) such loan is repaid by a member to a primary agricultural credit society or a primary co-operative agricultural and rural development bank.
(5) In this section, “loan or deposit” means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.

188.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 269Tare as under :

Mode of repayment of certain loans or deposits.

269T. No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it or any specified advance received by it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance, or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed if—

(a) the amount of the loan or deposit or specified advance together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, or

(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,is twenty thousand rupees or more:

Provided that where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid :

Provided further that nothing contained in this section shall apply to repayment of any loan or deposit or specified advance taken or accepted from—

(i) Government;

(ii) any banking company, post office savings bank or co-operative bank;

(iii) any corporation established by a Central, State or Provincial Act;

(iv) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ;

(v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

92[Provided also that the provisions of this section shall have effect, as if for the words "twenty thousand rupees", the words "two lakh rupees" had been substituted in the case of any deposit or loan where,--

(a) such deposit is paid by a primary agricultural credit society or a primary co-operative agricultural and rural development bank to its member; or

(b) such loan is repaid to a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member.]

Explanation.—For the purposes of this section,—

(i) "banking company" shall have the meaning assigned to it in clause (i) of the Explanation to section 269SS;

93[(ii) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in Explanation to sub-section (4) of section 80P;]

(iii) "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature;

(iv) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

188.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

"Clause 188 of the Bill provides for mode of repayment of certain loans or deposits. This clause corresponds to section 269T of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

188.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

i. In proposed section 188(4) (a) , 'paid' be replaced with 'repaid.

ii. In the section heading, the words "specified advances" may be inserted – Mode of repayment of certain loans or deposits or 1.The opening para of subsection (1) may be redrafted as follows - (1) No branch of a banking company or co-operative bank and no other company or cooperative society and no firm or other person shall repay— (a) any loan or deposit made with it; or (b) any specified advance received by it, except through specified banking or online mode if 2 Alternatively, a consolidated section has been suggested for sections 185, 186 and 188 The section has been given at the end and presented in tabular format. (i) Since the section covers mode of repayment of certain loans, deposits as well as specified advances, reference to "specified advances" to be included in the section heading." (ii) Reference may be given to "specified banking and online mode" This term has been defined in clause (36) of section 66 It may be incorporated in section 2 so that it is applicable for all sections in the Act.

iii. A consolidated section may be considered for sections 185, 186 and 188 in the form of a table for simplification.

188.5 Examination by the Committee:

188.5.1 Regarding the suggestion seeking to replace ‘paid with ‘repaid' in clause 188(4) (a) the Ministry in its written reply stated as under:

i. “The suggestion seeks to replace ‘paid with ‘repaid' in clause 188(4) (a) as the clause relates to mode of repayment of certain loans or deposits. In proposed section 188(4) (a), the word 'paid' shall be replaced with 'repaid'.”

188.5.2 On the query of inserting a word specified advances in section heading, the Ministry in its written reply stated as under:

> “The suggestion seeks to insert word 'specified advances' in section heading of proposed clause 188 since the clause covers mode of repayment of certain loans, deposits as well as specified advances. Marginal heading need not cover all the items contained in the section. It provides only a broad outline. However, to provide clarity, in proposed clause 188, the word 'specified advances' shall be added in the section heading.”

188.5.3 Regarding the suggestion seeking to make consolidated section for section 185, 186 and 188, the Ministry in its written reply submitted as under:

> “The suggestion seeks to make consolidated section for section 185, 186 and 188. Section 185 relates to mode of taking or accepting certain loans, deposits and specified sum. Section 186 relates to mode of undertaking transactions. Section 188 relates to mode of repayment of certain loans or deposits. Considering the different nature of all the three sections, clubbing of these sections would not be feasible. Further, any such clubbing will result in serious implications on cross-referencing across the Act without any tangible benefit. Therefore, suggestion is not acceptable.

188.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 188 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable; however, the Committee observe that certain modifications are desirable for greater clarity and precision in its application.

The Committee recommend to replace the word "paid" with "repaid" in clause (4) (a) in view of the context that the clause pertains to the repayment of a deposit or a loan. Furthermore, the Committee is of the view that adding the words "specified advances" in the section heading will help clarify its coverage.Therefore, the Committee accept the proposed provisions under Clause 188 subject to the following modifications:

The section be amended to replace 'paid' with 'repaid' in clause (4) (a) .

The section heading of the Section be amended to read:

"Mode of repayment of certain loans, deposits and specified advances".

Clause-189-Interpretation

189.1 Provision proposed in the Income-Tax Bill, 2025:

In this Chapter, unless the context otherwise requires,—

(a) “banking company” means a company to which the provisions of the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;

(b) “primary agricultural credit society”, and “primary co-operative agricultural and rural development bank” shall have the meanings respectively assigned to them in section 149(6) ;

(c) “specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place;

(d) “specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

189.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 269SS, 269ST are as under:

Chapter XX-B REQUIREMENT AS TO MODE OF ACCEPTANCE, PAYMENT ORREPAYMENT IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

Mode of taking or accepting certain loans, deposits and specified sum.

269SS. No person shall take or accept from any other person (herein referred to as the depositor) , any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, if,—

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not) , the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b) ,

is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—

(a) the Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013) ;

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act:

90[Provided also that the provisions of this section shall have effect, as if for the words "twenty thousand rupees", the words "two lakh rupees" had been substituted in the case of any deposit or loan where,--

(a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or

(b) such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member.]

Explanation.—For the purposes of this section,—

(i) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

91[(ii) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;]

(iii) "loan or deposit" means loan or deposit of money;

(iv) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

Mode of undertaking transactions.

269ST. No person shall receive an amount of two lakh rupees or more—

(a) in aggregate from a person in a day; or

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed:

Provided that the provisions of this section shall not apply to—

(i) any receipt by—

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in section 269SS;

(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) "banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;

(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.

189.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 189 of the Bill provides for interpretation in relation to Chapter XII. This is a new clause inserted in the Bill. It has provided the definitions of banking company, primary agricultural credit society, specified sum and specified advance consolidating the definitions used at multiple places in Chapter-XX-B of the Act."

189.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

> "(b) "Cooperative bank", "primary agricultural credit society", and "primary cooperative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 149(6) ; The term co-operative bank is used in section 185(2) , 186(2) , and 188(1) /(2) Thus, it needs to be defined in section 189."

189.5 Examination by the Committee:

189.5 Regarding the use of the term 'co-operative bank' in Sections 185(2) , 186(2) , and 188(1) /(2) , and the suggestion to define it in Section 189 for clarity, the Ministry responded as follows:

> "The suggestion seeks to add "Cooperative bank" in clause 189 in line with existing Act. In order to align the provision of the Bill vis-a vis Act, the definition of 'cooperative bank' shall be added in clause 189."

189.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 189 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable; however, the Committee observes that the term "co-operative bank" is used in clauses 185(2) , 186(2) , and 188(1) /(2) of the Bill, but it has not been defined in Clause 189.To bring greater clarity and consistency to the provisions of this Chapter and to align them with related provisions, the Committee consider it appropriate to insert a definition of "co-operative bank" in Clause 189. This will help avoid ambiguity, facilitate uniform and effective application of the provisions, and provide greater legal certainty and guidance to all stakeholders concerned. Therefore, the Committee accept the proposal under Clause 189 subject to the following modification:

The following sub-clause shall be added in Clause 189:

"(e) '"Cooperative bank", "primary agricultural credit society", and "primary cooperative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 149(6)

Chapter XIII

DETERMINATION OF TAX IN SPECIAL CASES

A.—Determination of tax in certain special cases

Clause 190-Determination of tax where total income includes income on which no tax is payable.

190.1 Provision proposed in the Income-Tax Bill, 2025:

Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.

190.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 110 are as under :

Chapter XIIDETERMINATION OF TAX IN CERTAIN SPECIAL CASES

Determination of tax where total income includes income on which no tax is payable.

110. Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.

190.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 190 of the Bill provides for the mode of computation of total income if it includes any income on which no income tax is payable. The clause corresponds to Section 110 of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause."

190.4 Examination by the Committee:

On the issue of whether Clause 190's use of "average rate of income-tax" for deductions on untaxed income could cause unintended discrepancies in tax liability across different taxpayer categories, the ministry in its written reply stated as under:

> "The provisions of the IT Act, 1961 has been reproduced faithfully in the Bill with no change in the intent and applicability. The provisions are settled and there is no ambiguity on their application. Deduction on average rate of tax ensures equity and fairness in application of the provision. The average rate of income tax is different for different categories of taxpayers, especially individuals and hence different "average rates" exist."

190.5 Observations/Recommendations of the Committee:

The Committee, having examined the provisions under clause 190, agree with the Ministry's view and find the simplified text to be clear, appropriate, and consistent with the policy objective of granting a deduction from income tax where total income includes income on which no tax is payable. Accordingly, the Committee accept the clause as proposed.

Clause 191

Clause-191-Tax on accumulated balance of recognised provident fund

191.1 Provision proposed in the Income-Tax Bill, 2025:

Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable, the Assessing Officer shall calculate the total of the various sums of tax as per the provisions of paragraph 9thereof.

191.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 111are as under:

Tax on accumulated balance of recognized provident fund.

111. (1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, the Assessing Officer shall calculate the total of the various sums of tax in accordance with the provisions of sub-rule (1) of rule 9 thereof.

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 of Part A of the Fourth Schedule becomes payable, super-tax shall be calculated in the manner provided in sub-rule (2) of rule 9 thereof.

191.3Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> “Clause 191 of the Bill seeks to provide for tax on accumulated balance of recognised provident fund. The clause corresponds to Section 111 of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.”

191.4 Examination by the Committee:

Regarding theissue of potential tax liability discrepancies due to using the "average rate of income-tax" under Clause 190., the ministry in its written reply stated as under:-

> “The provisions of Clause 191 are applicable where Para 8 of Part A of Schedule IX does not apply. Para 9 of the said Schedule gives the mechanism for calculation of tax for the same. There is no ambiguity as the procedures are laid clearly. This section is appliable only for recognized provident fund and not for other related tax provisions. The suggestion does not mention where any such "potential conflicts" or "confusion" arises as things stand now. “

191.5 Observations/Recommendations of the Committee:

The Committee considered the view of the Ministry of Finance that Clause 191 textually simplifies Section 111 while retaining its original intent and application. The Committee, having examined the provisions, agree with the Ministry's view and find the simplified text to be clear, appropriate, and consistent with the policy objective of taxing the accumulated balance of a recognised provident fund in cases where exemption conditions are not met. Accordingly, the Committee accept the provisions under clause 191 as proposed.

Clause192- Tax in case of block assessment of search cases

192.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The total income of the block period, determined under section 294 shall be chargeable to tax at the rate of 60%.
(2) The tax chargeable under sub-section (1) shall be increased by a surcharge, if any, levied by any Central Act.

192.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 113 are as under:

Tax in the case of block assessment of search cases.

113. The total 24[undisclosed] income of the block period, determined under section 158BC, shall be chargeable to tax at the rate of sixty per cent:
Provided that the tax chargeable under this section shall be increased by a surcharge, if any, levied by any Central Act 25[***].

192.3Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 192 of the Bill provides for tax in case of block assessment of search cases. This clause corresponds to section 113 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, taxation of total income in the case of Block Assessment has been substituted to the taxation of total undisclosed income vide Government Amendments to Finance Bill. Accordingly, amendment is required to be made in the clause 192 of the Bill."

192.4.Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

> At present, income-tax has to be calculated by first applying the relevant rates of tax (there are differential rates for certain income like long-term capital gains,short-term capital gains on transfer of listed equity shares, units of equity oriented fund and business trust on which securities transaction tax has been paid, winnings from online games/ lotteries, etc.). For individuals/HUFs/AOPs/ BOIs, there are slab rates, which are different under the default tax regime and alternative tax regime.The process of computation of tax liability becomes complex on account of applicability of different rates of surcharge and provisions of marginal relief in certain cases where total income exceeds the limits of Rs.50 lakh, Rs.1 crore and Rs.2 crore marginally. Subsuming surcharge and cess in the rate of tax itself would ease comprehension and simplify tax computation. This will facilitate ease of compliance.

192.5 Examination by the Committee:

192.5.1 Regarding the suggestion on subsuming surcharge and cess in the rate of tax, the Ministry in its written reply stated as under:

> "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

192.5.2 Regarding the issue of subsuming both surcharge and cess and bringing an all-inclusive rate of tax, the Ministry during the sitting of the committee deposed as under:-

> "they are saying that surcharge and cess should be subsumed. They should be made one. But, in case of surcharge, it applies in a graded form, means, for higher income, they give the surcharge but cess is everywhere."

192.6 Observations/Recommendations of the Committee:

The Committee, after thorough examination, accept Clause 192 as effectively retaining the policy intent of Section 113 while simplifying its language. Accordingly, the Committee accept the clause as proposed.

Clause- 193-Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer

193.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee) , includes income specified in column B of the Table below, the income-tax payable shall be the aggregate of income-tax specified in thecolumn C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued as per such Employees' Stock Option Scheme as the Central Government may, by notification, specify in this behalf and purchased by him in foreign currency.	10%
2.	Income from long-term capital gains arising from the transfer of Global Depository Receipts referred to in serial number 1.	12.5%
3.	Total income as reduced by income referred to in serial numbers 1 and 2.	Income-tax chargeable on such income

(2) Where the gross total income of the resident employee—

(a) consists only of income by way of dividends in respect of Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 1) , no deduction shall be allowed to him under any other provision of this Act;

(b) includes any income referred to in sub-section (1) (Table: Sl. No. 1) and(Table: Sl. No. 2) ,—

(i) the gross total income shall be reduced by such income; and

(ii) the deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) The section 72(6) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 2) .

(4) In this section,—

(a) “Global Depository Receipts” means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of,—

(i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(ii) foreign currency convertible bonds of issuing company;

(iii) ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre;

(b) “information technology service” means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(c) “information technology software” means any representation of instructions, data, sound or image, including source code and object code, recorded in a machinereadable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(d) “Overseas Depository Bank” means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company;

(e) “specified knowledgebased industry or service” means—

(i) information technology software;

(ii) information technology service;

(iii) entertainment service;

(iv) pharmaceutical industry;

(v) bio-technology industry; and

(vi) any other industry or service, as specified by the Central Government, by notification; and

(f) “subsidiary” shall have the same meaning as assigned to it in section 2(87) of the Companies Act, 2013 and includes subsidiary incorporated outside India.

193.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

115ACA. (1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee) , includes—

(a) income by way of dividends on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued in accordance with such Employees' Stock Option Scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf and purchased by him in foreign currency; or

(b) income by way of long-term capital gains arising from the transfer of Global Depository Receipts referred to in clause (a) ,

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income by way of dividends in respect of Global Depository Receipts referred to in clause (a) , if any, included in the total income, at the rate of ten per cent;

30[(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b) , if any, included in the total income,—

(A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and]

(iii) the amount of income-tax with which the resident employee would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b) .

Explanation.—For the purposes of this sub-section,—

(a) "specified knowledge based industry or service" means—

(i) information technology software;

(ii) information technology service;

(iii) entertainment service;

(iv) pharmaceutical industry;

(v) bio-technology industry; and

(vi) any other industry or service, as may be specified by the Central Government, by notification in the Official Gazette;

(b) "subsidiary" shall have the meaning assigned to it in section 4 of the Companies Act, 1956 (1 of 1956) and includes subsidiary incorporated outside India.

(2) Where the gross total income of the resident employee—

(a) consists only of income by way of dividends in respect of Global Depository Receipts referred to in clause (a) of sub-section (1) , no deduction shall be allowed to him under any other provision of this Act;

(b) includes any income referred to in clause (a) or clause (b) of sub-section (1) , the gross total income shall be reduced by the amount of such income and the

deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in clause (b) of sub-section (1) .

Explanation.—For the purposes of this section,—

(a) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of,—

(i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(ii) foreign currency convertible bonds of issuing company;

(iii) ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre;

(b) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(c) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(ca) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) ;

(d) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company.

193.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 193 of the Bill provides for, inter alia, for special rates of tax on resident individuals employed by an entity engaged in a specified knowledge-based industry or services on income, either dividend or long term capital gains or both, from Global Depository Receipts purchased in foreign currency. The clause corresponds to Section 115ACA of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Some of the provisions have been provided in a tabular format for ease of comprehension.

193.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important suggestions given stakeholders/Experts are summarised as under:

i. On the issue of proposal to make units of a business trust eligible as underlying securities for GDRs:

Currently, there is no separate tax framework provided for the GDRs where the underlying securities are units of SEBI registered BTs. Pursuant to regulatory changes, necessary amendments to be introduced to section 2, section 10, section 115AC and section 47 (to the extent dealing with taxability of GDRs) (corresponding sections 2, Schedule V, section 209 and section 70 of the Bill respectively) to even include GDRs which have been created by Overseas Depository Bank (ODB) in IFSC and issued to investors against units of SEBI

registered BTs. To amend the definition of GDRs as provided under section 115AC (corresponding section 193 of the Bill) to even include GDRs created by ODBs in IFSC and issued against units of SEBI registered BT. To amend the provisions of section 115AC (Section 209 of the Bill) to provide for the concessional tax rates for income earned by non-resident investors through the GDRs from the underlying units of SEBI registered BTs (similar tax framework to be provided as currently provided for BTs).

193.5 Examination by the Committee:

193.5.1 On the issue of proposal to make units of a business trust eligible as underlying securities for GDRs:

This is a specific change in the definition of GDRs which are presently restricted to underlying assets which are shares or listed company or foreign currency convertible bonds. The widening of this to include units of Business Trusts which are themselves secondary instruments may require further examination in association with stakeholders. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

193.5.2 During the Committee's deliberations on the proposal to make units of a business trust eligible as underlying securities for GDRs, the Ministry was asked whether this provision existed in the Income-Tax Act, 1961, and whether it had been brought in its original form or with any changes. The Ministry deposed as follows:

"यह हमने चेंज नहीं किया है। वे चेंज चाहते हैं कि बिज़नेस ट्रस्ट की यूनिट्स को भी GDR की अंडरलाइंग सिक्योरिटी बना दें। वह आज की डेट में नहीं है। IFSCA ने बिज़नेस ट्रस्ट्स को GDR इश्यू करने के लिए परमिट दे दिया है। इसलिए उस कॉन्टेक्स्ट में यह रिक्वेस्ट आई थी। सर, किसी तरह का कोई भी चेंज नहीं है। 1961 के एक्ट में शेयर्स ही अंडरलाइंग

सिक्योरिटी हो सकते हैं।/What we are saying is that business trust is there which is owning a company and then there are units of business trust. So, the units are the secondary instruments. Units in business trust, then business trust owning shares. If that unit again becomes an underlying asset of GDR, it would be a multi-layered structure of GDR, then units, then business trust, and then business trust is having an SPV. According to us, this is a complicated scheme. That is why we have provided GDR where the underlying asset is 'direct security'.We cannot pre-empt a policy called by the Government. He has just explained it because ultimately it will be taken at an appropriate level. So, for us to say, not to be done or to be done, may not be proper. He just explained the dynamics. As of now, what we are requesting is that it is same as 61 but as hon. Chairman Sir said that it is a new development, so you may review and give us a suggestion."

193.5.3 On the issue that one of the recent policy priorities of the Government is the development of GIFT City — which permits certain instruments requiring backing by units of a business trust — and that excluding such units from eligibility as underlying securities for GDRs could potentially hinder its growth, the Secretary, Ministry of Finance, deposed as follows during the sitting of the Select Committee:

" *I would like to clarify because the same issue came in for the de-merger also. There are two parts of it, a legal framework to allow GDR and its tax treatment. They are not automatically the same. So, while IFAC may allow GDR, the arrangements in GDR allows certain tax treatment which is what they are asking to be automatically made available and*
we are saying that we will examine that aspect of it. But nothing is there related to stocks. For example, automatic de-merger can happen the fast track. The only point is that it will not be treated as tax neutral. They are not coming in the way of any policy. Income tax scope is only how it is to be treated under the tax regime."

193.6Observations/Recommendations of the Committee:

The Committee, after careful examination of the proposed Clause 193 — along with stakeholder inputs and submissions from the Ministry of Finance — recognize that the clause aims to retain and simplify the existing tax provisions concerning income from Global Depository Receipts (GDRs) purchased in foreign currency or capital gains arising from their transfer. The Committee welcome the improved clarity brought by the tabular presentation of tax rates. Accordingly, the Committee accept the clause as proposed.

Clause-194. Tax on certain incomes

194.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in any other provision of this Act, where the total income of an assessee as mentioned in column B of the Table below, includes income of the nature specified in column C of the said Table, the income-tax payable by such assessee, for a tax year, shall be the aggregate of—

(a) income-tax calculated on income mentioned in column C, at the rate mentioned in column D, subject to the conditions specified in the Note relating to the respective serial number; and

(b) income-tax with which the assessee would have been chargeable had his total income been reduced by income mentioned in column C thereof.

Sl.No.	Assessee	Income	Rate of tax	Conditions
A	B	C	D	E
1.	Any person.	Winnings (other than from any online game) from— (*a*) lottery; or (*b*) crossword puzzle; or (*c*) race including horse race (not being income from the activity of	30%	*Nil*.

		owning and maintaining race horses) ; or (*d*) card game and other game of any sort; or (*e*) gambling or betting of any form or nature.		
2.	A person, resident in India and who is a patentee (herein referred to as an eligible assessee) .	Royalty in respect of a patent developed and registered in India.	10%	(*a*) No deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in column C; (*b*) an option for taxation of income by way of royalty in respect of a

				patent developed and registered in India is exercised in the prescribed manner, on or before the due date specified under section 263(*1*) for furnishing the return of income for the relevant tax year; (*c*) where an option is exercised under clause (*b*) and the eligible assessee
A	B	C	D	E
				does not offer its income for taxation as per the provisions of columns C and D for any of the five tax years, succeeding such tax year, then

				such assessee shall not be eligible to claim the benefit of the provisions of columns C and D for five tax years subsequent to the tax year in which such income has not been offered to tax as per such provisions.
3.	Any person.	Income by way of transfer of carbon credits.	10%	No deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to column C.
4.	Any person.	Any income from the transfer of any virtual digital asset.	30%	(a) No deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall be allowed to the assessee

				under any provision of this Act in computing the income referred to in column C; and (b) no set off of loss from transfer of the virtual digital asset computed herein shall be allowed against income computed under any provision of this Act to theassesseeand such loss shall not be allowed to be carried forward to succeeding tax years.
A	B	C	D	E
5.	Any person.	Any income by way of net winnings from any online game, computed in the manner, as prescribed.	30%	*Nil*.
6.	Any	Any profits and	12.5	*Nil*.

person.	gains from life insurance business.	%

(2) In this section,—

(a) “carbon credit”, in respect of one unit, means reduction of one tonne of carbon dioxide emissions or emission of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price;

(b) “computer resource” shall have the same meaning as assigned to it in section 2(1) (k) of the Information Technology Act,2000;

(c) “developed” means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (herein referred to as the Patents Act) ;

(d) “horse race” shall have the meaning assigned to it in section 115;

(e) “internet” means the combination of computer facilities and electromagnetic transmission media including related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;

(f) “invention” shall have the same meaning as assigned to it in section 2(1) (j) of the Patents Act;

(g) “lump sum” includes an advance payment on account of such royalties which is not returnable;

(h) “online game” means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device;

(i) “patent” shall have the meaning assigned to it in section 2(1) (m) of the Patents Act;

(j) “patented article” and “patented process” shall have the meanings as respectively assigned to them in section 2(1) (o) of the Patents Act;

(k) “patentee” means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, as per the Patents Act, and includes every such person, being the true and first inventor of the

invention, where more than one person is registered as patentee under that Act in respect of that patent;

(l) “royalty”, in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains” or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

(*i*) transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) imparting of any information concerning the working of, or the use of, a patent; or

(*iii*) use of any patent; or

(*iv*) rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*) ;

(*m*) “true and first inventor” shall have the same meaning as assigned to it in section 2(*1*) (*y*) of the Patents Act; and

(*n*) for the purposes of sub-section (*1*) (Table: Sl. No. 4) , the term “transfer” as defined in section 2(*109*) , shall apply to any virtual digital asset, whether capital asset or not.

194.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BB, 115BBF, 115BBG, 115BBH and 115BBJ of the Act. are as under:

Tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever.

115BB. Where the total income of an assessee includes any income by way of winnings from any lottery or crossword puzzle or race including horse race (not being income from the activity of owning and maintaining race horses) or card game and other game

of any sort or from gambling or betting of any form or nature whatsoever, the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on income by way of winnings from such lottery or crossword puzzle or race including horse race or card game and other game of any sort or from gambling or betting of any form or nature whatsoever, at the rate of thirty per cent; and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i) :

44[Provided that nothing contained in this section shall apply to income by way of winnings from any online game for the assessment year beginning on or after the 1st day of April, 2024.

Explanation.— For the purposes of this section,—

(i) "horse race" shall have the meaning assigned to it in section 74A;

(ii) "online game" shall have the meaning assigned to it in section 115BBJ.]

Tax on income from patent.

115BBF. (1) Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, the income-tax payable shall be the aggregate of—

- **(*a*) the amount of income-tax calculated on the income by way of royalty in respect of the patent at the rate of ten per cent; and**
- **(*b*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the income referred to in clause (*a*) .**

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in clause (*a*) of sub-section (1) .

(3) The eligible assessee may exercise the option for taxation of income by way of royalty in respect of a patent developed and registered in India in accordance with the provisions of this section, in the prescribed manner, on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the relevant previous year.

(4) Where an eligible assessee opts for taxation of income by way of royalty in respect of a patent developed and registered in India for any previous year in accordance with the provisions of this section and the assessee offers the income for taxation for any of the five assessment years relevant to the previous year succeeding the previous year not in accordance with the provisions of sub-section (1) , then, the assesseeshall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which such income has not been offered to tax in accordance with the provisions of sub-section (1) .

***Explanation*.—For the purposes of this section,—**

(*a*) **"developed" means at least seventy-five per cent of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (39 of 1970) (herein referred to as the Patents Act) ;**

(*b*) **"eligibleassessee" means a person resident in India and who is a patentee;**

(*c*) **"invention" shall have the meaning assigned to it in clause (*j*) of sub-section (1) of section 2 of the Patents Act;**

(*d*) **"lump sum" includes an advance payment on account of such royalties which is not returnable;**

(*e*) **"patent" shall have the meaning assigned to it in clause (*m*) of sub-section (1) of section 2 of the Patents Act;**

(*f*) **"patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, and includes every such person, being**

the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(*g*) **"patented article" and "patented process" shall have the meanings respectively assigned to them in clause (*o*) of sub-section (1) of section 2 of the Patents Act;**

(*h*) **"royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—**

(*i*) **transfer of all or any rights (including the granting of a licence) in respect of a patent; or**

(*ii*) **imparting of any information concerning the working of, or the use of, a patent; or**

(*iii*) **use of any patent; or**

(*iv*) **rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*) ;**

(*i*) **"true and first inventor" shall have the meaning assigned to it in clause (*y*) of sub-section (1) of section 2 of the Patents Act.**

Tax on income from transfer of carbon credits.

115BBG. (1) Where the total income of an assessee includes any income by way of transfer of carbon credits, the income-tax payable shall be the aggregate of—

(*a*) the amount of income-tax calculated on the income by way of transfer of carbon credits, at the rate of ten per cent; and

(*b*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (*a*) .

(2) Notwithstanding anything contained in this Act, no deduction in respect of

any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (*a*) of sub-section (1) .

Explanation.—For the purposes of this section, "carbon credit" in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.

Tax on income from virtual digital asset.

115BBH. *(*1) Where the total income of an assessee includes any income from the transfer of any virtual digital asset, notwithstanding anything contained in any other provision of this Act, the income-tax payable shall be the aggregate of,—

(*a*) the amount of income-tax calculated on the income from transfer of such virtual digital asset at the rate of thirty per cent; and

(*b*) the amount of income-tax with which the assessee would have been chargeable, had the total income of the assessee been reduced by the income referred to in clause (*a*) .

(2) Notwithstanding anything contained in any other provision of this Act,—

(*a*) no deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in clause (*a*) of sub-section (1) ; and

(*b*) no set off of loss from transfer of the virtual digital asset computed under clause (*a*) of sub-section (1) shall be allowed against income computed under any provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding assessment years.

(3) For the purposes of this section, the word "transfer" as defined in clause (*47*)

of section 2, shall apply to any virtual digital asset, whether capital asset or not.

[**Tax on winnings from online games.**

115BBJ. Notwithstanding anything contained in any other provisions of this Act, where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the manner as may be prescribed, at the rate of thirty per cent; and

(*ii*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to in clause (*i*) .

Explanation.—For the purposes of this section,—

(*i*) "computer resource" shall have the same meaning as assigned to it in clause (*e*) of the *Explanation* to section 144B;

(*ii*) "internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;

(*iii*) "online game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.]

194.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 194 of the Bill seeks to provide for tax of certain incomes such as income from life insurance business, income from transfer of virtual digital assets,

income from patent etc. The clause corresponds to section 115B, 115BB, 115BBF, 115BBG, 115BBH and 115BBJ of the Act. The provisions of the existing sections have been presented in a tabular format for simplification purpose. Definitions of various terms of the existing sections have been provided in clause 194(2) of the Bill. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

194.4 Important Views/Suggestions given by Experts/Stakeholders:

Some of the important Important Views/Suggestions given by Experts/Stakeholdersare as under:

i. Broaden patent box regime to profits derived from patented products, including licensing fees, embedded patents in goods, etc. Expand scope of S.115BBF to allow global patents owned by Indian residents to get preferential tax treatment. Lastly, patent filing costs should be clarified as deductible under Section 37 of the Act .

ii. At present, the coverage of regime has been restricted to Patents only and not available to other IPRs, like industrial design, copyrights, trademarks, etc The benefit of the regime may be extended to other forms of IPRs, like industrial design, copyrights trademarks, etc so as to promote IPR registration in India The benefit is available to the true and first inventor of the invention only However, where a company or other person acquires a patent developed by a person and invests to develop it further to make it marketable, it may not be eligible for the benefit.The existing regime may be liberalised to grant benefit to a person who acquires patent from the 'true and first inventor' and further makes it commercially usable Further, there are no guidelines on outsourcing of R&D functions Thus, limited outsourcing may also raise an issue on availability of benefit under patent box regime The benefit of the regime may be available, subject to a reasonable threshold, in cases where IP development is outsourced. In point (2) column C, the text may be amended as follows: Royalty in respect of a patent, industrial design, copyright, trademark, etc developed and registered in India. The term "patentee" defined in clause (k) of section 194(2) may be amended as follows: "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, as per the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as

patentee under that Act in respect of that patent or a person who acquires patent from the ‘true and first inventor’ and further makes it commercially usable Deduction in respect of brokerage on transfer of virtual digital asset may be allowed while computing income from virtual digital asset, since such expenditure incurred should qualify as deduction Further, it is to be clarified that loss arising from one virtual digital asset can be allowed to set-off against the income from other virtual digital asset It is an intra-source set-off i.e., setoff within the same source of income, which should be permissible.

iii. Set off and carry forward of losses should be allowed assessee for income generated through VDA/crypto- asset. Time limitation may be put in as present in similar trading/investment related sectors. It will improve tax compliance, reduce the burden on the general citizen will remedy the discrimination meted at to this sector.

As per Section 115 BBH of Income-Tax Act, 1961, losses incurred in crypto cannot be offset against any income, including gains from crypto assets. So, a crypto investor cannot offset previous year losses from a crypto asset while filing ITR. The intended purpose of this provision was to discourage Indian investors from investing in crypto assets. However, multiple independent research studies on the sector have reported that adoption of crypto as an asset class is the highest in India, for two years in a row (Copy of the reports enclosed) . The other concern was the non-availability of valid loss proofs. It is pertinent to note that set-off of losses is even allowed in case of income earned through various businesses and speculative activities, as listed below (all sections mentioned as per Income-Tax Act, 1961) :

Section 72: Carry forward and set off of business losses Section 73: Losses in speculation business

Section 74: Losses under the head "Capital gains"

Section 74A: Losses from certain specified sources falling under the head "Income from other sources". (includes income from owning and maintaining race horses)

Hence, it can be comfortably assumed that all income earned through legal means in India has a provision for set-off of losses, except for income generated from trading of Crypto Assets. Considering that all legal crypto platforms/exchanges are reporting entities of the FIU and compliant with Indian taxation laws, set-off of losses may kindly be permitted to individuals who invest / trade using FIU-registered platforms. As a measure to maintain a check on the use of the offset provision, assesses can be directed to submit profit & loss / transaction statements from FIU-registered entities. This will increase tax compliance, move Indian users crypto investments to reporting entities and increase tax revenue to the exchequer. (Web3 Bharat, post evidence replies, page no 2) .

- Globally, various countries are adopting different measures for regulating VDAs or crypto assets. Some countries have decided to include regulation of VDAs through their existing regulators but by amending their current laws. These regulators vary from Central Banks at one end to Securities Regulators at the other end. The following is a brief summary of some important jurisdictions: -EU has implemented Markets in Crypto Asset Regulation (MICAR) 5 after years of discussion and debate, which has a full licensing/authorization regime -UAE had established Virtual Digital Asset Regulator (VARA) 6 - a specialized regulatory body for VDAs and it has been operational for more than 3 years now -UK's FCA7 has started implementing a roadmap for regulation of VDAs and plans to complete it by 2026 - Japan8 have recognized Industry led Self RegulatoryOrganizations for supervision -The Commonwealth Secretariat has released a Model Law for Virtual Assets9 - US SEC10 has formed a task force and is conducting round-table discussions to frame a wah ahead In addition to the above, please find attached PwC Global Crypto Regulation Report 2025 & University of Cambridge's 2nd Global cryptoasset regulatory which contains details on select jurisdictions.

iv. LIC There is a case for considering lower income tax rate for life insurance business from 12.5%, since 1977 till present This Section was amended w.e.f 01.04.1977 The corporate tax rate since then has been reduced from 55% to

30% hence there may be a need for proportionate reduction of tax rate for life insurance business.

v. Clause (d) of subsection (2) may be substituted as follows: (d) “horse race” shall have the meaning assigned to it in section 115 94(6) Section 115(4) (c) defines the term “race horse” not “horse race” In this section, term income from horse race is taxable, thus the term “horse race” needs to be defined The term “horse race” is defined u/s 94(6) Accordingly, subsection (2) (d) may be amended to give reference of section 94(6) instead of section 115.

vi. It is suggested that section 2(49) may be amended to include income from transfer of carbon credits in the definition of “Income” Climate Change and which can be traded in market at its prevailing market price; This provision helped resolve the uncertainty and litigation over the taxability of income from transfer of carbon credits Consequent amendment is required in the definition of the term ‘income’ under section 2(49) to include the income from transfer of carbon credits.

vii. The provision given in point (a) in Column (D) at point (4) may be amended as follows: No deduction in respect of any expenditure (other than cost of acquisition, if any brokerage on transfer of virtual digital asset and interest on loan borrowed for acquiring such asset) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in column C; and Further, point (b) in the same column may be amended as follows: (b) No set off of loss from transfer of the virtual digital asset computed herein shall be allowed against income computed under any provision of this Act (other than against income arising from any other virtual digital asset) to the assessee and such loss shall not be allowed to be carried forward to succeeding tax years.

194.5 Examination by the Committee:

194.5.1 On the suggestion of Broadening the patent box regime, the ministry in their written reply responded as under;

> "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

194.5.2 Regarding the decision not to broaden the patent box regime and the rationale for restricting the patent box benefit exclusively to the true and first inventor, the Ministry stated in its written response as follows:

(i) The concessional tax regime for royalty income from patents under cl. 194 (s. 115BBF in the Act) has been allowed in order to encourage indigenous research & development activities and to make India a global R & D hub.

(ii) The incentive allows companies to retain and commercialise existing patents and to develop new innovative patented products. This will encourage companies to locate the high-value jobs associated with the development, manufacture and exploitation of patents in India.

(iii) The concessional tax regime is allowed to a person resident in India, who is the true and first inventor of the invention. Any subsequent transfer to any other entity will result in tax arbitrage.

(iv) No deduction is allowed against royalty income considering the tax rate of only ten percent.

(v) The OECD in BEPS project recommended for 'nexus' approach i.e. the income from exploitation of IP should be attributed and taxed in the jurisdiction where substantial research & development (R&D) activities are undertaken rather than the jurisdiction of legal ownership only.

(vi) Indian innovators are increasingly registering intellectual property (IP) domestically, as reflected by a surge in patent, trademark, and design filings in recent years. Government initiatives—such as streamlined patent rules, financial support for startups, and awareness programs—have made it more attractive and easier for Indian startups and inventors to protect their IP within India.

(vii) According to the World Intellectual Property Organisation (WIPO), a U.N. agency, India registered more than 64,480 patents in 2023 alone, making it the sixth highest in the world. Domestic IP filings in India are rapidly increasing, supported by policy reforms and government incentives such as the National IPR Policy (2016), Atmanirbhar Bharat, financial support for startups, scrapping of the 'angel tax', and IPR awareness programs. A combination of these factors has made it more attractive and easier for Indian startups and inventors to protect their IP within India.

194.5.3 In response to the suggestion to extend the patent box benefit beyond the true and first inventor, the Ministry stated the following in its written reply:

> "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act."

194.5.3Regarding LIC's request to reduce the life insurance tax rate from 12.5%—citing the corporate tax rate drop from 55% to 30% since 1977—the Ministry responded as follows:

> "The rate of taxation of life insurance companies to lower than 12.5%. The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.There is no change in the provisions of the Bill vis a

vis Act. The tax rate for life insurance companies is already at low level as compared to the other businesses."

194.5.4 Regarding the proposed substitution of Clause (d) in subsection (2) to reference section 194(6) for the definition of 'horse race'—instead of section 115, which defines 'race horse'—the Ministry responded as follows:

"It is an inadvertent drafting error. Clause 194(2) (d) presently states: "horse race" shall have the meaning assigned to it in section 115; Definition of "horse race" may be clarified by giving reference to the definition in clause 94(6) of the Bill , instead of clause 115."

194.5.5Regarding the suggestion to amend Section 2(49) to include income from the transfer of carbon credits—traded at market value and to address tax uncertainty—the Ministry responded as under:

"The stakeholder seeks inclusion of the income from transfer of carbon credits in the definition of the term 'income' under section 2(49) of the IT Bill. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act The suggestion is not acceptable as the definition of income is inclusive definition. So even if income of any nature is not specifically mentioned in clause (2) , it may be treated as income based on the facts of the case."

194.5.6Regarding the proposed amendments to point (a) and (b) in Column (D) at point (4) —restricting deductions and set-off of losses related to virtual digital assets—the Ministry responded as follows

"The suggestion requests deduction of any expenditure and set off of any loss in respect of virtual digital asset transfer. The suggestion made by the stakeholder

is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act."

194.5.7 On the issue of setting off losses in the case of taxation of Virtual Digital Assets (VDAs) the Ministry stated the following during the sitting of the Committee:

"As far as taxation is concerned, we tax the income. The matters relating to the nature of income have gone up to the Supreme Court. If I remember it correctly, there was a decision with respect to Piara Singh. The issue was with regard to smuggling income and that whether any deduction is to be given out of the confiscated item or not. Another item of drug has also gone there.So, here, we are taxing the income. But any income we tax, that does not mean that the source from which the income has come becomes legal. If it is illegal in other aspects, it will remain illegal."

194.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation on the provisions contained in Clause 194, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, noted that Clause 194 primarily consolidates and rationalises existing provisions previously scattered across Sections 115B, 115BB, 115BBF, 115BBG, 115BBH, and 115BBJ of the Income-Tax Act, 1961, into a single, simplified clause. The Ministry explained that while the provisions have been textually simplified, their underlying policy intent has been preserved. Additionally, definitions that were earlier dispersed across multiple sections have now been incorporated into sub-clause (2) of Clause 194 to improve clarity and facilitate easier application. Further, the Committee identified an inadvertent drafting error in Clause 194(2)(d), which presently defines "horse race" by reference to Section 115. To avoid ambiguity, the Committee recommend amending Clause 194(2)(d) to instead refer to the definition provided in Section 94(6) of the Bill. This modification will clarify the intended meaning of "horse race" within the context of this Clause and help prevent any confusion during its application. Accordingly the Committee accept the clause as proposed, subject to the above-mentioned modifications.

Clause-195 Tax on income referred to in section 102 or 103 or 104 or 105

195.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where the total income of an assessee—

(a) includes any income referred to in section 102 or 103 or 104 or 105 or 106 and reflected in the return of income furnished under section 263; or

(b) determined by the Assessing Officer includes any income referred to in any of the said sections, if such income is not covered under clause (a) ,

the income-tax payable shall be the aggregate of—

(i) income-tax calculated on the income referred to in clauses (a) and (b) , at the rate of 60%; and

(ii) income-tax with which the assessee would have been chargeable had his total income been reduced by income referred to in clause (i) .

(2) Irrespective of anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in sub-section (1) (a) and (b) .

195.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BBE are as under:

Tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

115BBE. (1) Where the total income of an assessee,—

(a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or

(b) determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a) ,

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b) , at the rate of sixty per cent; and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i) .

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) and clause (b) of sub-section (1) .

195.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 195 of the Bill seeks to provide for tax on incomes referred to in clause 102, 103, 104, 105 and 106 of the Bill. The clause corresponds to section 115BBE of the Act. The provisions of the existing sections have been simplified and retained with the same intent in this clause."

195.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of suggestions given by various stakeholder is as under:

> Section 195(1) (b) (i) may be amended as follows: (i) income-tax calculated on the income referred to in clauses (a) and (b) , at the rate of 60% 30%; It is suggested that the rate of tax u/s 195 be rationalized. It may be kept @ 30% plus surcharge at the applicable rate and cess @ 4% Penalty@10% of tax payable under section 443 may continue. It is suggested that the rate of tax u/s 195 be rationalized. It may be kept @ 30% plus surcharge at the applicable rate and cess @ 4% Penalty@10% of tax payable under section 443 may continue.

195.5 Examination by the Committee:

On the suggestion to amend Section 195(1) (b) (i) by rationalizing the tax rate to 30% plus applicable surcharge and 4% cess—while retaining the 10% penalty under Section 443—the Ministry responded as follows:

> "The stakeholder through the suggestion seeks rationalisation of tax rates under clause 195 of the Bill. The suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The suggestion is not acceptable because tax rate of 60% on income referred to in section 68/69/69A/69B/69C/69D was introduced as a deterrance measure and to discourage the conversion of unaccounted money to accounted money"

195.6 Observations/Recommendations of the Committee:

> **The Committee, after thorough deliberation upon the proposal made in Clause 195, including the views and suggestions of stakeholders and the submission made by the Ministry of Finance, took note that this clause largely consolidates and rationalises existing provisions — previously contained in Section 115BBE of the Income-Tax Act, 1961 — into a single, simplified framework.The Committee note that the main objective of this consolidation is to provide greater clarity and ease of application while retaining the policy intent of deterring transactions routed through undisclosed sources of income. Accordingly, the Committee accept the provisions under Clause 195 as proposed.**

B.—Special provisions relating to tax on capital gains

Clause- 196.Tax on short-term capital gains in certain cases

196.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where the total income of an assessee includes any income chargeable under the head “Capital gains”, arising from the transfer of a short-term capital asset—
(a) being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust; and
(b) the transaction of sale of such equity share or unit is chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004, then,
the tax payable by the assessee on the total income, subject to the provisions of sub-section (2) , shall be the aggregate of—
(i) income-tax calculated on such short-term capital gains at the rate of 20%;
(ii) income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee.
(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income, as reduced by short-term capital gains computed under sub-section (1) , is below the maximum amount which is not chargeable to income-tax, then,—
(a) such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and
(b) the tax on the balance of such short-term capital gains shall be computed at the rate as applicable in sub-section (1) (i) .
(3) The provisions of sub-section (1) (b) shall not apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.
(4) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section (1) , the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(5) In this section,“equity oriented fund” shall have the meaning assigned to it in section 198.

196.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 111A are as under:

Tax on short-term capital gains in certain cases.
111A. (1) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust and—
(a) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and
(b) such transaction is chargeable to securities transaction tax under that Chapter,
16[the tax payable by the assessee on the total income shall be the aggregate of—
(i) the amount of income-tax calculated on such short-term capital gains—
(a) at the rate of fifteen per cent for any transfer which takes place before the 23rd day of July, 2024; and
(b) at the rate of twenty per cent for any transfer which takes place on or after the 23rd day of July, 2024;
(ii) the amount of income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee:]
Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the 17[rate as applicable in clause (i)]:

Provided further that nothing contained in clause (b) shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

(2) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section (1) , the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(3) 18[***]

Explanation.—For the purposes of this section,—

(a) "equity oriented fund" shall have the meaning assigned to it in clause (a) of the Explanation to section 112A;

(b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) ;

(c) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43.

196.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> “Clause 196 of the Bill provides for taxation of short-term capital gains in case of a transfer of short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust subject to certain conditions. The clause corresponds to Section 111A of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.”

196.4 Observations/Recommendations of the Committee:

After careful consideration of the proposed provision under Clause 196 and the justifications provided by the Ministry of Finance, the Committee concur with the retention and textual simplification of Section 111A of the Income-Tax Act, 1961, as proposed under Clause 196 of the Income-Tax Bill, 2025. The Committee acknowledge that the proposed amendment preserves the taxation of short-term capital gains in case of a transfer of short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust subject to certain conditions. Accordingly, the Committee accept the provisions under clause 196 as proposed.

Clause-197. Tax on long-term capital gains

197.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset which is chargeable under the head “Capital gains”, the tax payable by the assessee on the total income, subject to sub-sections (2) and (3) , shall be the aggregate of—

(a) income-tax payable on the total income as reduced by such long-term capital gains, had the total income, as so reduced, been his total income; and

(b) income-tax calculated on such long-term capital gains at the rate of 12.5%.

(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (1) is below the maximum amount which is not chargeable to income-tax, then,—

(a) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(b) the tax on the balance of such long-term capital gains shall be computed at the rate as referred in sub-section (1) .

(3) In the case of an individual or a Hindu undivided family, being a resident, in the case of transfer of a long-term capital asset, being land or building, or both, which is acquired before the 23rd July, 2024, the excess income-tax computed as per the following formula shall be ignored:—

E = A – B

where—

E = excess income-tax to be ignored;

A = income-tax computed under clause (b) of sub-section (1) ;

B = income-tax computed under clause (b) of sub-section (1) taking the rate as 20% and the capital gains is computed by taking the cost of acquisition as indexed cost of acquisition and the cost of improvement as indexed cost of improvement.

(4) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(5) In this section,—

(a) “securities” shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956;

(b) “listed securities” means the securities which are listed on any recognised stock exchange in India;

(c) “unlisted securities” means securities other than listed securities;

(d) “indexed cost of acquisition” and “indexed cost of improvement” shall have the meanings respectively assigned to them in section 72.

197.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 112are as under:

Tax on long-term capital gains.

112. (1) Where the total income of an assessee includes any income, arising from the transfer of a long-term capital asset, which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income shall be the aggregate of,—

19[(a) in the case of an individual or a Hindu undivided family, being a resident,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and

(ii) the amount of income-tax calculated on such long-term capital gains,—

(A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains shall be computed at the rate as applicable in sub-clause (ii) :

Provided further that in the case of transfer of a long-term capital asset, being land or building or both, which is acquired before the 23rd day of July, 2024, where the income-tax computed under item (B) exceeds the income-tax computed in accordance with the provisions of this Act, as they stood immediately before their amendment by the Finance (No. 2) Act, 2024, such excess shall be ignored;

(b) in the case of a domestic company,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains,—

(A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024;

(c) in the case of a non-resident (not being a company) or a foreign company,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on long-term capital gains [except where such gain arises from transfer of capital asset referred to in sub-clause (iii)],—

(A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and

(iii) the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, as computed without giving effect to the first and second provisos to section 48, calculated on such long-term capital gains,—

(A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024;

(d) in any other case of a resident,—

(i) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains,—

(A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the tax payable in respect of any income arising from the transfer of a long-term capital asset which takes place before the 23rd day of July, 2024, being listed securities (other than a unit) or zero coupon bond, exceeds ten per cent of the amount of capital gains before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee :]

Provided further that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being a unit of a Mutual Fund specified under clause (23D) of section 10, during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, exceeds ten per cent of the amount of capital gains, before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee.

Explanation.—For the purposes of this sub-section,—

(a) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (32 of 1956) ;
(aa) "listed securities" means the securities which are listed on any recognised stock exchange in India;
(ab) "unlisted securities" means securities other than listed securities.
(b) [***]
(2) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.
(3) 20[***]

197.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> "Clause 197 of the Bill provides for taxation of long-term capital gains where the capital gains arise from the transfer of a long-term capital asset (other than an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust) . The clause corresponds to Section 112 of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. [Clause 197 of the Bill may be amended to incorporate provision prohibiting foreign exchange fluctuation benefit for non-residents on sale of unlisted securities and shares of CHC to ensure uniformity with earlier provision in the Act]."

197.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders is given as under:

i. Non-residents other than FIIs/specified funds may avail foreign exchange fluctuation benefit while computing long-term capital gains, contrary to the intent of rationalisation by Finance (No.2) Act 2024.Amend Section 197 of ITB 2025 to deny foreign exchange fluctuation benefit while computing LTCG from transfer of unlisted securities and shares of CHC, aligning it with ITA 1961.

ii. LTCG Taken Place Before 23 July 2024 Does not distinguish between long-term capital gains arising on transfers before 23 July 2024 and after 23 July 2024, potentially creating uncertainty for taxpayers. It is recommended that S. 197 of the new Bill be modified to incorporate the mechanism of taxing transfers that have taken place before 23 July 2024.

iii. MSMEs may be allowed to sell their property- residential, commercial or industrial, to set-up an industry without attracting Capital Gain Tax. The provision of Levying Capital Gain Tax when an enterprise relocates to a larger area by selling property is financial disincentive for organic growth and scale up of enterprises from small to medium or to large. Exempting capital gains tax on property sales for reinvestment in industrial growth can encourage MSMEs to scale up without financial hurdles.

iv. New sub-section (4) may be inserted as follows: (4) Where a longterm capital loss is computed by taking the cost of acquisition as indexed cost of acquisition and the cost of improvement as indexed cost of improvement, the provisions of Chapter VII shall apply in respect of such loss. Alternatively, the option to the assessee being an individual or a HUF resident in India may be allowed while computing longterm capital gain applying the provisions of section 72. Though resident individuals and HUFs can avail the benefit of paying lower taxes/no taxes on account of applying the erstwhile indexation provisions, however, if the resultant figure is a loss, the same cannot be set-off or carried forward, since the erstwhile provisions can be applied only for computing tax liability and not for computation of capital gains to be included in total income.

197.5 Examination by the Committee:

The corresponding views/responses of the Ministry of Finance on the suggestions submitted by stakeholders are as under:

i. "Clause 197 of the Bill may be amended to incorporate provision prohibiting foreign exchange fluctuation benefit for non-residents on sale of unlisted securities and shares of CHC and ensure uniformity with earlier provision under Section 112(1) (c) (iii).

ii. The Income-Tax Bill 2025, if accepted shall be implemented from April 1, 2026, i.e from Tax Year 2026-27. Hence, the separate reference to transfers before and after 23rd July, 2024 is not required. This is covered by the provisions of Repeal and Savings in Clause 536(2) (b) of the Income-Tax Bill. The suggestion is already taken care of

iii. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

iv. It is suggested that in cases where the calculation of capital gains (with indexation) on property by resident individuals/HUF results in a loss be also allowed to be carried forward. Substantive provisions applicable are those which are after 23rd July, 2024. Substantive provisions prior to 23rd July, 2024 can not be revived. The default capital gains regime prescribes a lower rate of taxation with no indexation. The benefit of indexation has been provided to individual and HUF only in some instances, so that the taxpayer will not suffer higher taxes because of this change, if any. This benefit is not provided to claim loss or carry it forward. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

197.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation on the proposal set out in Clause 197 — including the views and suggestions of stakeholders and submissions from the Ministry of Finance — observes that this clause largely consolidates and rationalises the existing provisions previously contained in Section 112 of the Income-Tax Act, 1961, into a single, simplified framework.

However, the Committee note a specific concern regarding the availability of the foreign exchange fluctuation benefit to non-residents (other than FIIs and specified funds) when computing long-term capital gains (LTCG) on the transfer of unlisted securities and shares of closely held companies (CHCs). The Committee believe this practice contradicts the policy intent of rationalisation introduced by the Finance (No. 2) Act, 2024. To ensure consistency with the earlier provision under Section 112(1)(c)(iii) of the Income-Tax Act, 1961, and to maintain equity among different classes of taxpayers, the Committee recommend amending Clause 197 to explicitly deny the foreign exchange fluctuation benefit to such non-residents in relation to these transfers.

Additionally, some stakeholders expressed concern that Clause 197 does not explicitly distinguish between LTCG arising from transfers made before and after 23 July 2024, potentially causing interpretational uncertainty. However, the Committee note— as clarified by the Ministry of Finance — that this issue is already addressed within the legislative framework. Since the Income-Tax Bill, 2025 is proposed to come into effect from April 1, 2026 (i.e., Assessment Year 2026–27), a separate reference to transfers occurring prior to 23 July 2024 is unnecessary. The Repeal and Savings clause, specifically Clause 536(2)(b), adequately governs the treatment of transactions undertaken under the existing law. Accordingly,

the Committee consider this concern as already addressed through transitional provisions in the Bill.

Accordingly, the Committee recommend retaining Clause 197 in its present form, subject to the above modification, as it effectively streamlines and consolidates the provisions governing the taxation of long-term capital gains.

Clause- 198. Tax on long-term capital gains in certain cases

198.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in section 197,the tax payable by an assessee on his total income shall be determined as per the provisions of sub-section (2) , if—

(a) the total income includes any income chargeable under the head “Capital gains”;

(b) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(c) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 has—

(i) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or

(ii) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—

(a) income-tax calculated on such long-term capital gains exceeding one lakh twenty five thousand rupees on long-term capital gains at the rate of 12.5%; and

(b) income-tax payable on the total income as reduced by long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee.

(3) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (1) is below the maximum amount which is not chargeable to income-tax, then,—

(a) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(b) the tax on the balance of such long-term capital gains shall be computed at the rate as referred to in sub-section (2) .

(4) The condition specified in sub-section (1) (c) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(5) The Central Government may, by notification, specify the nature of acquisition in respect of which the provisions of sub-section (1) (c) (i) shall not apply.

(6) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (1) , the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(7) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (1) , the rebate under section 156shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

(8) In this section, “equity oriented fund” means a fund set up under a scheme of a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply and—

(i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(A) a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(ii) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange,

and, for the purposes of this clause,—

(I) the percentage of equity shareholding or unit held in respect of the fund, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(II) in case of a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No.2) does not apply, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied throughout the term of such insurance policy.

198.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 112Aare as under:

Tax on long-term capital gains in certain cases.

112A. (1) Notwithstanding anything contained in section 112, the tax payable by an assessee on his total income shall be determined in accordance with the provisions of sub-section (2) , if—

(i) the total income includes any income chargeable under the head "Capital gains";

(ii) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(iii) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004) has,—

(a) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or

(b) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—

21[(i) the amount of income-tax calculated on such long-term capital gains exceeding one lakh twenty-five thousand rupees—

(a) on long-term capital gains at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(b) on long-term capital gains, at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that the limit of one lakh twenty-five thousand rupees shall apply on aggregate of the long-term capital gains under sub-clauses (a) and (b) ;]

(ii) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee:

Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, the long-term capital gains, for the purposes of clause (i) , shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax.

(3) The condition specified in clause (iii) of sub-section (1) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(4) The Central Government may, by notification in the Official Gazette, specify the nature of acquisition in respect of which the provisions of sub-clause (a) of clause (iii) of sub-section (1) shall not apply.

(5) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (1) , the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(6) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (1) , the rebate under section 87A shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

Explanation.—For the purposes of this section,—

(a) "equity oriented fund" means a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 or under a scheme of an insurance company comprising unit linked insurance policies to which exemption under clause (10D) of the

said section does not apply 22-23[on account of the applicability of the fourth and fifth provisos thereof] and,—

(i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(A) a minimum of ninety per cent of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of ninety per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(ii) in any other case, a minimum of sixty-five per cent of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:

Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures:

Provided further that in case of a scheme of an insurance company comprising unit linked insurance policies to which exemption under clause (10D) of section 10 does not apply 22-23[on account of the applicability of the fourth and fifth provisos thereof], the minimum requirement of ninety per cent or sixty-five per cent, as the case may be, is required to be satisfied throughout the term of such insurance policy;

(b) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(c) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43.

198.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 198 of the Bill provides for taxation of long-term capital gains where the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business

trust subject to certain conditions. The clause corresponds to Section 112A of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause

198.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by various stakeholders/ Experts are given as under:

i. In proposed section 198(3) (a) , “as so reduced” be deleted and it should read as under: Page No 16 of 20 “such long-term capital gains shall be reduced by the amount by which the total income falls short of the maximum amount which is not chargeable to income-tax; and”

ii. In proposed section 198 (2) (a) , ‘on long-term capital gains’ be deleted and be read as under: “(a) income-tax calculated on such long-term capital gains exceeding one lakh twenty five thousand rupees at the rate of 12.5%; and

198.5 Examination by the Committee:

The Ministry, in its written replies, submitted the following responses corresponding to the above-mentioned suggestions:

i. The word “on long term capital gains” is repeating and may be deleted.

ii. It is important to include in the clause “as so reduced” so that there is no confusion and the intent of the section is communicated clearly. This suggestion is not feasible.

198.6 Observations/Recommendations of the Committee:

The Committee, after a thorough examination of the proposal under Clause 198—including consideration of stakeholder inputs and the rationale provided by the Ministry of Finance—find the proposed provisions to be broadly acceptable. However, the Committee note that the phrase "on long-term capital gains" in Clause 198(2)(a) is repeated unnecessarily, which may cause ambiguity in interpretation.To enhance clarity and ensure precision without altering the policy intent, the Committee recommend the following modification:

Modification to Clause 198:

In sub-section (2)(a), the expression "on long-term capital gains" shall be deleted to streamline the language and avoid potential confusion.

C.—New tax regime

Clause-199- Tax on income of certain manufacturing domestic companies

199.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part other than sections200and 201, the income-tax payable in respect of the total income of a person, being a domestic company, for any tax year, shall, at the option of such person, be computed at the rate of 25% subject to the following conditions:—

(a) the company has been set-up and registered on or after the 1st March, 2016;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(c) the total income of the company has been computed,—

(i) without any deduction under—

(A) sections45(2) (c) and 47(1) (b) ;

(B) Chapter VIII-C, other than the provisions of section 146; or

(C) sections specified in section 205(1) (a) to (g) ;

(ii) without set off of any loss carried forward from any earlier tax year, if such loss is attributable to any of the deductions referred to in sub-clause (i) .

(2) The loss referred to in sub-section (1) (c) (ii) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(3) The provisions of this section shall not apply unless an option is exercised by the person in the manneras prescribed on or before the due date specified under section263(1) for furnishing the first of the returns of income which such person is required to furnish and such option once exercised, shall apply to subsequent tax years.

(4) Once the option under sub-section (3) has been exercised for any tax year, it cannot be subsequently withdrawn for the same or any other tax year, except where the person exercises option under section section200.

199.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115 BA are as under:

Tax on income of certain manufacturing domestic companies.

115BA. (1) Notwithstanding anything contained in this Act but subject to the other provisions of this Chapter, other than those mentioned under section 115BAA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall, at the option of such person, be computed at the rate of twenty-five per cent, if the conditions contained in sub-section (2) are satisfied.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of March, 2016;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AC or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section

35AC or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i) ; and

(iii) depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year:

Provided further that where the person exercises option under section 115BAA, the option under this section may be withdrawn.

199.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 199 of the Bill provides for beneficial rate of tax on manufacturing companies subject to satisfaction of conditions. The clause corresponds to section 115BA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

199.4 Examination by the Committee:

199.4.1 In response to the drafting error suggesting “domestic manufacturing companies” instead of “manufacturing domestic companies” in Clauses 199 and 201, the Ministry clarified as follows:—

> The term "domestic company" has been defined in the Act/Bill and the provisions apply to domestic company engaged in specified manufacturing activities. So, the correct phrase is 'manufacturing domestic company'. The suggestion is not feasible.

199.4.2 Regarding the identified drafting error in Section 199(4), where the word "section" is repeated in line 30, the Ministry acknowledged it as a drafting mistake and stated it will be corrected.

199.5 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 199 under examination, including the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for a beneficial tax rate of 25% for certain domestic manufacturing companies set up and registered on or after 1st March 2016, subject to conditions such as having their business limited to manufacture or production and forgoing certain deductions and carry forward of losses. The Committee identified a drafting error in Clause 199(4), where the word "section" is unnecessarily repeated in line 30. The Committee therefore recommend that the error be rectified and the provisions under Clause 199 be accepted, subject to this correction.

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Clause- 200-Tax on income of certain domestic companies

200.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B and this Part, other than sections199 and 201, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a domestic company, in respect of the total income of such person computed in the following manner:—

(a) without any deduction under—

(i) sections 45(2) (c) and 47(1) (b) ; or

(ii) Chapter VIII other than the provisions of section 146; or

(iii) sections specified in section 205(1) (a) to (g) ;

(b) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (a) ;

(c) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116(1) ,if such loss or depreciation is attributable to any of the deductions referred to in clause (a) .

(2) Where the person fails to satisfy the requirements contained in sub-section (1) in any tax year, the option shall become invalid in respect of the said tax year and subsequent years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent years.

(3) The loss and depreciation referred to in sub-section (1) (b) and (c) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under sub-section (5) , the requirements contained in sub-section (1) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in the such manner as prescribed on or before the due date specified under section 263(1) for furnishing the return of income and such option once exercised, shall apply to subsequent tax years.

(6) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

(7) In case of a person, being a domestic company, where the option exercised by it under section 201, has been rendered invalid due to violation of the conditions contained in section 205(2) (b) or (c) or (d) , such person may exercise the option under this section.

200.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BAAare as under:

Tax on income of certain domestic companies.

115BAA. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the total income of the company shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ;

(iii) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iv) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner, if the option under sub-section (5) is exercised for a

previous year relevant to the assessment year beginning on the 1st day of April, 2020.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5) , the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) , or clause (b) of sub-section (2) of said section, such person may exercise option under this section:

Provided further that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

200.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 200 of the Bill provides for the (optional) concessional tax rate applicable to companies other than those covered under clauses 199 and 201, if they do not claim specific deductions. The said clause further provides for the manner of opting, method of computing the income and also implications for Unit in the International Financial Services Centre. The clause corresponds to section 115BAA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

200.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/ objections by various stakeholders are given as under:

i. Clause 200(1) (a) - Presently, under the existing Act, domestic companies opting for concessional tax regime (CTR) of either 15% (new manufacturing companies) under section 115BAB (or) 22% under section 115BAA are allowed to claim deduction in respect of employment cost of new employees and inter corporate dividend subject to fulfilment of conditions stipulated in the respective sections. Under the New Bill, while benefit of deduction of employment cost of new employees and inter corporate dividend is proposed to be at 15% concessional rate under Clause 201 of the New Bill, the deduction with reference to inter-corporate dividends has not been provided for companies opting for 22% CTR under Clause 200 of the New Bill. This seems to be an inadvertent error and deserves to be rectified. Extend the deduction on inter-corporate dividend deduction under Clause 148 of the New Bill to domestic companies opting for the concessional tax regime under Clause 200 of the New Bill.Add reference of clause 148 (corresponding to section 80M of the IT Act) under clause 200 of ITB, 2025 .

ii. Currently, concessional tax rate of 15% is available to entities which have commenced business of generation of electricity before the 31 March 2024 To boost investment and growth in the infrastructure power sector, the aforesaid sunset period should be further extended by additional period to incentivise investments To extend sunset period for commencing business under section 115BAB (corresponding section 201 of the Bill) to 31 March 2030.

200.5 Examination by the Committee:

On the question of extending the deduction on inter-corporate dividend deduction under Clause 148 of the New Bill to domestic companies opting for the concessional tax regime under Clause 200 of the New Bill, the ministry in its written reply stated as under:

> This is a drafting Correction. The reference to Clause 148 (Section 80M in the Act) is to be included in Clause 200(1) (a) (ii) . The suggestion is acceptable.

200.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 200 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for a beneficial rate of 22% for certain domestic companies subject to conditions, and prescribes the manner of computing total income and the implications for companies having Units in the International Financial Services Centre.

The Committee, however, note that while the existing provisions under Section 115BAA allowed a deduction in respect of inter-corporate dividends, the corresponding clause in the Bill inadvertently omits this benefit. The Ministry of Finance has explained that this is a drafting oversight and has accepted the suggestion to add a reference to clause 148 (section 80M) under Clause 200(1) (a) (ii). The Committee consider this change appropriate, as it will align the new provisions with the policy intent of the existing Section 115BAA.

Therefore, the Committee accept the provisions under Clause 200 subject to the following modification:

To insert a reference to Clause 148 (section 80M) under Clause 200(1) (a) (ii) .

This modification will enable domestic companies opting for the 22% concessional rate to deduct income by way of certain inter-corporate dividends, thereby removing an unintended inconsistency and aligning the new provisions with the policy of the existing Act.

201. Tax on income of new manufacturing domestic companies

201.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part other than sections199 and 200, the income-tax payable in respect of the total income of an assessee, being a domestic company, specified in column B of the Table below, shall, at the option of such assessee, be computed at the rates specified in columnC, if the conditions contained in column D thereof are fulfilled.

Sl. No.	Assessee	Total income and rate of tax	Conditions
A	B	C	D
1.	A domestic company engaged in business of manufacture or production of any article or thing.	(*a*) 15% on the total income other than the income mentioned in clauses (*b*) , (*c*) and (*d*) ; (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to	Such domestic company— (*a*) exercises the option in the manner provided in sub-section (*2*) ; (*b*) has been set-up and registered on or after the 1st October, 2019; (*c*) has commenced manufacturing or production of an article or thing on orbeforethe 31st March, 2024;

		manufacturing or production of an article or thing; and	

A	B	C	D
		(*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so under section 205(*4*) .	(*d*) the total incomeof which is computed as per the provisions ofsub-section (*3*) ; and (*e*) fulfils all the conditions provided in sub-section (*5*) of this section and section 205(*2*) .

(2) The option under this section shall be exercised by the assessee in the mannerprescribedsubject to the following conditions:—

(a) it shall be exercised on or before the due date specified under section 263(1) for furnishing first of the returns of income for any tax year;

(b) such option, once exercised, shall apply to subsequent tax years;

(c) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year; and

(d) where the assessee fails to fulfil the conditions contained in sub-section (1) (Table: Sl. No. 1.D) in any tax year,—

(i) the option shall become invalid in respect of such tax year and subsequent tax years; and

(ii) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (1) , the total income of the assessee shall be computed,—

(a) without any deduction under—

(i) sections45(2) (c) and 47(1) (b) ;

(ii) Chapter VIII other than sections146 and 148; or

(iii) section 205(1) (a) to (g) ;

(b) without set off of any loss or allowance for unabsorbed depreciation deemed sounder section 116(1) , if such loss or depreciation is attributable to any of the deductions referred to in clause (a) .

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (3) (b) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

(5) In case of an amalgamation, option under this section shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (1) (Table: Sl. No. 1.D) are continued to be fulfilled by such company.

201.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BABare as under:

Tax on income of new manufacturing domestic companies.

115BAB. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (6) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in the said section;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of sub-clause (ii) , any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed

twenty per cent of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (ii) of this clause, the condition specified therein shall be deemed to have been complied with;

(iii) does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.

Explanation.—For the purposes of this sub-clause, the expressions "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (a) and clause (b) of sub-section (6) of section 80-ID;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;

(ii) without set-off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i) .

Explanation.—For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (7) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (2) are continued to be satisfied by such company; and

(iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

Explanation.—For the purposes of clause (b) , the "business of manufacture or production of any article or thing" shall include the business of generation of electricity.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (2) or clause (b) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty

and to promote manufacturing or production of article or thing using new plant and machinery.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.

(6) Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.

(7) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Explanation.—For the purposes of section 115BAA and this section, the expression "unabsorbed depreciation" shall have the meaning assigned to it in clause (b) of sub-section (7) of section 72A.

201.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 201 of the Bill provides for an incentivised tax rate of 15% on income of new manufacturing domestic companies subject to satisfaction of specified conditions. The clause corresponds to section 115BAB of the Act. Table have been provided in this clause to do away with multiple explanations and provisos in section 115BAB of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

201.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of submissions/objections by stakeholders are given as under:

i. India aspires to emerge as a global manufacturing hub - Need to surge ahead of countries like Vietnam, Thailand, Cambodia, and Malaysia in the race of ‘China Plus One’ strategy and that is predicated on labor cost, attractive tax costs and tariffs and several other factors. Tax Incentive is an essential part of an attractive package – This was the reason for India to introduce section 115 BAB of the Act allowing a tax rate of 15% for new manufacturing companies but with sunset of March 31, 2024. India should have a perpetual tax provision for manufacturing @ 15% for new manufacturing companies.

ii. Currently, concessional tax rate of 15% is available to entities which have commenced business of generation of electricity before the 31 March 2024 To boost investment and growth in the infrastructure power sector, the aforesaid sunset period should be further extended by additional period to incentivise investments To extend sunset period for commencing business under section 115BAB (corresponding section 201 of the Bill) to 31 March 2030.

iii. Dividend income distributed by BTs is not taxable in the hands of the unitholders, provided such dividend has not been received from a Special Purpose Vehicle ('SPV') which has opted for taxation under Section 115BAA/ 115BAB of the Act ('CTR') (Section 200 and 201 of the Bill). In other words, such proportion of dividend which is received from the SPVs which have opted for CTR is taxable in the hands of the unitholders. Section 115BAA/ 115BAB of the Act ((Section 200 and 201 of the Bill) provides that once CTR has been opted for by a company, such option cannot be subsequently withdrawn. This creates a long-term issue for the SPVs which may be contributed to BTs in future as the dividends paid by such SPVs would be taxable in the hands of the unit holders. Post their initial setup, BTs grow inorganically through the acquisitions of new asset-owning companies, however, such asset-owning companies which have already opted for CTR become unattractive for acquisition A onetime opt out of CTR will restore parity for such new asset-owning companies and it is therefore requested that a one-time opt out of the CTR be provided under Act for SPVs which are subsequently transferred to a BT. To amend section 115BAA/ 115BAB of the Act (Section 200 and 201 of the Bill) to provide for a one time opt out option to SPVs which are transferred to a BT. one-time CTR opt-out would address tax inefficiencies and support fair, flexible BT acquisitions without diluting the CTR framework.

205.5 Examination by the Committee:

201.5.1On the suggestion of India should have a perpetual tax provision for manufacturing @ 15% for new manufacturing companies, the ministry stated as under:

> The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

201.5.2 Regarding the issue of extension of concessional regime in clause 201, the Ministry stated as under:

> Stakeholder seeks extension of concessional regime in clause 201. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The said provisions was inserted for a specified period to encourage setting up of new domestic companies is specified manufacturing sectors . The Government has taken conscious decision to not extend said provision beyond 31st March, 2024. It is also against the stated policy of the Government to phase out deductuon and exemption. Therefore, the suggested amendment is not feasible.

201.5.3 Regarding the suggestion to allow a one-time opt-out option for SPVs that have opted for the concessional tax regime under Sections 115BAA/115BAB (Clause 200 and 201 of the Bill), the Ministry in its written reply stated as under:

> Suggestion seeks to provide one time opt out options to SPV who has opted for concessional tax regime under section 115BAA/115BAB(Clause 200 and 201 of the Bill) as dividend distributed by such SPVs are taxable in the hand of unit holders. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. At present, in clause 10(23FD) of the Act (Schedule V.Sr. No.5) such dividend income distributed by a SPV of Business Trust is not exempted in the hands of unit holder. The suggestion will encourage tax arbitrage.

201.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 201 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provisions to be broadly acceptable. The Committee note that the policy objective of providing a temporary stimulus to the manufacturing sector is adequately addressed through the current formulation of the clause.Accordingly, the Committee accept the clause as proposed.

Clause- 202. New tax regime for individuals, Hindu undivided family and others

202.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B and this Part the income-tax payable by a person, being—

(a) an individual; or

(b) a Hindu undivided family; or

(c) an association of persons (other than a co-operative society) ; or

(d) a body of individuals, whether incorporated or not; or

(e) an artificial juridical person referred to in section 2(77) (g) ,

in respect of the total income for a tax year, shall, unless the person exercises the option in the manner provided under sub-section (4) , be computed at the rate of tax given in the following Table:—

Sl.No.	Total income	Rate of tax
A	B	C
1.	Upto ₹4,00,000	*Nil*
2.	From ₹4,00,001 to ₹8,00,000	5%
3.	From ₹8,00,001 to ₹12,00,000	10%
4.	From ₹12,00,001 to ₹16,00,000	15%
5.	From ₹16,00,001 to ₹20,00,000	20%
6.	From ₹20,00,001 to ₹24,00,000	25%.
7.	Above ₹24,00,000	30%

(2) For the purposes of sub-section (1) , the total income of the assessee shall be computed—

(a) without any exemption or deduction under the provisions of or in—

(i) Schedule III (Table: Sl. No.5 or 6 or 7 or 8 or 11 or 17) ;

(ii) Schedule III (Table: Sl. No. 12 or 13) (other than those as prescribed for this purpose) ;

(iii) section 144;

(iv) section 19(1) (Table: Sl. No. 1) ;

(v) section 22(1) (b) , in respect of properties referred to in section 21(6) ;

(vi) section 33(8) ;

(vii) section 48;

(viii) section 49;

(ix) section 45(3) (a) or (b) or (c) ;

(x) section 46;

(xi) section 47(1) (a) ;

(xii) of Chapter VIII other than the provisions of sections 124(1) , 125(3) and 146; and

(b) without set off of—

(i) any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (a) ; or

(ii) any loss under the head “Income from house property” with any other head of income;and

(c) without any exemption or deduction for allowances or perquisite, called by any name, provided under any other law in force.

(3) The loss and depreciation referred to in sub-section (2) (b) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) Nothing contained in sub-section (1) shall apply to a person, where an option is exercised by such person under this section, in such manner as prescribed, for any tax year, and such option is exercised,—

(a) in case of a person having income from business or profession,—

(i) on or before the due date specified under section 263(1) for furnishing the returns of income for such tax year;

(ii) such option, once exercised, shall apply to subsequent tax years;

(iii) such option, once exercised, may be withdrawn only once for a tax year other than the tax year for which it was exercised; and

(iv) after such withdrawal, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession, and in such a case the option under clause (b) shall be available;

(b) in case of a person not having income from business or profession, along with the return of income to be furnished under section 263(1) for the tax year.

(5) In case of a person, having a Unit in the International Financial Services Centre, who has exercised the option under sub-section (4) for any tax year from 2020-21 to 2023-24, the provisions of sub-section (2) shall be modified to the extent that deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

202.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BACare as under:

Tax on income of individuals [34]**[, Hindu undivided family and others].**

115BAC. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being an individual or a Hindu undivided family, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021 [35][but before the 1st day of April, 2024], shall, at the option of such person, be computed at the rate of tax given in the following Table, if the conditions contained in sub-section (2) are satisfied, namely:—

TABLE

Sl. No.	*Total income*	*Rate of tax*
(1)	*(2)*	*(3)*

1.	Upto Rs. 2,50,000	*Nil*
2.	From Rs. 2,50,001 to Rs. 5,00,000	5 per cent
3.	From Rs. 5,00,001 to Rs. 7,50,000	10 per cent
4.	From Rs. 7,50,001 to Rs. 10,00,000	15 per cent
5.	From Rs. 10,00,001 to Rs. 12,50,000	20 per cent
6.	From Rs. 12,50,001 to Rs. 15,00,000	25 per cent
7.	Above Rs. 15,00,000	30 per cent:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of this Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year:

Provided further that where the option is exercised under clause (*i*) of sub-section (5) , in the event of failure to satisfy the conditions contained in sub-section (2) , it shall become invalid for subsequent assessment years also and other provisions of this Act shall apply for those years accordingly.

[36][*(1A) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being an individual or Hindu undivided family or association of persons (other than a co-operative society) , or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2, other than a person who has exercised an option under sub-section (6) ,—*

(i) for any previous year relevant to the assessment year beginning on the 1st day of April, 2024, shall be computed at the rate of tax given in the following Table, namely:—

TABLE

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	*Upto Rs. 3,00,000*	Nil
2.	*From Rs. 3,00,001 to Rs. 6,00,000*	*5 per cent*
3.	*From Rs. 6,00,001 to Rs. 9,00,000*	*10 per cent*
4.	*From Rs. 9,00,001 to Rs. 12,00,000*	*15 per cent*
5.	*From Rs. 12,00,001 to Rs. 15,00,000*	*20 per cent*
6.	*Above Rs. 15,00,000*	*30 per cent;*

*(*ii) *for any previous year relevant to the assessment year beginning on* [37]**[**or after**]** *the 1st day of April, 2025, shall be computed at the rate of tax given in the following Table, namely:—*

TABLE

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	*Upto Rs. 3,00,000*	Nil
2.	*From Rs. 3,00,001 to Rs. 7,00,000*	*5 per cent*
3.	*From Rs. 7,00,001 to Rs. 10,00,000*	*10 per cent*
4.	*From Rs. 10,00,001 to Rs. 12,00,000*	*15 per cent*
5.	*From Rs. 12,00,001 to Rs. 15,00,000*	*20 per cent*
6.	*Above Rs. 15,00,000*	*30 per cent.*]

Following clause (*iii*) shall be inserted after clause (*ii*) of sub-section (1A) of section 115BAC by the Finance Act, 2025, w.e.f. 1-4-2026:

(iii) *for any previous year relevant to the assessment year beginning on or after the 1st April, 2026, shall be computed at the rate of tax given in the following Table, namely:—*

TABLE

S. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	*Upto Rs. 4,00,000*	Nil
2.	*From Rs. 4,00,001 to Rs. 8,00,000*	*5 per cent*
3.	*From Rs. 8,00,001 to Rs. 12,00,000*	*10 per cent*
4.	*From Rs. 12,00,001 to Rs. 16,00,000*	*15 per cent*
5.	*From Rs. 16,00,001 to Rs. 20,00,000*	*20 per cent*
6.	*From Rs. 20,00,001 to Rs. 24,00,000*	*25 per cent*
7.	*Above Rs. 24,00,000*	*30 per cent.*

[38][(2) For the purposes of sub-section (1A) , the total income of the person referred to therein, shall be computed—

(*i*) without any exemption or deduction under the provisions of clause (*5*) or clause (*13A*) or prescribed under clause (*14*) (other than those as may be prescribed for this purpose) or clause (*17*) or clause (*32*) , of section 10 or section 10AA or clause (*ii*) or clause (*iii*) of section 16 or clause (*b*) of section 24 [in respect of the property referred to in sub-section (2) of section 23] or clause (*iia*) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of section 80CCD or sub-section (2) of section 80CCH or section 80JJAA;]

(*ii*) without set off of any loss,—

(*a*) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*i*) ;

(*b*) under the head "Income from house property" with any other head of income;

(*iii*) by claiming the depreciation, if any, under any provision of section 32, except clause (*iia*) of sub-section (1) of the said section, determined in such manner as may be prescribed; and

(*iv*) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

(3) The loss and depreciation referred to in clause (*ii*) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021:

[39][**Provided further** that in a case where,—

(*i*) the assessee has not exercised the option under sub-section (5) for any previous year relevant to the assessment year beginning on or before the 1st day of April, 2023;

(*ii*) the income-tax on the total income of the assessee is computed under sub-section (1A) ; and

(*iii*) there is a depreciation allowance in respect of a block of assets which has not been given full effect prior to the assessment year beginning on the 1st day of April, 2024,

corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2023 in the manner as may be prescribed.]

[40][(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA,—

(*i*) who has exercised option under sub-section (5) for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021 but before the 1st day of April, 2024;

(*ii*) whose total income is computed under sub-section (1A) ,

the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the meaning assigned to it in clause (*zc*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .]

(5) Nothing contained in this section shall apply unless option is exercised in the prescribed manner by the person,—

(*i*) having income from business or profession, on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, and such option once exercised shall apply to subsequent assessment years;

(*ii*) having income other than the income referred to in clause (*i*) , alongwith the return of income to be furnished under sub-section (1) of section 139 for a previous year relevant to the assessment year:

Provided that the option under clause (*i*) , once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section, except where such person ceases to have any income from business or profession in which case, option under clause (*ii*) shall be available:

[41-42][**Provided further** that the provisions of this sub-section shall not apply for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024.]

[41-42][(6) Nothing contained in sub-section (1A) shall apply to a person where an option is exercised by such person, in the manner as may be prescribed, for any assessment year, and such option is exercised,—

(*i*) on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for such assessment year, in case of a person having income from business or profession, and such option once exercised shall apply to subsequent assessment years; or

(*ii*) along with the return of income to be furnished under sub-section (1) of section 139 for such assessment year, in case of a person not having income referred to in clause (*i*) :

Provided that the option under clause (*i*) , once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession in which case, option under clause (*ii*) shall be available.]

202.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 202 of the Bill provides for a simplified tax regime for individuals, Hindu undivided families and other specified persons. The clause corresponds to section 115BAC of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

202.4 Important Views/Suggestions given by Experts/Stakeholders:

Important suggestions/ comments received by various stakeholders and experts summarised as under:

i. The phraseology in Section 202(1) may cause it to prevail over special rates prescribed in Sections 207-211 of ITB 2025, leading to potential issues for non-resident taxpayers. Rectify by making Section 202 of ITB 2025 subject to Part A, B, C, D, and E of Chapter XIII or the entire Chapter XIII except Section 202.

ii. It is proposed to allow a deduction for interest on housing loan taken for the purpose of acquiring, construction, repairing, renewal or reconstruction of self-occupied property under the default tax regime. This will support the Government objectives of “Housing for All” and fostering home ownership.

iii. Finance Act 2023 has extended the new concessional tax regime as per Section 115BAC of the Act to all non-corporate taxpayers i.e association of persons, body of individuals, artificial juridical person However, language of section 115BAC (1A) of the Act, does not explicitly include trusts, which are assessed under separate provisions of the Act Thus, it is imperative to clarify that trusts are also eligible for concessional tax regime To amend Section 115BAC(1A) to explicitly include trusts for the purpose of concessional tax regime.

iv. It is suggested that deduction u/s 126 i.e premium paid for keeping medical insurance policy for self and family members and/or medical expenditure incurred be allowed as a deduction even for assessees opting for section 202 in order encourage such tax payers to continue their mediclaim policy by paying premium, considering limited affordable healthcare facilities in the country (ii) It is suggested that a separate deduction be introduced under Chapter VIII of the Income-tax Bill, 2025 to allow the expenditure on the education of girl children both under the default tax regime under section 202 and under the optional tax regime Furthermore, the deduction should cover a broader spectrum of educational expenses (including expenses for pursuing professional accounting education) beyond just tuition fees and contribution to Sukanya Samriddhi Scheme (iii) It is suggested that the threshold limit above which surcharge is attracted be suitably increased under the default tax regime under section 202. (i) Under section 126, premium paid towards medical insurance for family members is allowed as deduction from gross total income Till the time subsidized medical/health care facilities are available to all taxpayers, it may be considered that at least medical insurance premium paid for family members allowable as deduction u/s 126 be allowed u/s 202 It would continue to encourage all taxpayers including the taxpayers paying tax under the default tax regime to keep their mediclaim policy alive to secure the health of the family members (ii) Presently, only tuition fees paid to educational institutions and contribution to Sukanya Samriddhi Scheme are eligible for deduction under Section 123 Section 123 is available only where an individual opts out of the default tax regime There is a need for a separate and enhanced deduction specifically for expenses incurred on the education of girl children, both under the default tax regime and the optional tax regime (iii) The Income-Tax Bill, 2025 has rationalized the tax slabs and the corresponding rates of taxes under the default tax regime under section 202 However, there is no change in the threshold of total income for attracting surcharge Since the total income computed under the default tax regime under section 202 would always be higher than the total income

computed under the regular provisions of the Act, the threshold for attracting surcharge should also be higher under the default tax regime.

202.5 Examination by the Committee:

The response of the Ministry corresponding to the above suggestions are given as under

i. The application of Section 115BAC of the Income-tax Act, 1961 is subject to provisions of chapter XII of the said Act. While incorporating said provision in the Bill, there is inconsistency in referring to provisions which were contained in Chapter XII of the Income-tax Act, 1961 in the corresponding provisions of Income-Tax Bill, 2025.Such reference is missing in Clauses 199 to clause 204 as well. Therefore, reference of 'subject to clause 207, 208, 209, 210, 211 and Clause 377 of Part B to Chapter XVII' may also be inserted in Clauses 199 to clause 204.It is a drafting correction and may be considered acceptable.

ii. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

iii. Stakeholder seeks extension of the new tax regime under clause 202 to trusts. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The trusts or registered non profit organisation have beneficial provisions in the form of exemption under the Act/Bill. So extending concessional regime to trust has no rationale. Therefore, the suggested amendment is not feasible.

iv. Stakeholder seeks extension of deduction u/s 126 i.e premium paid for keeping medical insurance policy for self and family members and/or medical expenditure incurred be allowed as a deduction even for assessees opting for new tax regime under clause 202. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-

vis I T Act, 1961. The new regime under section 11BAC/clause 202 provides a concessional tax regime at lower rate without specified exemptions and deduction. Further, the assessee has option to opt for old tax regime if intend to claim other deductions and it is beneficial to him/her. Therefore, the suggested amendment is not feasible.

202.6 Observations/Recommendations of the Committee:

Upon careful consideration of the proposal under Clause 202, along with the views and suggestions of stakeholders and the rationale provided by the Ministry of Finance, the Committee is of the view that the proposed provisions are, in principle, acceptable.

The Committee, however, note that while the Income-Tax Bill, 2025 broadly corresponds to Section 115BAC of the Income-Tax Act, 1961, there is a drafting oversight in the Bill. Specifically, Clause 202(1) omits a reference to Part A, B, C, D, and E of Chapter XIII, which prescribes special regimes for certain income. The Ministry of Finance has explained that this is a drafting correction and has accepted the suggestion to insert a reference to "Part A, B, C, D, and E of Chapter XIII" under Clause 202(1) .

Therefore, the Committee accept the proposed Clause 202 subject to the following modification:

To insert a reference to "Part A, B, C, D, and E of Chapter XIII" under Clause 202(1) .

This modification will clarify that the new regimes under Clause 202 are subject to the special regimes under Part A, B, C, D, and E of Chapter XIII, thereby aligning the provisions with the policy intent of the existing Section 115BAC.

Clause-203.Tax on income of certain resident co-operative societies

203.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act but subject to the provisions of Part A, B and this Part, other than section 204, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a co-operative society resident in India, in respect of the total income of such person computed in the following manner:—

(a) without any deduction under—

(i) Chapter VIII other than the provisions of section146;or

(ii) sections specified in section 205(1) (a) to (g) ;

(b) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (a) .

(2) Where a person fails to satisfy the requirements contained in sub-section (1) in any tax year, the option shall become invalid in respect of the said tax year and subsequent tax years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent tax years.

(3) The loss and depreciation referred to in clause (b) of sub-section (1) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent tax year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under this section, the requirements contained in sub-section (1) shall be modified to the extent that the deduction under section 147 shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under section263(1) for furnishing the return of income and such option once exercised shall apply to subsequent tax years.

(6) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

203.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BADare as under:

Tax on income of certain resident co-operative societies.

115BAD. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, 41-42[other than those mentioned under section 115BAE,] the income-tax payable in respect of the total income of a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the option of such person, be computed at the rate of twenty-two per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in computing its income in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the total income of the co-operative society shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iii) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in such manner as may be prescribed, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5) , the conditions contained in sub-section (2) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the meaning assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .

(5) Nothing contained in this section shall apply unless option is exercised by the person in such manner as may be prescribed on or before the due date specified

under sub-section (1) of section 139 for furnishing the return of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

203.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 203 of the Bill provides for the (optional) concessional tax rate applicable to co-operative societies other than those covered under clause 204, if they do not claim specific deductions. The clause corresponds to section 115BAD of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

203.4 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 203 under examination and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable.The Committee recommend retaining Clause 203 as it stands, noting that it corresponds to Section 115BAD of the Income-Tax Act, 1961, and simplifies the text without changing its policy intent or benefits for co-operative societies.

Clause- 204. Tax on income of certain new manufacturing co-operative societies

204.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act but subject to the provisions of PartA,B and thisPart other than section 203, the income-tax payable in respect of the total income of an assessee, being a co-operative society, resident in India, engaged in the business of manufacture or production of any article or thing,shall at the option of such assessee, be computed at the rates specified in column A of the said Table, if the conditions contained in column B thereof are fulfilled.

Total income and rate of tax	Conditions
A	B
(*a*) 15% on the total income other than the income mentioned in clauses (*b*) , (*c*) and (*d*) ; (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to	Such co-operative society— (*a*) exercises the option in the manner provided in sub-section (*2*) ; (*b*) has been set-up and registered on or after the 1st April, 2023; and (*c*) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024; and (*d*) the total income of which is computedas per the provisions ofsub-section (*3*) ; and (*e*) fulfils all the conditions

manufacturing or production of an article or thing; and (*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so undersection 205 (*4*) .	provided in section 205(*2*) .

(2) The option under this section shall be exercised by the assessee in the manner as prescribed subject to the following conditions:—

(a) it shall be exercised on or before the due date specified under section 263(1) for furnishing the first of the returns of income for any tax year; and

(b) such option, once exercised, shall apply to subsequent tax years;

(c) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year;

(d) where the assessee fails to fulfil the conditions contained in sub-section (1) (Table: Sl. No. 1. B) in any tax year,—

(i) the option shall become invalid in respect of the tax year and subsequent tax years; and

(ii) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (1) , the total income of the assessee shall be computed,—

(a) without any deduction under—

(i) Chapter VIII other than the provisions of section 146; or

(ii) sections specified in 205(1) (a) to (g) ;

(b) without set off of any loss carried forward or depreciation from earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (a) .

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (3) (b) be shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

204.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BAEare as under:

[Tax on income of certain new manufacturing co-operative societies.

115BAE. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BAD, the income-tax payable in respect of the total income of an assessee, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall, at the option of such assessee, be computed at the rate of fifteen per cent if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the assessee includes any income, which has neither been derived from nor is incidental to, manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income:

Provided further that the income-tax payable in respect of the income, of the assessee deemed so under the second proviso to sub-section (4) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income, being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the assessee fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the assessee as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the co-operative society has been set-up and registered on or after the 1st day of April, 2023, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.— For the purposes of sub-clause (ii) , any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of machinery or plant by the person.

Explanation 2.— Where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, for the purposes of sub-clause (ii) , the condition specified therein shall be deemed to have been complied with;

(b) the assessee is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.— For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include a business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf;

(c) the total income of the assessee has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iii) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Where it appears to the Assessing Officer that, owing to the close connection between the assessee to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee.

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2024, and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year shall not be allowed to be withdrawn for the same or any other previous year.]

204.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 204 of the Bill provides for an incentivised tax rate of 15% on the manufacturing income of new manufacturing co-operative societies subject to satisfaction of certain conditions. The clause corresponds to section 115BAE of the Act. Table have been provided in this clause to do away with multiple explanations and provisos in section 115BAE of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

204.4 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 204, including the views/suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. Therefore, the Committee recommend retaining Clause 204 in its present form, noting that it corresponds to Section 115BAE of the Income-Tax Act, 1961, and simply simplifies the text while retaining its policy intent to provide an incentivised 15% tax rate for new manufacturing co-operative societies.

Clause -205- Conditions for tax on income of certain companies and co-operative societies

205.1 Provision proposed in the Income-Tax Bill, 2025:

(1) For the purposes of sections 199(1) (c) (i) (C) , 200(1) (a) (iii) , 201(3) (a) (iii) , 203(1) (a) (ii) and 204(3) (a) (ii) , the total income shall be computed without any deduction or exemption, under the following provisions:—

(a) section 33(8) , determined in such manner, as prescribed;

(b) section 45(3) (a) or (b) or (c) ;

(c) section 46;

(d) section 47(1) (a) .;

(e) section 48;

(f) section 49; and

(g) section 144.

(2) For the purposes of section 201or 204, the following conditions shall apply to the assessee:—

(a) its business is not formed by splitting up, or the reconstruction, of a business already in existence, unless it is formed as a result of the re-establishment, reconstruction or revival of the business of any such undertaking as is referred to in section 140(4) in the circumstances and within the period specified in the said section;

(b) it does not use any machinery or plant, previously used for any purpose, other than—

(i) permitted machinery or plant used outside India;

(ii) machinery or plant or any part thereof previously used for any purpose and the total value of such machinery or plant or any part thereof put to use by the assessee does not exceed 20% of the total value of the machinery or plant used by such assessee;

(c) in case of a domestic company, it does not use any building previously used as a hotel or a convention centre, in respect of which deduction under section 80-ID of the Income-Tax Act, 1961 has been claimed and allowed;

(d) it is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it,

and, if any difficulty arises in fulfilling any of the conditions contained in clause (b) or (c) or (d) , the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(3) No guideline under sub-section (2) shall be issued after the expiration of two years from the 1st April,2026.

(4) Every guideline issued by the Board under sub-section (2) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(5) For the purposes of section 201,—

(a) where it appears to the Assessing Officer that, owing to the close connection between the person to which the said section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, then the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take profits as may be reasonably deemed to have

been derived therefrom, and where the said arrangement involves a specified domestic transaction referred to in section 164, profits from such transaction shall be determined having regard to the arm's length price as defined in section 173(a) ; and

(b) the amount, being profits in excess of the profits determined by the Assessing Officer under clause (a) , shall be deemed to be the income of the person and shall be chargeable at the rates specified in section 201(1) [Table: Sl. No. 1.B(d)] or 204 (1) [Table: Sl. No. 1.A(d)],as the case may be.

(6) For the purposes of this Part,—

(a) the business of manufacture or production of any article or thing shall include the business of generation of electricity but shall not include business of—

(i) development of computer software in any form or in any media; or

(ii) mining; or

(iii) conversion of marble blocks or similar items into slabs; or

(iv) bottling of gas into cylinder; or

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(b) the expressions,—

(i) "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (b) and clause (a) of section 80-ID(6) of the Income-Tax Act, 1961;

(ii) "permitted machinery and plant used outside India" means the machinery or plant, which was previously used outside India by any other person, if the following conditions are fulfilled:—

(A) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in

computing the total income of any person for any period before the date of installation of machinery or plant by the person;

(iii) “unabsorbed depreciation” shall have the meaning assigned to it in section 116(13) (e) ;and

(iv) “Unit” shall have the same meaning as assigned to it in section 2(zc) of the Special Economic Zones Act, 2005.

205.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BA, 115BAA, 115BAB, 115BAC, 115BAD, 115BAE are as under:

Tax on income of certain manufacturing domestic companies.

115BA. (1) Notwithstanding anything contained in this Act but subject to the other provisions of this Chapter, other than those mentioned under section 115BAA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall, at the option of such person, be computed at the rate of twenty-five per cent, if the conditions contained in sub-section (2) are satisfied.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of March, 2016;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AC or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AC or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i) ; and

(iii) depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year:

Provided further that where the person exercises option under section 115BAA, the option under this section may be withdrawn.

Tax on income of certain domestic companies.

115BAA. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the total income of the company shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ;

(iii) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iv) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2020.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5) , the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) , or clause (b) of sub-section (2) of said section, such person may exercise option under this section:

Provided further that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Tax on income of new manufacturing domestic companies.

115BAB. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (6) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in the said section;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of sub-clause (ii) , any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (ii) of this clause, the condition specified therein shall be deemed to have been complied with;

(iii) does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.

Explanation.—For the purposes of this sub-clause, the expressions "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (a) and clause (b) of sub-section (6) of section 80-ID;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;

(ii) without set-off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i) .

Explanation.—For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (7) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (2) are continued to be satisfied by such company; and

(iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

Explanation.—For the purposes of clause (b) , the "business of manufacture or production of any article or thing" shall include the business of generation of electricity.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (2) or clause (b) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.

(6) Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.

(7) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Explanation.—For the purposes of section 115BAA and this section, the expression "unabsorbed depreciation" shall have the meaning assigned to it in clause (b) of sub-section (7) of section 72A.

Tax on income of individuals [34]**[, Hindu undivided family and others].**

115BAC. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being an individual or a Hindu undivided family, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021 [35][but before the 1st day of April, 2024], shall, at the option of such person, be computed at the rate of tax given in the following Table, if the conditions contained in sub-section (2) are satisfied, namely:—

TABLE

Sl. No.	*Total income*	*Rate of tax*
(1)	*(2)*	*(3)*
1.	Upto Rs. 2,50,000	*Nil*
2.	From Rs. 2,50,001 to Rs. 5,00,000	5 per cent
3.	From Rs. 5,00,001 to Rs. 7,50,000	10 per cent
4.	From Rs. 7,50,001 to Rs. 10,00,000	15 per cent

5.	From Rs. 10,00,001 to Rs. 12,50,000	20 per cent
6.	From Rs. 12,50,001 to Rs. 15,00,000	25 per cent
7.	Above Rs. 15,00,000	30 per cent:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of this Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year:

Provided further that where the option is exercised under clause (*i*) of sub-section (5) , in the event of failure to satisfy the conditions contained in sub-section (2) , it shall become invalid for subsequent assessment years also and other provisions of this Act shall apply for those years accordingly.

[36][*(1A) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being an individual or Hindu undivided family or association of persons (other than a co-operative society) , or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2, other than a person who has exercised an option under sub-section (6) ,—*

(i) *for any previous year relevant to the assessment year beginning on the 1st day of April, 2024, shall be computed at the rate of tax given in the following Table, namely:—*

TABLE

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)

1.	*Upto Rs. 3,00,000*	Nil
2.	*From Rs. 3,00,001 to Rs. 6,00,000*	*5 per cent*
3.	*From Rs. 6,00,001 to Rs. 9,00,000*	*10 per cent*
4.	*From Rs. 9,00,001 to Rs. 12,00,000*	*15 per cent*
5.	*From Rs. 12,00,001 to Rs. 15,00,000*	*20 per cent*
6.	*Above Rs. 15,00,000*	*30 per cent;*

for any previous year relevant to the assessment year beginning on [37]**[**or after**]** *the 1st day of April, 2025, shall be computed at the rate of tax given in the following Table, namely:—*

(ii)

TABLE

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	*Upto Rs. 3,00,000*	Nil
2.	*From Rs. 3,00,001 to Rs. 7,00,000*	*5 per cent*
3.	*From Rs. 7,00,001 to Rs. 10,00,000*	*10 per cent*
4.	*From Rs. 10,00,001 to Rs. 12,00,000*	*15 per cent*
5.	*From Rs. 12,00,001 to Rs. 15,00,000*	*20 per cent*
6.	*Above Rs. 15,00,000*	*30 per cent.*]

Following clause (*iii*) shall be inserted after clause (*ii*) of sub-section (1A) of section 115BAC by the Finance Act, 2025, w.e.f. 1-4-2026:

(iii) for any previous year relevant to the assessment year beginning on or after the 1st April, 2026, shall be computed at the rate of tax given in the

following Table, namely:—

TABLE

S. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	*Upto Rs. 4,00,000*	Nil
2.	*From Rs. 4,00,001 to Rs. 8,00,000*	*5 per cent*
3.	*From Rs. 8,00,001 to Rs. 12,00,000*	*10 per cent*
4.	*From Rs. 12,00,001 to Rs. 16,00,000*	*15 per cent*
5.	*From Rs. 16,00,001 to Rs. 20,00,000*	*20 per cent*
6.	*From Rs. 20,00,001 to Rs. 24,00,000*	*25 per cent*
7.	*Above Rs. 24,00,000*	*30 per cent.*

[38][(2) For the purposes of sub-section (1A) , the total income of the person referred to therein, shall be computed—

(*i*) without any exemption or deduction under the provisions of clause (*5*) or clause (*13A*) or prescribed under clause (*14*) (other than those as may be prescribed for this purpose) or clause (*17*) or clause (*32*) , of section 10 or section 10AA or clause (*ii*) or clause (*iii*) of section 16 or clause (*b*) of section 24 [in respect of the property referred to in sub-section (2) of section 23] or clause (*iia*) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of section 80CCD or sub-section (2) of section 80CCH or section 80JJAA;]

(*ii*) without set off of any loss,—

(*a*) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*i*) ;

(*b*) under the head "Income from house property" with any other head of income;

(*iii*) by claiming the depreciation, if any, under any provision of section 32, except clause (*iia*) of sub-section (1) of the said section, determined in such manner as may be prescribed; and

(*iv*) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

(3) The loss and depreciation referred to in clause (*ii*) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021:

[39][**Provided further** that in a case where,—

(*i*) the assessee has not exercised the option under sub-section (5) for any previous year relevant to the assessment year beginning on or before the 1st day of April, 2023;

(*ii*) the income-tax on the total income of the assessee is computed under sub-section (1A) ; and

(*iii*) there is a depreciation allowance in respect of a block of assets which has not been given full effect prior to the assessment year beginning on

the 1st day of April, 2024,

corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2023 in the manner as may be prescribed.]

[40][(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA,—

(*i*) who has exercised option under sub-section (5) for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021 but before the 1st day of April, 2024;

(*ii*) whose total income is computed under sub-section (1A) ,

the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the meaning assigned to it in clause (*zc*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .]

(5) Nothing contained in this section shall apply unless option is exercised in the prescribed manner by the person,—

(*i*) having income from business or profession, on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, and such option once exercised shall apply to subsequent assessment years;

(*ii*) having income other than the income referred to in clause (*i*) , alongwith the return of income to be furnished under sub-section (1) of section 139 for a previous year relevant to the assessment year:

Provided that the option under clause (*i*) , once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section, except where such person ceases to have any income

from business or profession in which case, option under clause (*ii*) shall be available:

41-42[**Provided further** that the provisions of this sub-section shall not apply for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024.]

41-42[(6) Nothing contained in sub-section (1A) shall apply to a person where an option is exercised by such person, in the manner as may be prescribed, for any assessment year, and such option is exercised,—

(*i*) on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for such assessment year, in case of a person having income from business or profession, and such option once exercised shall apply to subsequent assessment years; or

(*ii*) along with the return of income to be furnished under sub-section (1) of section 139 for such assessment year, in case of a person not having income referred to in clause (*i*) :

Provided that the option under clause (*i*) , once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession in which case, option under clause (*ii*) shall be available.]

Tax on income of certain resident co-operative societies.

115BAD. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, 41-42[other than those mentioned under section 115BAE,] the income-tax payable in respect of the total income of a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the

option of such person, be computed at the rate of twenty-two per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in computing its income in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the total income of the co-operative society shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iii) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in such manner as may be prescribed, if the option under sub-section (5) is

exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5) , the conditions contained in sub-section (2) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the meaning assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .

(5) Nothing contained in this section shall apply unless option is exercised by the person in such manner as may be prescribed on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

[Tax on income of certain new manufacturing co-operative societies.

115BAE. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BAD, the income-tax payable in respect of the total income of an assessee, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall, at the option of such assessee, be computed at the rate of fifteen per cent if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the assessee includes any income, which has neither been derived from nor is incidental to, manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of

twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income:

Provided further that the income-tax payable in respect of the income, of the assessee deemed so under the second proviso to sub-section (4) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income, being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the assessee fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the assessee as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(a) the co-operative society has been set-up and registered on or after the 1st day of April, 2023, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.— For the purposes of sub-clause (ii) , any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of machinery or plant by the person.

Explanation 2.— Where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, for the purposes of sub-clause (ii) , the condition specified therein shall be deemed to have been complied with;

(b) the assessee is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.— For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include a business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf;

(c) the total income of the assessee has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and

(iii) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Where it appears to the Assessing Officer that, owing to the close connection between the assessee to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee.

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2024, and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year shall not be allowed to be withdrawn for the same or any other previous year.]

[**Tax on income of certain new manufacturing co-operative societies.**

115BAE. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BAD, the income-tax payable in respect of the total income of an assessee, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall, at the option of such assessee, be computed at the rate of fifteen per cent if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the assessee includes any income, which has neither been derived from nor is incidental to, manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income:

Provided further that the income-tax payable in respect of the income, of the assessee deemed so under the second proviso to sub-section (4) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income, being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the assessee fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the assessee as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1) , the following conditions shall apply, namely:—

(*a*) the co-operative society has been set-up and registered on or after the 1st day of April, 2023, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and,—

(*i*) the business is not formed by splitting up, or the reconstruction, of a business already in existence;

(*ii*) does not use any machinery or plant previously used for any purpose.

Explanation 1.— For the purposes of sub-clause (*ii*) , any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(*A*) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(*B*) such machinery or plant is imported into India from any country outside India; and

(*C*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of machinery or plant by the person.

Explanation 2.— Where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, for the purposes of sub-clause (*ii*) , the condition specified therein shall be deemed to have been complied with;

(*b*) the assessee is not engaged in any business other than the business of

manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.— For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include a business of,—

(*i*) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf;

(*c*) the total income of the assessee has been computed,—

(*i*) without any deduction under the provisions of section 10AA or clause (*iia*) of sub-section (1) of section 32 or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(*ii*) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*i*) ; and

(*iii*) by claiming the depreciation, if any, under section 32, other than clause (*iia*) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in sub-clause (*ii*) of clause (*c*) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Where it appears to the Assessing Officer that, owing to the close connection between the assessee to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (*ii*) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee.

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2024, and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year shall not be allowed to be withdrawn for the same or any other previous year.]

205.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 205 of the Bill provides for the conditions for the concessional rate of taxes applicable under clauses 199, 200, 201, 203 and 204. The clause

corresponds to same or similar provisions across sections 115BA, 115BAA, 115BAB, 115BAD and 115BAE of the Act which have been consolidated in the clause.

205.4 Examination by the Committee:

Regarding clarification sought on Clause 205(5)'s phrase "more than ordinary profits" align consistently with Clause 152 and other special pricing rules in the Bill, the Ministry in its written reply stated as under:

> The phraseology used in clause 205(5) pertaining to income deemed due to arrangements producing "more than ordinary profits" in respect of section 201 and section 204 is as per the extant provisions of section 115BAB and 115BAE. So it is consistent with the provisions of the I T Act.

205.4 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 205 under examination, including the justification given by the Ministry of Finance, find the proposed provisions appropriate and reasonable. The Committee recommend to accept Clause 205 as proposed. The Clause consolidates and streamlines conditions previously contained in sections 115BA, 115BAA, 115BAB, 115BAD, and 115BAE of the Income-Tax Act, 1961, thereby providing greater clarity and ease of application. Further, the Committee note that there are references to the IT Act, 1961 in the proposed clause, which deviates from the intention of the Committee for a clean break of the Income-Tax Bill, 2025 from the IT Act, 1961. The committee are of the view that the clause referencing to 1961 will make the reading unwieldy and therefore the Committee recommend that the Ministry remove this reference from the proposed provisions under clause 205 of the Income-tax Bill, 2025, and instead incorporate it under the Repeal and Saving provisions under Clause 536.

D.—Special provisions relating to minimum alternate tax and alternate minimum tax

Clause-206-.Special provision for minimum alternate tax and alternate minimum tax.

206.1 Provision proposed in the Income-Tax Bill, 2025:

206. (*1*) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee, referred to in column B of Table, the income-tax payable on the total income as computed under this Act in respect of a tax year is less than the percentage referred to in column C of the said Table of book profit in the case of a company or of adjusted total income in any other case, computed as per the provisions of Note to the said Table, then—–

(*a*) such book profit in the case of a company or such adjusted total income in any other case shall be deemed to be the total income of that assessee for such tax year; and

(*b*) the tax payable on such total income shall be at the rate provided in column C of the said Table.

Sl. No.	Assessee	Percentageof book profit or adjusted total income
A	B	C
1.	A company, other than a unit as referred to against serial number 2.	15% of book profit.
2.	A unit, being a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9%of book profit.
3.	A person, other than—	18.5% of adjusted total income.

	(a) a company; (b) a co-operative society; (c) a unit as referred to against serial number 4.	
4	A unit, being a person other than a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9%of adjusted total income.
5	A co-operative society.	15%of adjusted total income.

.

A	B	C
	(*i*) the amount or amounts set aside as provision for diminution in the value of any asset, if any such amount is debited to the statement of profit and loss; (*j*) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset, if any such amount is not credited to the statement of profit and loss; and (*k*) such amounts mentioned in column C of the Table under sub-section (*4*) , in case of an assessee mentioned in column B of the said Table.	

(3) For the purposes of this section, every company shall prepare its statement of profit and loss for the relevant tax year in the following manner:—

(a) if it is an insurance or banking company, or a company engaged in the generation or supply of electricity, or any other class of company for which a form of financial statement has been specified under the enactment governing such class of company, as per the provisions of such enactment;

(b) in all other cases, as per the provisions of Schedule III to the Companies Act, 2013.

(4) While computing the book profit under sub-section (2) , the following amounts shall be further adjusted:—

S. No.	Assessee	Amounts (to be increased)	Amount (to be decreased)
A	B	C	D
1.	A company being a member of association of persons or body of individuals	The amount or amounts of expenditure relatable to income referred to in Note if any such amount is debited to the statement of profit and loss	Income referred to in Note if any such amount is credited to the statement of profit and loss.

Note : Income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable as per the provisions of section 310.

2.	A foreign company	The amount or amounts of expenditure	Income referred to in Note , if such income is credited

		relatable to income referred to in Note ,if any such amount is debited to the statement of profit and loss.	to the statement of profit and loss.

A	B	C	D

Note: Income, accruing or arising to an assessee from—

(*a*) the capital gains arising on transactions in securities; or

(*b*) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XIII,

if the income-tax payable thereon as per the provisions of this Act, other than the provisions of this Part, is at a rate less than the rate specified in sub-section (*1*) .

3.	A company, which has transferred any capital asset, being share of a special purpose vehicle to a business	Amount referred to in Note,if any such amount is debited to the statement of profit and loss.	Amount referred to in Note, if any such amount is credited to the statement of profit and loss.

	trust		

Note: The amount representing—

(*a*) the notional loss on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in section 70(*1*) (*zi*) ; or

(*b*) the notional loss resulting from any change in carrying amount of the said units; or

(*c*) the loss on transfer of units referred to in section 70(*1*) (*zi*) .

4.	A company, which has transferred any capital asset, as referred to against serial number 3	Gain on transfer of units referred to in Note	Loss on transfer of units referred to in Note.

Note: Units referred to in section 70(*1*) (*zi*) , computed by taking into account the cost of the shares exchanged with units referred to in the said clause, or the carrying amount of the shares at the time of exchange, where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be.

5.	Where total income includes	The amount or amounts of expenditure	Income by way of such royalty.

	income by way of royalty in respect of a patent which is chargeable to tax under section 194(*1*) (Table: Sl. No. 2) .	relatable to such royalty income, if any such amount is debited to the statement of profit and loss	

A	B	C	D
6.	A company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has after suspension of the Board of	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.

	Directors of such company has nominated new directors under section 242 of the said Act		
7.	A company against whom corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.
8.	A sick industrial company under section 17(*1*) of the Sick Industrial Companies	*Nil.*	Profits for the tax year in which the such company has become a sick industrial company and ending with the tax year during

	(Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003		which the entire net worth of such company becomes equal to or exceeds the accumulated losses.
A	B	C	D
9.	A company whose financial statements are drawn up in compliance with the Indian Accounting Standards, specified in Annexure to the Companies (Indian Accounting	(*a*) All amounts credited to the statement of profit and loss as referred in Note 1; (*c*) the amounts or aggregate of the amounts debited to the statement of profit and loss on distribution as referred in Note 2; (*c*) one-fifth of the transition amount, in the year of	(a) All amounts debited to the statement of profit and loss as referred in Note 1; (*b*) the amounts or aggregate of the amounts credited to the statement of profit and loss on distribution as referred in Note 2; (*c*) one-fifth of the transition amount, in the year of convergence and

Standards) Rules, 2015 made under the Companies Act, 2013.	convergence and each of the following four tax years, if such amount is not decreased; (*d*) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not decreased; (*e*) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not decreased.	each of the following four tax years, if such amount is not increased; (*d*) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not increased; (*f*) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not increased.

Note 1: Other comprehensive income in the statement of profit and loss under the head “Items that will not be re-classified to profit or loss”, excluding—

(*i*) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(*ii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109; and

the amount or the aggregate of the amounts referred to in

clause (*a*) (*i*) and (*ii*) for the tax year or any of the preceding tax years, and relatable to such asset or investment, in the tax year in which the said asset or investment referred to in clause (*a*) is retired, disposed, realised or otherwise transferred.

Note 2: on distribution of non-cash assets to shareholders in a demerger as per Appendix A of the Indian Accounting Standards 10.

Note 3: sub-section (*19*) (*f*) (*ii*) to (*v*) relatable to such asset or investment, in the tax year in which the asset or investment referred to in such sub-clauses is retired, disposed, realised or otherwise transferred.

Note 4: sub-section (*19*) (*f*) (*ii*) to (*v*) relatable to such foreign operations, in the tax year in which the foreign operation referred to in such sub-clause is disposed or otherwise transferred.

of a country or a specified territory with which India has an agreement referred to in section 159(1) or the Central Government has adopted any agreement under section 159(2) and the assessee does not have a permanent establishment (5) In case of a person, being a company, while preparing the annual accounts including statement of profit and loss,—

(a) the accounting policies;

(b) the accounting standards adopted for preparing such accounts including statement of profit and loss; and

(c) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss and laid before the company at its annual general meeting as per the provisions of section 129 of the Companies Act, 2013, or correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including statement of profit and loss for, such financial year or part of such financial year falling within the relevant tax year,

where the company has adopted or adopts the financial year under the which is different from the tax year under this Act.

(6) The provisions of this section shall not be applicable to any assessee, being a foreign company, where—

(a) the assessee is a resident in India as per the provisions of such agreement; or

(b) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (a) and the assessee is not required to seek registration under any law in force relating to companies; or

(c) its total income comprises solely of profits and gains from business referred to in section 61(2) (Table: Sl. Nos. 1, 3, 4 and 5) , and such income has been offered to tax at the rates specified in the respective sections.

(7) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from the values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(8) In the case of an assessee being a company, where—

(a) there is an increase in book profit of the tax year due to income of past year or years included in the book profit on account of—

(i) an advance pricing agreement entered into by the assessee under section 168; or

(ii) a secondary adjustment required to be made under section 170; and

(b) the assessee has not utilised the credit of tax paid under this section in any subsequent tax year under sub-section (13) ,

the Assessing Officer shall, on an application made to him in this behalf by the assessee,––

(i) recompute the book profit of the past year or years and tax payable, if any, by the assessee during the tax year under sub-section (1) in such manner, as prescribed; and

(ii) the provisions of section 287 shall, so far as may be, apply and the period of four years specified in sub-sections(7) and (8) of that section shall be reckoned from the end of the tax year in which the said application is received by the Assessing Officer.

(9) Irrespective of anything contained in any other provisions of this Act, no interest shall be payable to an assessee on the refund arising on account of the provisions of sub-section (8) .

(10) In the case of an assessee being a company, nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant tax year to be carried forward to the subsequent year or years under the provisions of—

(a) section 33(11) ; or

(b) section 111; or

(c) section 112(1) ; or

(d) section 113; or

(e) section 115.

(11) Every assessee to which this section applies, shall furnish a report in the prescribed form from an accountant, certifying that the book profit in the case of a company, or adjusted total income in any other case, has been computed as per the provisions of this section—

(a) before the specified date referred to in section 63; or

(b) along with the return of income furnished in response to a notice under section 268(1) in the case of an assessee being a company.

(12) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee mentioned in this section.

(13) Where any tax is paid under sub-section (1) by an assessee, then, credit shall be allowed to him of an amount which shall be the difference of the tax paid for any tax year under sub-section (1) and tax payable by the assessee on his total income computed as per the other provisions of this Act.

(14) While allowing credit under sub-section (13) ,—

(a) no interest shall be payable on the tax credit so allowed; and

(b) where tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 159(1) or (2) , allowed against the tax payable under the provisions of sub-section (1) exceeds such tax credit admissible against the tax payable by the assessee on its income as per the other provisions of this Act, then, while computing the credit under sub-section (13) , such excess amount shall be ignored.

(15) Tax credit determined under sub-section (13) shall be carried forward and—

(a) set off in a year, when tax becomes payable on the total income computed as per the provisions of this Act exceeds tax determined under sub-section (1) ; and

(b) such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (1) for that tax year,

and such carry forward shall not be allowed beyond the fifteenth tax year immediately succeeding the tax year in which the tax credit becomes allowable under sub-section (13) .

(16) Where as a result of any order passed under this Act, tax payable under this Act is reduced or increased, tax credit allowed under sub-section (13) shall also be increased or reduced accordingly.

(17) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008, the provisions of this section shall not apply to the successor limited liability partnership.

(18) The provisions of this section shall not apply to—

(a) a person, being a company having income accruing or arising from life insurance business referred to in section 194(1) (Table: Sl. No. 6) ; or

(b) a person, who has exercised the option under—

(i) section 200(5) ; or

(ii) section 201(2) ; or

(iii) section 203(5) ; or

(iv) section 204(2) ; or

(c) a person, whose income-tax payable in respect of the total income of such person is computed under section 202(1) ; or

(d) an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in section 2(77) (g) , if the adjusted total income of such person does not exceed twenty lakh rupees; or

(e) any specified fund referred to in Schedule VI (Note 1) .

(19) In this section,—

(a) “Adjudicating Authority” shall have the same meaning as assigned to it in section 5(1) of the Insolvency and Bankruptcy Code, 2016;

(b) “convergence date” means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(c) “net worth” shall have the meaning assigned to it in section 3(1) (ga) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003;

(d) “private company” and “unlisted public company” shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008;

(e) “securities” shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956;

(f) “transition amount” means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date, but not including the following:—

(i) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(ii) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(iii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109 adjusted on the convergence date;

(iv) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost as per paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(v) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost as per paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(vi) adjustments relating to cumulative translation differences of a foreign operation as per paragraph D13 of the Indian Accounting Standards 101 on the convergence date.

(g) “Tribunal” shall have the same meaning as assigned to it in section 2(90) of the Companies Act, 2013;

(h) “Unit” means a unit established in an International Financial Services Centre;

(i) “year of convergence” means the tax year within which the convergence date falls; and

(j) a company shall be a subsidiary of another company, if such other company holds more than half in the nominal value of equity share capital of the company.

206.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115JB,115JC, 115JD, 115JE, 115JEE and 115JFare as under :

Special provision for payment of tax by certain companies.

115JB. (1) Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012, is less than

eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of eighteen and one-half per cent:

Provided that for the previous year relevant to the assessment year commencing on or after the 1st day of April, 2020, the provisions of this sub-section shall have effect as if for the words "eighteen and one-half per cent" occurring at both the places, the words "fifteen per cent" had been substituted.

(2) Every assessee,—

(a) being a company, other than a company referred to in clause (b) , shall, for the purposes of this section, prepare its statement of profit and loss for the relevant previous year in accordance with the provisions of Schedule III to the Companies Act, 2013 (18 of 2013) ; or

(b) being a company, to which the second proviso to sub-section (1) of section 129 of the Companies Act, 2013 (18 of 2013) is applicable, shall, for the purposes of this section, prepare its statement of profit and loss for the relevant previous year in accordance with the provisions of the Act governing such company:

Provided that while preparing the annual accounts including statement of profit and loss,—

(i) the accounting policies;

(ii) the accounting standards adopted for preparing such accounts including statement of profit and loss;

(iii) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss and laid before the company at its annual general meeting in accordance with the provisions of section 129 of the Companies Act, 2013 (18 of 2013) :

Provided further that where the company has adopted or adopts the financial year under the Companies Act, 2013 (18 of 2013) , which is different from the previous year under this Act,—

(i) the accounting policies;

(ii) the accounting standards adopted for preparing such accounts including statement of profit and loss;

(iii) the method and rates adopted for calculating the depreciation,

shall correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including statement of profit and loss for such financial year or part of such financial year falling within the relevant previous year.

Explanation 1.—For the purposes of this section, "book profit" means the profit as shown in the statement of profit and loss for the relevant previous year prepared under sub-section (2) , as increased by—

(a) the amount of income-tax paid or payable, and the provision therefor; or

(b) the amounts carried to any reserves, by whatever name called, other than a reserve specified under section 33AC; or

(c) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(d) the amount by way of provision for losses of subsidiary companies; or

(e) the amount or amounts of dividends paid or proposed ; or

(f) the amount or amounts of expenditure relatable to any income to which section 10 (other than the provisions contained in clause (38) thereof) or section 11 or section 12 apply; or

(fa) the amount or amounts of expenditure relatable to income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; or

(fb) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1) ; or

(fc) the amount representing notional loss on transfer of a capital asset, being share of a special purpose vehicle, to a business trust in exchange of units allotted by the trust referred to in clause (xvii) of section 47 or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (xvii) of section 47; or

(fd) the amount or amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF; or

(g) the amount of depreciation,

(h) the amount of deferred tax and the provision therefor,

(i) the amount or amounts set aside as provision for diminution in the value of any asset,

(j) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset,

(k) the amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss as the case may be;

if any amount referred to in clauses (a) to (i) is debited to the statement of profit and loss or if any amount referred to in clause (j) is not credited to the statement of profit and loss, and as reduced by,—

(i) the amount withdrawn from any reserve or provision (excluding a reserve created before the 1st day of April, 1997 otherwise than by way of a debit to the statement of profit and loss) , if any such amount is credited to the statement of profit and loss:

Provided that where this section is applicable to an assessee in any previous year, the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn)

under this Explanation or Explanation below the second proviso to section 115JA, as the case may be; or

(ii) the amount of income to which any of the provisions of section 10 (other than the provisions contained in clause (38) thereof) or section 11 or section 12 apply, if any such amount is credited to the statement of profit and loss; or

(iia) the amount of depreciation debited to the statement of profit and loss (excluding the depreciation on account of revaluation of assets) ; or

(iib) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in clause (iia) ; or

(iic) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any, such amount is credited to the statement of profit and loss; or

(iid) the amount of income accruing or arising to an assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if such income is credited to the statement of profit and loss and the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1) ; or

(iie) the amount representing,—

(A) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or

(B) notional gain resulting from any change in carrying amount of said units; or

(C) gain on transfer of units referred to in clause (xvii) of section 47,

if any, credited to the statement of profit and loss; or

(iif) the amount of loss on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be; or

(iig) the amount of income by way of royalty in respect of patent chargeable to tax under section 115BBF; or

(iih) the aggregate amount of unabsorbed depreciation and loss brought forward in case of a—

(A) company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 (18 of 2013) has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government under section 242 of the said Act;

(B) company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) .

Explanation.—For the purposes of this clause,—

(i) "Adjudicating Authority" shall have the meaning assigned to it in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) ;

(ii) "Tribunal" shall have the meaning assigned to it in clause (90) of section 2 of the Companies Act, 2013 (18 of 2013) ;

(iii) a company shall be a subsidiary of another company, if such other company holds more than half in the nominal value of equity share capital of the company;

(iv) "loss" shall not include depreciation; or

(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account in case of a company other than the company referred to in clause (iih) .

Explanation.—For the purposes of this clause,—

(a) the loss shall not include depreciation;

(b) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil; or

(iv) to (vi) [***]

(vii) the amount of profits of sick industrial company for the assessment year commencing on and from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) ; or

(viii) the amount of deferred tax, if any such amount is credited to the statement of profit and loss.

Explanation 2.—For the purposes of clause (a) of Explanation 1, the amount of income-tax shall include—

(i) any tax on distributed profits under section 115-O or on distributed income under section 115R;

(ii) any interest charged under this Act;

(iii) surcharge, if any, as levied by the Central Acts from time to time;

(iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and

(v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.

Explanation 3.—For the removal of doubts, it is hereby clarified that for the purposes of this section, the assessee, being a company to which the second proviso to sub-section (1) of section 129 of the Companies Act, 2013 (18 of 2013) is applicable, has, for an assessment year commencing on or before the 1st day of April, 2012, an option to prepare its statement of profit and loss for the relevant previous year either in accordance with the provisions of Schedule III to the Companies Act, 2013 (18 of 2013) or in accordance with the provisions of the Act governing such company.

Explanation 4.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

(i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or

(ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) and the assessee is not required to seek registration under any law for the time being in force relating to companies.

Explanation 4A.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in those sections.

Explanation 5.—For the purposes of sub-section (2) , the expression "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) .

(2A) For a company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit as computed in accordance with Explanation 1 to sub-section (2) shall be further—

(a) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(b) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(c) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(d) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10:

Provided that nothing contained in clause (a) or clause (b) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—

(i) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(ii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:

Provided further that the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment.

(2B) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(2C) For a company referred to in sub-section (2A) , the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one-fifth of the transition amount:

Provided that the book profit of the previous year in which the asset or investment referred to in sub-clauses (B) to (E) of clause (iii) of the Explanation is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be,

by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such asset or investment:

Provided further that the book profit of the previous year in which the foreign operation referred to in sub-clause (F) of clause (iii) of the Explanation is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clause relatable to such foreign operations.

Explanation.—For the purposes of this sub-section, the expression—

(i) "year of convergence" means the previous year within which the convergence date falls;

(ii) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(iii) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date but not including the following:—

(A) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(B) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(C) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(D) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(E) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(F) adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.

(2D) In the case of an assessee being a company, where there is an increase in book profit of the previous year due to income of past year or years included in the book profit on account of an advance pricing agreement entered into by the assessee under section 92CC or on account of secondary adjustment required to be made under section 92CE, the Assessing Officer shall, on an application made to him in this behalf by the assessee, recomputed the book profit of the past year or years and tax payable, if any, by the assessee during the previous year under sub-section (1) , in such manner as may be prescribed and the provisions of section 154 shall, so far as may be, apply and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer:

Provided that the provisions of this sub-section shall apply only if the assessee has not utilised the credit of tax paid under this section in any subsequent assessment year under section 115JAA:

Provided further that the provisions of this sub-section shall also apply to an assessment year beginning on or before the 1st day of April, 2020 and notwithstanding anything contained in any other provisions of this Act, no interest shall be payable to such assessee on the refund arising on account of the provisions of this sub-section.

(3) Nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (2) of section 32 or sub-section (3) of section 32A or clause (ii) of sub-section (1) of section 72 or section 73 or section 74 or sub-section (3) of section 74A.

(4) Every company to which this section applies, shall furnish a report in the prescribed form from an accountant as defined in the Explanation below sub-section (2) of section 288, certifying that the book profit has been computed in accordance with the provisions of this section before the specified date referred to in section 44AB or along with the

return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142.

(5) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.

(5A) The provisions of this section shall not apply to,—

(i) any income accruing or arising to a company from life insurance business referred to in section 115B;

(ii) a person who has exercised the option referred to under section 115BAA or section 115BAB.

(6) The provisions of this section shall not apply to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be:

Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012.

(7) Notwithstanding anything contained in sub-section (1) , where the assessee referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (1) shall have the effect as if for the words "eighteen and one-half per cent" wherever occurring in that sub-section, the words "nine per cent" had been substituted.

Explanation.—For the purposes of this sub-section,—

(a) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) ;

(b) "unit" means a unit established in an International Financial Services Centre;

(c) "convertible foreign exchange" means a foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the

purposes of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules made thereunder.

Special provisions for payment of tax by certain persons other than a company.

115JC. (1) Notwithstanding anything contained in this Act, where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

(2) Adjusted total income referred to in sub-section (1) shall be the total income before giving effect to this Chapter as increased by—

(i) deductions claimed, if any, under any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes";

(ii) deduction claimed, if any, under section 10AA; and

(iii) deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.

(3) Every person to whom this section applies shall obtain a report, before the specified date referred to in section 44AB, in such form as may be prescribed, from an accountant referred to in the Explanation below sub-section (2) of section 288, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report by that date.

(4) Notwithstanding anything contained in sub-section (1) , where the person referred to therein, is a—

(i) unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (1) shall have effect as if for the words "eighteen and one-half per cent", the words "nine per cent" had been substituted;

(ii) co-operative society, the provisions of sub-section (1) shall have effect as if for the words "eighteen and one-half per cent", the words "fifteen per cent" had been substituted.

47[(5) The provisions of this section shall not apply to a person, where—

(i) such person has exercised the option referred to in sub-section (5) of section 115BAC or sub-section (5) of section 115BAD or sub-section (5) of section 115BAE; or

(ii) income-tax payable in respect of the total income of such person is computed under sub-section (1A) of section 115BAC.]

Tax credit for alternate minimum tax.

115JD. (1) The credit for tax paid by a person under section 115JC shall be allowed to him in accordance with the provisions of this section.

(2) The tax credit of an assessment year to be allowed under sub-section (1) shall be the excess of alternate minimum tax paid over the regular income-tax payable of that year:

Provided that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India under section 90 or section 90A or section 91, allowed against the alternate minimum tax payable, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.

(3) No interest shall be payable on tax credit allowed under sub-section (1) .

(4) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-sections (5) and (6) but such carry forward shall not be allowed beyond the fifteenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable under sub-section (1) .

(5) In any assessment year in which the regular income-tax exceeds the alternate minimum tax, the tax credit shall be allowed to be set off to the extent

of the excess of regular income-tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

(6) If the amount of regular income-tax or the alternate minimum tax is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under this section shall also be varied accordingly.

[48][(7) The provisions of this section shall not apply to a person, where—

(*i*) such person has exercised the option referred to in sub-section (5) of section 115BAC or sub-section (5) of section 115BAD or sub-section (5) of section 115BAE; or

(*ii*) income-tax payable in respect of the total income of such person is computed under sub-section (1A) of section 115BAC.]

Application of other provisions of this Act.

115JE. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to a person referred to in this Chapter.

Application of this Chapter to certain persons.

115JEE. (1) The provisions of this Chapter shall apply to a person who has claimed any deduction under—

(*a*) any section (other than section 80P) included in Chapter VI-A under the heading *"C.—Deductions in respect of certain incomes";* or

(*b*) section 10AA; or

(*c*) section 35AD.

(2) The provisions of this Chapter shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2, if the adjusted total income of such person does not exceed twenty lakh rupees.

(2A) The provisions of this Chapter shall not apply to specified fund referred to in clause (*c*) of the *Explanation* to clause (*4D*) of section 10.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) , the

credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD.

Interpretation in this Chapter.

115JF. In this Chapter—

(*a*) "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288;

(*b*) "alternate minimum tax" means the amount of tax computed on adjusted total income,—

(*i*) in case of an assessee being a unit referred to in clause (*i*) of sub-section (4) of section 115JC, at the rate of nine per cent;

(*ia*) in case of an assessee, being a co-operative society referred to in clause (*ii*) of sub-section (4) of section 115JC, at the rate of fifteen per cent;

(*ii*) in any other case, at a rate of eighteen and one-half per cent;

(*ba*) "convertible foreign exchange" means a foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules made thereunder;

(*bb*) "International Financial Services Centre" shall have the meaning assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) ;

(*c*) [***]

(*d*) "regular income-tax" means the income-tax payable for a previous year by a person on his total income in accordance with the provisions of this Act other than the provisions of this Chapter;

(*e*) "unit" means a unit established in an International Financial Services Centre.

206.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 206 of the Bill provides for provisions relating to taxation on book profits and deals with minimum alternate tax and alternate minimum tax. The clause is a combination of Section 115JB which pertains to MAT and Sections 115JC, 115JD, 115JE, 115JEE, 115JF of the Act which pertains to AMT. The provisions have been consolidated in a tabular format along with relevant note for the purposes of computation. This was provided for better clarity and ease of understanding. (further, on inputs of stakeholder it is proposed to separate the provisions of MAT and AMT) [The clause is proposed to be amended to restrict AMT applicability to taxpayers claiming specified deductions, to allow for setting off AMT credit in years where taxpayer is excluded from AMT scope and to allow for AMT provisions for companies converted to LLPs, to ensure conformity with the provisions of the Act].

206.4 Important Views/Suggestions given by Experts/Stakeholders:

Important suggestions given by stakeholders/Experts are as under:

I. On Clause 206(1) regarding Clarification and Drafting Revisions on Clause 206(1) – Treatment and Scope of MAT & AMT under ITB 2025

   i. Clause 206 does not have a provision corresponding to section 115JEE (1) . In the absence of aforesaid provision, all eligible entities [e.g. individuals, firms, limited liability partnerships (LLPs)], would be liable to alternate minimum tax (AMT) irrespective of whether any deduction has been claimed under the specified sections. This may adversely impact such taxpayers by possibly increasing the effective tax rate on capital gains from 12.5% to 18.5%.

ii. Only non-corporate taxpayers opting for the new regime are insulated from AMT levy. AMT can trigger incremental tax liability for other noncorporate taxpayers not claiming specified deductions. AMT levy also applies to non-residents.

iii. Under the Income-Tax Act, 1961 (ITA) , non-corporate taxpayers are not liable to the Alternate Minimum Tax (AMT) levy if: · (i) The taxpayer has not claimed any of the specified deductions under Section 10AA, Section 35AD, or Part C of Chapter VI-A of the Act; and · (ii) The taxpayer is an individual, HUF, AOP, BOI, or AJP whose adjusted total income (ATI) , as defined under the ITA, 1961, does not exceed Rs 20 lakhs. b Condition (a) of the existing Act provides that the provisions of AMT are applicable only if a person has claimed deductions under Section 10AA, Section 35AD, or Part C of Chapter VI-A This implies that if deductions are claimed under any other sections or parts of Chapter VI-A, the AMT provisions would not apply. c Condition (b) of the existing Act provides that AMT provisions are not applicable if the person is an individual, HUF, AOP, BOI, or AJP, and has adjusted total income not exceeding Rs 20 lakhs. d In the new bill, through the introduction of Clause 206(18) (d) , only the second condition — relating to the income limit.

II. <u>Drafting Correction to Clause 206(2) – Exclusion of Pre-1997 Reserves from MAT Computation</u>

i. To claim the MAT exclusion, both conditions need to be fulfilled. If the reserve was created before April 1, 1997, by debit to P&L, it was not possible to increase the book profit as MAT provisions were not applicable during that period. Sub-clause (ii) should not be applicable to reserves created before April 1, 1997, by debit to P&L, so that withdrawal from such reserves is not subjected to the requirement of increasing book profit in the past year.

ii. In Sub-section (2) , in the formula I and R may represent as follows: I - amounts mentioned in column B of Table below, if such amount is debited to the statement of profit and loss R = amounts mentioned in column C of said Table, if such amount is credited to the statement of profit and loss. Consequently, such words “if any such amount is debited to the statement of

profit and loss” can be removed from the point (a) to (j) in column B and the words “is credited to he statement of profit and loss” from (a) to (e) in column C. Further, in this Table, Column A may be deleted since there is only (1) in the Sl. No. Further, point (k) can be removed from this table since it is in relation to those adjustments separately stated in sub-section (4) . Also, point (f) can be stated as a note below the Table. This suggestion is for avoiding repetition of words.

III. Clarification on Inclusion of Surcharge in MAT Credit Computation under Clause 206(3)

i. It may be clarified whether surcharge should be considered while computing the credit, and similarly, whether the credit eligible for set-off in the year of utilization is inclusive or exclusive of surcharge. Controversy has arisen in the past regarding how to compute credit while comparing regular tax and MAT, particularly whether to include surcharge on either side— especially in the year of seeking setoff.

IV. On Clause 206(4)

i. The last part of the clauses causes circularity and ambiguity. Amend column C to refer to a positive transition amount or gain on retirement, disposal, realisation, or transfer of the revalued asset. Amend column D to refer to a negative transition amount or loss on disposal of the revalued asset.

ii. Under the existing provisions of the ITA, 1961, an upward as well as downward adjustment to the book profit is required to be made in the case of notional gains and notional losses These notional gains/notional losses are on account of transfer of capital asset being share of special purpose vehicle to a business trust in exchange of units allotted by that trust. b Under the ITB, 2025 adjustments in relation to notional losses are kept intact but there is no

provision for adjustment of notional gain This leads to an ambiguity about whether adjustment for only notional losses would be allowed or notional gains are assumed to be incorporated in it. This omission means that notional gains on the transfer of SPV shares to a business trust, or on the fair valuation of units, are not accounted for in the downward adjustments This could potentially lead to an unfair tax burden on the sponsor of the business trust Creating such a liability for the promoters could undermine the attractiveness of using a business trust as a vehicle. Moreover, there does not appear to be any clear rationale for such a policy change. The anomaly seems to be unintended. A provision for adjustment in respect of such gains should be introduced, similar to the existing provision for adjustment in respect of losses. It is recommended that the ITB 2025 be amended to include a specific provision for the reduction of notional gains on the transfer of SPV shares to a business trust, to ensure fair and consistent tax treatment for the sponsors of business trusts.

- No specific provision to exclude notional gain either at the time of transfer of shares of SPV to business trust or on a year-on-year basis till the date of transfer of units. Include a specific downward adjustment for notional gain in Section 206(4) to avoid double taxation of MAT on notional and actual gain on units of business trust.
- Include a specific downward adjustment for notional gain in Clause 206(4) to avoid double taxation of MAT on notional and actual gain on units of business trust. No specific provision to exclude notional gain either at the time of transfer of shares of SPV to business trust or on a year-on-year basis till the date of transfer of units which implies double taxation. Also, not in line with existing provisions.

ITA 1961 provides specific provisions for deferral of capital gains tax on transfer of shares of Special Purpose Vehicle (SPV) by a sponsor to a business trust in exchange of units allotted by said trust to the stage of subsequent transfer of such units Correspondingly, the computation of ‘book

profit' for s.115JB of ITA 1961 excludes gain or loss at the stage of exchange of shares against units of business trust, and any subsequent fair valuation gain or loss of the said units At the stage of subsequent transfer of units of business trust, the computation of 'book profit' determines the gains on such transfer with reference to the cost of shares The Bill has not incorporated exclusion in Note for notional gain in line with existing provisions which seems intended.

iii. Corrections to Table Below Section 206(4) of ITB 2025 – Textual Edits and Clause Reference Alignment

In table below section 206(4) , the following changes are suggested: a. In column D, against serial number 8, after which 'the' be deleted. b. In note 1 reference to clause (a) (i) and (ii) needs correction as there is no such clause.

iv. In place of the terms credited/debited to the statement of profit and loss terms "credited/debited to other comprehensive income in the statement of profit and loss" may be used.

V. <u>On Inclusion of Cost Accountants for Certification under Section 206(11) of ITB 2025</u>

i. Every assessee to which this section applies, shall furnish a report in the prescribed form from a chartered accountant in practice or cost accountant in practice, certifying that the book profit in the case of a company, or adjusted total income in any other case, has been computed as per the provisions of this section— (a) before the specified date referred to in section 63; or (b) along with the return of income furnished in response to a notice under section 268(1) in the case of an assessee being a company. In the curriculum of CMA, all the provisions related to calculation of tax are included in detail. So, cost accountants may be equally eligible to certify such statements or issue such types of certificates. (Keeping in mind that CMAs are well-versed

in tax laws, it seems reasonable to consider them eligible for such certification; the Ministry of Finance may evaluate and decide appropriately.

VI. On correction of Anomaly in Section 206(17) of ITB 2025 Regarding AMT Liability of Successor LLP

i. This relieves the successor LLP from the entire AMT liability under Section 206 of ITB 2025, which seems to be an unintentional drafting error.Correct the anomaly so that the successor LLP remains liable to AMT under ITB 2025, while denying MAT credit of the predecessor company. Restore the position under ITA 1961 in ITB 2025 to avoid policy changes.

VII. On allowing Cost Accountants to Furnish Reports under Section 21(b) of ITB 2025

i. 206 21(b) furnishes, before the specified date referred to in sections 63, the report of a chartered accountant in practice or cost accountant in practice, in the prescribed form, duly signed and verified by such chartered accountant in practice or cost accountant in practice. Cost accountants are adequately qualified to prepare and certify such types of reports. Hence the cost accountants may be allowed to furnish such reports.

VIII. On clarification of Transition Amount Reporting under Revaluation Provisions to Avoid Circularity and Ambiguity (Columns C & D)

i. Amend column C to refer to a positive transition amount or gain on retirement, disposal, realisation, or transfer of the revalued asset. Amend column D to refer to a negative transition amount or loss on disposal of the revalued asset. The last part of the clauses causes circularity and ambiguity.

IX. On restriction of Alternate Minimum Tax (AMT) and MAT Rates on Long-Term Capital Gains to 12.5% Under Income-Tax Bill, 2025

i. AMT on long term capital gains should be restricted to 12.5% and not 18.5% .
(1) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee, referred to in column B of Table, the income-tax payable on the total income as computed under this Act in respect of a tax year is less than the percentage referred to in column C of the said Table of book profit in the case of a company or of adjusted total income in any other case, computed as per the provisions of Note to the said Table, then– (a) such book profit in the case of a company or such adjusted total income in any other case shall be deemed to be the total income of that assessee for such tax year; and (b) the tax payable on such total income shall be at the following rates: (i) Long term capital gains forming part of total income at 12.5% and (ii) remaining sum of total income at rates provided in column C of the said Table.
(2) With a regime of tax law having a very skeletal set of 'tax.

ii. MAT on long-term capital gains should be restricted to 12.5% and not 15%.
1) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee, referred to in column B of Table, the income-tax payable on the total income as computed under this Act in respect of a tax year is less than the percentage referred to in column C of the said Table of book profit in the case of a company or of adjusted total income in any other case, computed as per the provisions of Note to the said Table, then–
(a) such book profit in the case of a company or such adjusted total income in any other case shall be deemed to be the total income of that assessee for such tax year; and
(b) the tax payable on such total income shall be at the following rates:
(i) Long term capital gains forming part of total income at 12.5% and

(ii) remaining sum of total income at rates provided in column C of the said Table.

206.5 Examination by the Committee:

The corresponding written responses received from the Ministry of Finance on the above suggestions made by stakeholders are as under:

I. On Clause 206(1) regarding Clarification and Drafting Revisions on Clause 206(1) – Treatment and Scope of MAT & AMT under ITB 2025

i. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025. Policy decision taken towards simplification and consolidation of similar provisions in tabular format as far as feasible. Accepted Drafting Corrections. An exception similar to Section 115JEE (3) of ITA 1961 for setting off AMT credit in years where the taxpayer is excluded from AMT scope may be inserted.

II. Drafting Correction to Clause 206(2) – Exclusion of Pre-1997 Reserves from MAT Computation

ii. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. Accepted: Drafting Corrections Clause 206(2) may be amended to include the provision related to 'exclusion of reserves created before April 1, 1997' for sub-clause (ii) as well.

iii. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025. This is in the nature of drafting suggestion. The intent of the section nor the provisions have been changed and the Clause is consistent with the drafting in the IT Act. However, the suggestion may be considered.

III. Clarificaon on Inclusion of Surcharge in MAT Credit Computation under

Clause

i. The proposed provisions are similar to the provisions in Income-tax Act, 1961. So, other than simplification of language to make the bill concise and easy to comprehend, no new policy change has been proposed in the Income-Tax Bill, 2025. The provisions of the Act are clear in that "tax" includes surcharge. The Hon'ble Supreme Court in CIT v. K. Srinivasan [83 ITR 346] held that the expression "income tax" includes surcharge whenever provided in the Act. Therefore, the comparison of tax under normal provisions and tax under MAT includes surcharge. The generation of MAT credit and its subsequent setting off are determined accordingly. This was upheld by judicial rulings as well. The suggestion made by the stakeholder is already addressed.

IV. On 206(4)

i. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act. It appears that the provisions in the IT Act, 1961 have been reproduced faithfully in the ITB, 2025 and there is no change. The suggestion has no merits.

ii. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective apart from this drafting error. ACCEPTED: This is in the nature of drafting correction In Table in 206(4) , the Note in S. No 3, reference to notional gain as referred to in (iie) of the Explanation of section 115JB of the Act which is credited to the P&L statement may be inserted.

iii. The proposed provisions are similar to the provisions in Income-tax Act, 1961 except for this drafting error. (i) This is in the nature of drafting correction. The word "the" may be deleted in Si.No 8. (ii) This is in the nature of drafting correction. The phrase "(i) and (ii) " may be deleted in Note 1

iv. This is in the nature of drafting suggestion. The intent of the section nor the provisions have been changed and the Clause is consistent with the drafting in the IT Act. . However, the suggestion may be considered.

V. On Inclusion of Cost Accountants for Certification under Section 206(11) of ITB 2025

i. The suggestion made by the stakeholder to incorporate "cost accountants" is not in line with the provisions of the IT Act 1961. This is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

VI. On correction of Anomaly in Section 206(17) of ITB 2025 Regarding AMT Liability of Successor LLP

i. The proposed provision is similar to the parallel provision in Income-tax Act, 1961. No new provisions or policy change has been proposed in the Income-Tax Bill, 2025. The applicability of the provisions of 115 JAA (7) may be limited to the applicability of MAT and not for AMT.

VII. On allowing Cost Accountants to Furnish Reports under Section 21(b) of ITB 2025

i. The suggestion made by the stakeholder to incorporate "cost accountants" is not in line with the provisions of the IT Act 1961. This is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

VIII. On clarification of Transition Amount Reporting under Revaluation Provisions to Avoid Circularity and Ambiguity (Columns C & D)

i. It appears that the provisions in the IT Act, 1961 have been reproduced faithfully in the ITB, 2025 and there is no change. The suggestion has no merits.

IX. <u>On restriction of Alternate Minimum Tax (AMT) and MAT Rates on Long-Term Capital Gains to 12.5% Under Income-Tax Bill, 2025</u>

i. It is suggested that the AMT provisions on Long term capital gains must be restricted to a rate of 12.5% or completely eliminate AMT provisions. AMT is calculated on total income. Head wise income is not considered for its purposes. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

206.5.2 <u>On the issue whether surcharge would be included for computation of Minimum Alternate Tax, the ministry during the sitting deposed as under:</u>

"*The issue is that whether surcharge would be included for computation of MAT – Minimum Alternate Tax. So, we are saying that the provisions are quite clear that tax includes surcharge and it has also been so decided by the Supreme Court that Income Tax includes surcharge whenever provided in the Act. So, comparison of tax under normal provisions and under MAT, they include surcharge. बेसिकली MAT कम्प्यूटेशन में यह होता है कि प्रॉफिट के हिसाब से MAT कितना आया, प्लस नॉर्मल कम्प्यूटेशन से टैक्स कितना आया? टैक्स पर सरचार्ज लगना है और MAT पर भी सरचार्ज, सेस ऐड हो जाता है। जो भी ग्रेटर है, उसे पे करना पड़ता है। अगर MAT ग्रेटर है, तो MAT पे करना पड़ता है। अगर नॉर्मल टैक्स ग्रेटर है, तो नॉर्मल टैक्स पे करना पड़ता है। दोनों में ही सरचार्ज है। वही मैं एक्सप्लेन कर रहा था। एक तरफ सरचार्ज नहीं जुड़ रहा है। Tax plus surcharge is compared to MAT plus surcharge. सेक्शन 115(J)(a) जब आया था, तब केवल सेक्शन ही इंट्रोड्यूस किया था, अलग से एक्ट नहीं आया था। आप पर्पज़ के बारे में बिल्कुल ठीक कह रहे हैं। ज़ीरो टैक्स कंपनियाँ थीं, जो*

डिविडेंड दे रही थीं, उन पर कुछ टैक्स लाइबिलिटी लाने के लिए बुक प्रॉफिट पर उनको 17 प्रतिशत टैक्स डिमार्केट कर दिया था। जब हम क्रेडिट या एक्सेस एक्युमुलेशन की बात करते हैं, तो अगर उधर सरचार्ज और सेस ऐड हो रहा है, तो इधर सरचार्ज और सेस ऐड होना है, और उनका डिफरेंस ही क्यूमुलेटव कन्ज़्यूम होता है। इसमें किसी के लिए कुछ नेगेटिव नहीं है।"

206.6Observations/Recommendations of the Committee:

In view of the deliberations with various stakeholders and experts, and taking into account the detailed submissions and justification given by the Ministry of Finance, the Committee concur with the broad intent and direction of Clause 206 of the Income-tax Bill, 2025 (ITB 2025), particularly in relation to the consolidation and simplification of provisions concerning Minimum Alternate Tax (MAT) and Alternate Minimum Tax (AMT). However, the Committee also note the substantive concerns raised by multiple stakeholders regarding the potential unintended consequences arising from the omission of safeguards and exemptions earlier available under Section 115JEE of the ITA, 1961, as well as the absence of express provision for adjustment of notional gains in the computation of MAT under Clause 206(4), and the drafting anomalies concerning surcharge treatment, pre-1997 reserves, and the liability of successor LLPs under AMT. While many of these issues are categorised by the Ministry as drafting corrections, the Committee are of the view that incorporation of these clarifications within the Bill text would strengthen legal certainty and reduce avoidable litigation.

Accordingly, to remove any ambiguity and ensure legal continuity with the legislative intent of the Income-tax Act, 1961 (ITA), the Committee recommend the redrafting of Clause 206 of the Income-tax Bill, 2025 (ITB) as follows:

Clause 206(1): Clarification on Scope of AMT for Non-Corporates

A new sub-clause may be inserted to clarify that AMT shall not apply to individuals, HUFs, AOPs, BOIs, or AJPs if:

(a) They have not claimed deductions under Section 10AA, Section 35AD, or Chapter VI-A (Part C), and

(b) Their adjusted total income does not exceed ₹20 lakhs.

A provision similar to Section 115JEE(3) of the ITA, allowing the carry-forward and set-off of AMT credit even in years where AMT is not applicable, may also be included.

Clause 206(2): Exclusion for Pre-1997 Reserves & Table Refinements

A proviso may be added to exempt reserves created before 1 April 1997 (by debit to profit and loss) from MAT adjustments, as MAT was not applicable during that time.

Further technical edits to the adjustment Table are recommended:

- **Remove redundant text regarding debit/credit to profit and loss.**
- **Delete Column A (serial number), remove point (k), and restate point (f) as a footnote to avoid duplication**.

Clause 206(3): Inclusion of Surcharge in MAT Credit

An Explanation may be inserted clarifying that "tax" includes surcharge and cess, both for determining MAT credit and its set-off—consistent with judicial precedent (*CIT v. K. Srinivasan*, 83 ITR 346).

206(4): Downward Adjustment for Notional Gains & Minor Corrections

- **Allow a downward adjustment for notional gains on transfer of SPV shares to a business trust in exchange for units, as per Explanation (iie) to Section 115JB.**
- **Correct minor drafting errors in the Table (e.g., remove redundant "the", fix clause references in Note 1, and update language to refer to "other comprehensive income").**

Clause 206(17): AMT Applicability for Successor LLPs

Clarify that AMT liability shall apply to the successor LLP post-conversion, but MAT credit of the predecessor company shall not be carried forward—thereby restoring the position under the ITA, 1961.

These modifications are essential to ensure that ITB 2025 remains consistent with established tax policy under the ITA, 1961, removes drafting ambiguities, and safeguards against unintended consequences. The revised provisions strike a balanced approach between simplification, legal clarity, and fairness, while reducing scope for disputes.

E.—Special provisions relating to non-residents and foreign companies

Clause-207. Tax on dividends, royalty and technical service fees in case of foreign companies

207.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The income-tax payable on the total income of a non-resident (not being a company) ora foreign company, which includes any income specified in the column B of the Table below, shall be the aggregate of income-tax specified in the column C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend [other than dividends specified against serial number 2.	20%
2.	Dividend received from a unit in an International Financial Services Centre.	10%
3.	Interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency not being interest referred to against serial numbers 4 and 5.	20%
4.	Interest received from an infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46) .	5%
5.	Interest of the nature and extent referred toin section 393(2) (Table: Sl. No. 2) ,	Rates specified in

	(Table: Sl. No.3 and 4) .	section 393(*2*) (Table: Sl. No. 2, 3 and4) .
6.	Distributed income being interest referred to in section 393(*2*) (Table: Sl. No. 6) .	Rate specified in section 393(*2*) (Table: Sl. No. 6) .
7.	Income received in respect of units, purchased in foreign currency, of a Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21) or of the Unit Trust of India.	20 %
A	B	C
8.	Total income as reduced by income referred to against serial numbers 1 to 7.	Income-tax chargeable on such income.

(2) Where the total income of a non-resident (not being a company) or of a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made after the 31st March,1976, other than income referred to in section 59(1) , and—

(a) the agreement is approved by the Central Government where such agreement is with an Indian concern; or

(b) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, it is as per that policy,

then, subject to the provisions of sub-section (3) , the income-tax payable shall be the aggregate ofincome-tax specified in column C of the Table below:—

Sl. No.	Income	Income-tax payable
A	B	C
1.	Royalty [other than income referred to in section 59(*1*)].	20%
2.	Fees for technical services [other than income referred to in section 59(*1*)].	20%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

(3) Where the royalty referred to in sub-section (2) is in consideration for the transfer or grant of all or any rights (including the granting of a licence) —

(a) in respect of copyright in any book to an Indian concern; or

(b) in respect of any computer software to a person resident in India,

then the provisions of sub-section (2) shall apply in relation to such royalty without application of provisions of clause (a) or(b) of that sub-section.

(4) In this section,—

(a) "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device; or any customised electronic data or any product or service of similar nature as notified by the Board, which is transmitted or exported from India to a place outside India by any means;

(b) "fees for technical services" shall have the meaning assigned to it in section 9;

(c) "royalty" shall have the meaning assigned to it in section 9.

(5) No deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 61 and section 93 for computing income referred to in sub-sections (1) and (2) .

(6) Where the gross total income of an assessee—

(a) consists only of the income referred to in sub-section (1) (Table: Sl. No. 1 to 7) , no deduction shall be allowed under Chapter VIII;

(b) includes any income referred to in sub-section (1) (Table: Sl. No. 1to 7) ,the gross total income shall be reduced by such income and the deduction under Chapter VIIIshall be allowed as if such reduced amount were the gross total income of the assessee;

(7) the provisions of sub-section (6) shall not apply to a deduction allowed to Unit of an International Financial Services Centre under section 147.

(8) It shall not be necessary for an assessee to furnish a return of income under section 263(1) , if—

(a) the total income during the tax year consisted only of income referred to in sub-sections (1) (Table: Sl. No. 1 to 7) and sub-section (2) (Table: Sl. No. 1 and 2) ; and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income at a rate not less than the rate specified in sub-sections (1) and (2) .

207.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115A are as under:

Tax on dividends, royalty and technical service fees in the case of foreign companies.

115A. (1) Where the total income of—

(a) a non-resident (not being a company) or of a foreign company, includes any income by way of—

(i) dividends ; or

(ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency not being interest of the nature referred to in sub-clause (iia) or sub-clause (iiaa) ; or

(iia) interest received from an infrastructure debt fund referred to in clause (47) of section 10; or

(iiaa) interest of the nature and extent referred to in section 194LC; or

(iiab) interest of the nature and extent referred to in section 194LD; or

(iiac) distributed income being interest referred to in sub-section (2) of section 194LBA;

(iii) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India,

the income-tax payable shall be aggregate of—

(A) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty per cent :

26[Provided that the amount of income-tax calculated on the amount of income by way of dividend received from a unit in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, shall be ten per cent;]

(B) the amount of income-tax calculated on the amount of income by way of interest referred to in sub-clause (ii) , if any, included in the total income, at the rate of twenty per cent ;

(BA) the amount of income-tax calculated on the amount of income by way of interest referred to in,—

(i) sub-clause (iia) , if any, included in the total income, at the rate of five per cent;

(ii) sub-clause (iiaa) or sub-clause (iiab) or sub-clause (iiac) , if any, included in the total income, at the rate provided in the respective sections referred to in the said sub-clauses;

(C) the amount of income-tax calculated on the income in respect of units referred to in sub-clause (iii) , if any, included in the total income, at the rate of twenty per cent ; and

(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause (i) , sub-clause (ii) , sub-clause (iia) , sub-clause (iiaa) , sub-clause (iiab) , sub-clause (iiac) and sub-clause (iii) ;

(b) a non-resident (not being a company) or a foreign company, includes any income by way of royalty or fees for technical services other than income referred to in sub-section (1) of section 44DA received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976, and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy, then, subject to the provisions of sub-sections (1A) and (2) , the income-tax payable shall be the aggregate of,—

(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of 27[twenty] per cent;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of 27[twenty] per cent; and

(C) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of income by way of royalty and fees for technical services.

Explanation.—For the purposes of this section,—

(a) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9 ;

(b) "foreign currency" shall have the same meaning as in the Explanation below item (g) of sub-clause (iv) of clause (15) of section 10 ;

(c) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9 ;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) .

(1A) Where the royalty referred to in clause (b) of sub-section (1) is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book to an Indian concern or in respect of any computer software to a person resident in India, the provisions of sub-section (1) shall apply in relation to such royalty as if the words the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy occurring in the said clause had been omitted :

Provided that such book is on a subject, the books on which are permitted, according to the Import Trade Control Policy of the Government of India for the period commencing from the 1st day of April, 1977, and ending with the 31st day of March, 1978, to be imported into India under an Open General Licence :

Provided further that such computer software is permitted according to the Import Trade Control Policy of the Government of India for the time being in force to be imported into India under an Open General Licence.

Explanation 1.—In this sub-section, "Open General Licence" means an Open General Licence issued by the Central Government in pursuance of the Imports (Control) Order, 1955.

Explanation 2.—In this sub-section, the expression "computer software" shall have the meaning assigned to it in clause (b) of the Explanation to section 80HHE.

(2) Nothing contained in sub-section (1) shall apply in relation to any income by way of royalty received by a foreign company from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1976, if such agreement is deemed, for the purposes of the first proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976; and the provisions of the annual Finance Act for calculating, charging, deducting or computing income-tax shall apply in relation to such income as if such income had been received in pursuance of an agreement made before the 1st day of April, 1976.

(3) No deduction in respect of any expenditure or allowance shall be allowed to the assessee under sections 28 to 44C and section 57 in computing his or its income referred to in sub-section (1) .

(4) Where in the case of an assessee referred to in sub-section (1) ,—

(a) the gross total income consists only of the income referred to in clause (a) of that sub-section, no deduction shall be allowed to him or it under Chapter VI-A;

(b) the gross total income includes any income referred to in clause (a) of that sub-section, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee:

Provided that nothing contained in this sub-section shall apply to a deduction allowed to a Unit of an International Financial Services Centre under section 80LA.

(5) It shall not be necessary for an assessee referred to in sub-section (1) to furnish under sub-section (1) of section 139 a return of his or its income if—

(a) his or its total income in respect of which he or it is assessable under this Act during the previous year consisted only of income referred to in clause (a) or clause (b) of sub-section (1) ; and

(b) the tax deductible at source under the provisions of Part B of Chapter XVII has been deducted from such income and the rate of such deduction is not less than the rate specified under clause (a) or, as the case may be, clause (b) of sub-section (1) .

207.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 207 of the Bill provides special rates of taxes for non-residents on certain types of income (like dividends, interest, distributed income, income in respect of units, royalties and fees for technical services).The clause corresponds to Section 115A of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Some of the provisions have been provided in a tabular format for ease of comprehension.

207.4 Important Views/Suggestions given by Experts/Stakeholders:

Important gist of suggestions/ views given by Experts/ stakeholders are as under:

i. It is suggested that the rates of tax on income by way of interest and dividend from business trust, interest from Indian company in respect of money borrowed by it in foreign currency from a source outside India and income by way of interest on certain rupee denominated bonds of an Indian company and municipal debt securities be provided in section 207 itself; and the TDS provisions under section 393 can make a reference to the rates in section 207. It is suggested that point 6 in table 1 of section 207 may be reworded as follows – "distributed income being interest and dividend referred to in section 393(2) (Table: Sl. No. 6) . The TDS provisions under Section 393 may refer to rates specified in Section 207, as TDS is a mechanism for recovering tax on chargeable income. Aligning the structure this way ensures logical consistency and clarity in the relationship between charging and procedural provisions. The business trust has to deduct tax@10% on dividend as per section 393, which should have also been the rate of tax on such income under section 207. However, since Sl No.6 refers to distributed income being interest referred to in

section 393(2) , the rate of tax on dividend received from SPV and distributed by a business trust to its unit holders would become 20%, being the rate of tax applicable for dividend distributed directly by the company to shareholders. To bring consistency rates can be defined here in the section itself.

207.5 Examination by the Committee:

207.5.1 On the suggestion of mentioning the tax rate in charging section rather than referring to TDS section, the committee in its written reply stated as under

"Suggestion seeks to mention tax rate in charging section rather than referring to TDS section. This is in the nature of drafting suggestion. The intent of the section is not changed by referring to the TDS section and this is consistent with the drafting in the IT Act. This suggestion is already addressed. "

207.5.2 Further on the same issue the ministry during the sitting of the select committee deposed as under:

" there is a rate which is mentioned in the TDS provision for certain interest income of the non-resident. Inthe charging section, we have said that the rate as referred to in the TDS section. So, the stakeholder is saying that the we have mentioned the ratein the charging section itself rather than referring to the TDS section. So, for non-resident, the rate of withholding and the rate at which income is taxed, is like mirror to each other. So, we have just provided a reference to the TDS section. So, I think it has been addressed.

207.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 207 under examination, including the views/suggestions of

stakeholders and the justification given by the Ministry of Finance, find the proposed provisions appropriate and reasonable.

The Committee accept Clause 207 as proposed. The Clause corresponds to Section 115A of the Income-Tax Act, 1961, and has been simplified and presented in a tabular format for ease of understanding. Accordingly, the Committee accept the proposed provision.

Clause 208. Tax on income from units purchased in foreign currency or capital gains arising from their transfer

208.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The income-tax payable on the total income of an assessee, being an overseas financial organisation (hereinreferred to as Offshore Fund) , which includes income specified in column B of the Table below,shall be the aggregate of the amount specified in column C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income received in respect of units purchased in foreign currency.	10%
2.	Long-term capital gains arising from the transfer of units purchased in foreign currency.	12.5%
3.	Total income as reduced by income referred to in against serial numbers 1 and 2.	Income-tax chargeable on such income.

(2) Where the gross total income of the Offshore Fund—

(a) consists only of income from units or income by way of long-term capital gains arising from the transfer of units, or both,no deduction shall be allowed to the assessee under sections 26 to 61 or section 93(1) (a) and (e) or under Chapter VIII;

(b) includes any income referred to in clause (a) ,—

(i) the gross total income shall be reduced by such income; and

(ii) the deduction under Chapter VIIIshall be allowed as if the gross total income so reduced were the gross total income of the assessee.

(3) In this section,—

(a) "overseas financial organisation" means any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India,—

(i) which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21) ; and

(ii) such arrangement is approved by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992, for this purpose;

(b) "public financial institution" shall have the same meaning as assigned to it in section 2(72) of the Companies Act, 2013;

(c) "unit" means unit of,—

(i) a mutual fund specified in Schedule VII (Table: Sl. No. 20) or (Table: Sl. No. 20 or 21) ; or

(ii) the Unit Trust of India.

208.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115AB are as under:

Tax on income from units purchased in foreign currency or capital gains arising from their transfer.

115AB. (1) Where the total income of an assessee, being an overseas financial organisation (hereinafter referred to as Offshore Fund) includes—

(a) income received in respect of units purchased in foreign currency; or

(b) income by way of long-term capital gains arising from the transfer of units purchased in foreign currency,

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income in respect of units referred to in clause (a) , if any, included in the total income, at the rate of ten per cent;

28[(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b) , if any, included in the total income,—

(A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and]

(iii) the amount of income-tax with which the Offshore Fund would have been chargeable had its total income been reduced by the amount of income referred to in clause (a) and clause (b) .

(2) Where the gross total income of the Offshore Fund,—

(a) consists only of income from units or income by way of long-term capital gains arising from the transfer of units, or both, no deduction shall be allowed to the assessee under sections 28 to 44C or clause (i) or clause (iii) of section 57 or under Chapter VI-A and nothing contained in the provisions of the second proviso to section 48 shall apply to income referred to in clause (b) of sub-section (1) ;

(b) includes any income referred to in clause (a) , the gross total income shall be reduced by the amount of such income and the deduction under

Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

Explanation.—For the purposes of this section,—

(a) "overseas financial organisation" means any fund, institution, associa-tion or body, whether incorporated or not, established under the laws of a country outside India, which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified under clause (23D) of section 10 and such arrangement is approved by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992 (15 of 1992) , for this purpose;

(b) "unit" means unit of a mutual fund specified under clause (23D) of section 10 or of the Unit Trust of India;

(c) "foreign currency" shall have the meaning as in the Foreign Exchange Management Act, 1999 (42 of 1999) ;

(d) "public sector bank" shall have the meaning assigned to it in clause (23D) of section 10;

(e) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956) ;

(f) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) .

208.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 208 of the Bill provides for special rates of taxes for offshore funds on investments made in foreign currency. The clause corresponds to Section 115AB of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Some of the provisions have been provided in a tabular format for ease of comprehension.

208.4 Observations/Recommendations of the Committee:

The Committee has examined the provisions of Clause 208 and recommend to accept the clause as proposed. The clause is a simplification and retention of the existing Section 115AB of the Income-Tax Act, 1961, with some provisions presented in a tabular format for ease of comprehension. The intent and policy of the original Section 115AB have been maintained in this clause.

Clause- 209. Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer

209.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The income -tax payable, on the total income of an assessee, being a non- resident, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	From interest on— (*a*) bonds of an Indian company issued in accordance with such scheme as notified by the Central Government; or (*b*) bonds of a public sector company sold by the Government, and purchased in foreign currency.	10 %
2.	From dividends on Global Depository Receipts— (*a*) issued as per such scheme as the Central Government may, notified, against the initial issue of shares of an Indian company and purchased in foreign currency through an approved intermediary; or (*b*) issued against the shares of a	10 %

	public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or (*c*) issued or re-issued in accordance with a scheme notified by the Central Government, against the existing shares of an Indian company purchased in foreign currency through an approved intermediary.	
3.	Long-term capital gains arising from the transfer of bonds referred to against serial number 1 or Global Depository Receipts referred to against serial number 2.	12.5%
4.	Total income as reduced by income referred to against serial numbers 1 to 3.	Income-tax chargeable on such income.

(2) Where the gross total income of the non-resident—

(a) consists only of income by way of interest or dividends in respect of—
(i) bonds referred to in sub-section (1) (Table: Sl. No. 1) ; or sub-section (1) ; or
(ii) Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 2) ,no deduction shall be allowed under sections 26 to 61 or section 93(1) (a) or 93(1) (e) or under Chapter VIII;
(b) includes any income referred to in sub-section (1) (Table: Sl. No. 1) to (Table: Sl. No. 3) ,––
(i) the gross total income shall be reduced by the such income; and

(ii) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced, were the gross total income of the assessee.

(3) The provisions of section 72(6) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset being bonds or Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 3) .

(4) It shall not be necessary for a non-resident to furnish a return of his income under section 263(1) , if—

(a) his total income during the tax year consisted only of income referred to in sub-sections (1) (Table: Sl. No. 1) and (Table: Sl. No. 2) ; and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, as per the provisions of sub-section (1) , the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

(6) In this section,—

(a) “approved intermediary” means an intermediary which is approved as per a scheme notified by the Central Government; and

(b) “Global Depository Receipts” shall have the meaning assigned to it in section 190(4) (a) .

209.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

Existing provisions of the Section 115AC are as under :

Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

115AC. (1) Where the total income of an assessee, being a non-resident, includes—

(a) income by way of interest on bonds of an Indian company issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, or on bonds of a public sector company sold by the Government, and purchased by him in foreign currency; or

(b) income by way of dividends on Global Depository Receipts—

(i) issued in accordance with such scheme as the Central Govern-ment may, by notification in the Official Gazette, specify in this behalf, against the initial issue of shares of an Indian company and purchased by him in foreign currency through an approved intermediary; or

(ii) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or

(iii) issued or re-issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, against the existing shares of an Indian company purchased by him in foreign currency through an approved intermediary; or

(iv) [***]

(c) income by way of long-term capital gains arising from the transfer of bonds referred to in clause (a) or, as the case may be, Global Depository Receipts referred to in clause (b) ,

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income by way of interest or dividends, as the case may be, in respect of bonds referred to in clause (a) or Global Depository Receipts referred to in clause (b) , if any, included in the total income, at the rate of ten per cent;

29[(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (c) , if any, included in the total income,—

(A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and]

(iii) the amount of income-tax with which the non-resident would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) , (b) and (c) .

(2) Where the gross total income of the non-resident—

(a) consists only of income by way of interest or dividends in respect of bonds referred to in clause (a) of sub-section (1) or, as the case may be, Global Depository Receipts referred to in clause (b) of that sub-section, no deduction shall be allowed to him under sections 28 to 44C or clause (i) or clause (iii) of section 57 or under Chapter VI-A;

(b) includes any income referred to in clause (a) or clause (b) or clause (c) of sub-section (1) , the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being bonds or Global Depository Receipts referred to in clause (c) of sub-section (1) .

(4) It shall not be necessary for a non-resident to furnish under sub-section (1) of section 139 a return of his income if—

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clauses (a) and (b) of sub-section (1) ; and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, in accordance with the provisions of sub-section (1) , the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

Explanation.—For the purposes of this section,—

(a) "approved intermediary" means an intermediary who is approved in accordance with such scheme as may be notified by the Central Government in the Official Gazette;

(b) "Global Depository Receipts" shall have the same meaning as in clause (a) of the Explanation to section 115ACA.

209.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 209 of the Bill provides for special rates of taxes for non-residents on Global Depository Receipts including income by way of interest, dividend and income on transfer of such Global Depository Receipts. The clause corresponds to Section 115AC of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Some of the provisions have been provided in a tabular format for ease of comprehension.

209.4 Important Views/Suggestions given by Experts/Stakeholders:

Important suggestions received from stakeholders/ experts are as under:

i. In proposed section 209(1) Table serial no 2, in column B after Government 'may' be deleted.

ii. In proposed section 209(2) (a) (i) , 'sub-section (1) ;or' be deleted.

iii. Currently, there is no separate tax framework provided for the GDRs where the underlying securities are units of SEBI registered BTs. Pursuant to regulatory changes, necessary amendments to be introduced to section 2, section 10, section 115AC and section 47 (to the extent dealing with taxability of GDRs) (corresponding sections 2, Schedule V, section 209 and section 70 of the Bill respectively) to even include GDRs which have been created by Overseas Depository Bank (ODB) in IFSC and issued to investors against units of SEBI registered BTs. To amend the definition of GDRs as provided under section 115AC (corresponding section 193 of the Bill) to even include GDRs created by ODBs in IFSC and issued against units of SEBI registered

BT. To amend the provisions of section 115AC (Section 209 of the Bill) to provide for the concessional tax rates for income earned by non-resident investors through the GDRs from the underlying units of SEBI registered BTs (similar tax framework to be provided as currently provided for BTs) .

iv. In column B of table in serial no: 1 and 2 - the word "From" may be deleted. The word “from” in Income from interest and dividend is not required as interest and dividend by themselves are in the nature of income and the heading of column B clearly mentions the same as “Income”.)

209.5 Examination by the Committee:

209.5 The corresponding written responses received from the Ministry of Finance on the above suggestions made by stakeholders are as under:

i. This is in the nature of drafting corrections and suitable changes may be made in clause 209. This is acceptable.

ii. This is in the nature of drafting corrections and suitable changes may be made in clause 209. This is acceptable.

iii. This is a specific change in the definition of GDRs which are presently restricted to underlying assets which are shares or listed company or foreign currency convertible bonds. The widening of this to include units of Business Trusts which are themselves secondary instruments may require further examination in association with stakeholders. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

iv. This is in the nature of drafting suggestion. The intent of the section is not changed by the use of this word. This suggestion is already addressed.

209.6 Observations/Recommendations of the Committee:

The Committee, having carefully considered the proposed provisions under Clause 209, including stakeholder inputs and the rationale provided by the Ministry of Finance, is of the opinion that the provisions are broadly acceptable. The clause prescribedconcessional tax rates for non-residents on income from bonds and Global Depository Receipts (GDRs) purchased in foreign currency and on capital gains arising from their transfer.The Committee, however, note that while the Income-Tax Bill, 2025 broadly corresponds to Section 115AC of the Income-Tax Act, 1961, there are certain drafting oversights in the Bill. The word "From" in column B of Serial 1 and 2 of the table under Clause 209(1) is redundant and may affect clarity. Furthermore, in Clause 209(2) (a) (i) , the expression "sub-section (1) ; or" is unnecessary and should be removed.

Therefore, the Committee accept the provisions under Clause 209 subject to the following modifications:

Remove the word "From" in column B of Serial 1 and 2 of the table under Clause 209(1) .

Remove the expression "sub-section (1) ; or" in Clause 209(2) (a) (i) .

Therefore, the Committee accept the provisions under Clause 209 as proposed subject to the above modifications.

Clause- 210.Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer

210.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The income-tax payable on total income of an assessee, being a specified fund or Foreign Institutional Investor, which includes the income referred to in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	Securities other than units referred to in section 208.	(*a*) 20 % in case of Foreign Institutional Investor; (*b*) 10 % in case of specified fund.
2.	Short-term capital gains (not being short-term capital gains referred to in section 196) arising from the transfer of such securities.	30 %
3.	Short-term capital gains referred to in section 196 arising from the transfer of such securities	20 %
4.	Long-term capital gains (not being long-term capital gains referred to in section 198 arising from the transfer of such securities	12.5 %

5.	Long-term capital gains referred to in section 198 arising from the transfer of such securities which exceeds ₹1,25,000.	12.5 %
6.	Total income as reduced by income referred to against serial numbers 1 to 5.	Income-tax chargeable on such income.

(2) In case of specified fund, provisions of this section shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of such non-resident in India) calculated in the manner as prescribed, irrespective of the provisions of sub-section (1) .

(3) Irrespective of anything contained in sub-section (1) , where the specified fund—

(a) is investment division of an offshore banking unit as specified against serial number 1 of the Table in Schedule III.6; and

(b) fulfills the conditions referred to in clause (g) D(ii) of cell E1 of the Table in Schedule VI (Note 1) ,

the provisions of this section shall apply to the extent of income that is attributable to such investment division, calculated in the manner, as prescribed.

(4) Where the gross total income of the specified fund or Foreign Institutional Investor—

(a) consists only of income in respect of securities referred in sub-section (1) (Table: Sl. No. 1) , no deduction shall be allowed to it under sections 26 to 61 or section 93(1) (a) or (e) or underChapter VIII;

(b) includes any income referred to in sub-section (1) (Table: Sl. No. 1) to (Table: Sl. No. 5) ,––

(i) the gross total income shall be reduced by the amount of such income; and

(ii) the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced, were the gross total income of the specified fund or Foreign Institutional Investor.

(5) The provisions of section 72(6) shall not apply for the computation of capital gains arising out of the transfer of securities referred to in sub-section (1) (Table: Sl. No. 2) to (Table: Sl. No. 5) .

(6) In this section,—

(a) “Foreign Institutional Investor” means an investor so specified in a notification by the Central Government;

(b) “permanent establishment” shall have the meaning assigned to it in section 173(c) ;

(c) “securities” shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956;

(d) “specified fund” shall have the meaning assigned to it in Schedule VI [Note 1]

210.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115AD

Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

115AD. (1) Where the total income of a specified fund or Foreign Institutional Investor includes—

(a) income received in respect of securities (other than units referred to in section 115AB) ; or

(b) income by way of short-term or long-term capital gains arising from the transfer of such securities,

the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the income in respect of securities referred to in clause (a) , if any, included in the total income,—

(A) at the rate of twenty per cent in case of Foreign Institutional Investor;

(B) at the rate of ten per cent in case of specified fund:

Provided that the amount of income-tax calculated on the income by way of interest referred to in section 194LD shall be at the rate of five per cent;

(ii) the amount of income-tax calculated on the income by way of short-term capital gains referred to in clause (b) , if any, included in the total income, at the rate of thirty per cent :

31[Provided that the amount of income-tax calculated on the income by way of short-term capital gains referred to in section 111A shall be at the rate of—

(A) fifteen per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) twenty per cent for any transfer which takes place on or after the 23rd day of July, 2024;]

(iii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b) , if any, included in the total income, at the rate of 32[ten] per cent:

33[Provided that in case of income arising from the transfer of a long-term capital asset referred to in section 112A which exceeds one lakh and twenty-five thousand rupees, income-tax shall be calculated at the rate of—

(A) ten per cent where transfer of such asset takes place before the 23rd day of July, 2024; and

(B) twelve and one-half per cent where transfer of such asset takes place on or after the 23rd day of July, 2024:

Provided further that the limit of one lakh twenty-five thousand rupees mentioned in the first proviso shall apply on aggregate of the long-term capital gains referred to in clauses (A) and (B) ; and]

(iv) the amount of income-tax with which the specified fund or Foreign Institutional Investor would have been chargeable had its total income been reduced by the amount of income referred to in clause (a) and clause (b) .

(1A) Notwithstanding anything contained in sub-section (1) , in case of specified fund, the provision of this section shall apply only to the extent of income that is

attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) calculated in the prescribed manner.

(1B) Notwithstanding anything contained in sub-section (1) , where the specified fund is investment division of an offshore banking unit, the provisions of this section shall apply to the extent of income that is attributable to the investment division of such banking units, referred to in sub-clause (ii) of clause (c) to the Explanation to clause (4D) of section 10, as a Category-I portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) , calculated in such manner as may be prescribed.

(2) Where the gross total income of the specified fund or Foreign Institutional Investor—

(a) consists only of income in respect of securities referred to in clause (a) of sub-section (1) , no deduction shall be allowed to it under sections 28 to 44C or clause (i) or clause (iii) of section 57 or under Chapter VI-A;

(b) includes any income referred to in clause (a) or clause (b) of sub-section (1) , the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the specified fund or Foreign Institutional Investor.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of capital gains arising out of the transfer of securities referred to in clause (b) of sub-section (1) .

Explanation.—For the purposes of this section,—

(a) the expression "Foreign Institutional Investor" means such investor as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(aa) the expression "investment division of offshore banking unit" shall have the meaning assigned to it in clause (aa) of the Explanation to clause (4D) of section 10;

(b) the expression "permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F;

(c) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;

(d) the expression "specified fund" shall have the same meaning assigned to it in clause (c) of the Explanation to clause (4D) of section 10.

210.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 210 of the Bill provides for special rates of tax on income earned by Foreign Institutions Investors including dividend and interest on securities and capital gains on transfer of their securities. The clause corresponds to Section 115AD of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Some of the provisions have been provided in a tabular format for ease of comprehension.

210.4 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 210 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for special rates of income tax on income of Foreign Institutional Investors and specified funds from transfer of securities and capital gains arising therefrom. It prescribes concessional tax rates for different categories of income — ranging from 10% to 30% — depending on whether the income is from securities, short-term capital gains, or long-term capital gains.

The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115AD of the Income-Tax Act, 1961, and the provisions have been simplified and presented in a tabular format for ease of comprehension. The Ministry of Finance has explained that this is a consolidation and reorganization of existing provisions without affecting their policy intent.Therefore, the Committee accept the provision under Clause 210 as proposed.

Clause-211. Tax on non-resident sportsmen or sports associations

211.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where the total income of an assessee,—

(a) being a sportsman (including an athlete) , who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(i) participation in India in any game [other than a game the winnings from which are taxable as specified in section 194(1) (Table: Sl. No. 1)] or sport; or

(ii) advertisement; or

(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(b) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game, other than a game the winnings from which are taxable as specified in section 194(1) (Table: Sl. No. 1) or sport played in India; or

(c) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,

then, the income-tax payable by the assessee shall be the aggregate of amounts mentioned in column C of the Table below:—

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income referred to in clause (*a*) or (*b*) or (*c*) .	20 %
2.	Total income as reduced by income referred to in clause (*a*) or (*b*) or (*c*) .	Income-tax chargeable on such income.

(2) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in sub-section (1) .

(3) It shall not be necessary for the assessee to furnish a return of his income under section 263(1) , if—

(a) his total income during the tax year consisted only of income referred to in sub-section (1) ; and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

211.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115BBAare as under:

Tax on non-resident sportsmen or sports associations.

115BBA. (1) Where the total income of an assessee,—

(a) being a sportsman (including an athlete) , who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(i) participation in India in any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport; or

(ii) advertisement; or

(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(b) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport played in India; or

(c) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,

the income-tax payable by the assessee shall be the aggregate of—

(i) the amount of income-tax calculated on income referred to in clause (a) or clause (b) or clause (c) at the rate of twenty per cent; and

(ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income referred to in clause (a) or clause (b) or clause (c) :

Provided that no deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in clause (a) or clause (b) or clause (c) .

(2) It shall not be necessary for the assessee to furnish under sub-section (1) of section 139 a return of his income if—

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clause (a) or clause (b) or clause (c) of sub-section (1) ; and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

211.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 211 of the Bill seeks to provide for tax on income of non-resident sportsmen or sports association. The clause corresponds to section 115BBA of the Act. The provisions of the existing section have been presented in a tabular format for simplification purpose. The provisions of the existing sections have been simplified and retained with the same intent in this clause.

211.4 Observations/Recommendations of the Committee:

The Committee, after a detailed examination of Clause 211, including the suggestions of stakeholders and the rationale provided by the Ministry of Finance, is of the view that the provisions under Clause 211are broadly acceptable. The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115BBA of the Income-Tax Act, 1961, and the provisions have been simplified and presented in a tabular format for ease of understanding. Therefore, the Committee accept the proposal under Clause 211 as it stands.

Chapter XI

GENERAL ANTI-AVOIDANCE RULE

Clause 212–Interpretation

212.1 Provision proposed in the Income-Tax Bill, 2025:

In sections 213 to 218,—

(a) “foreign exchange asset” means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(b) “investment income” means any income derived from a foreign exchange asset;

(c) “long-term capital gains” means income chargeable under the head “Capital gains” relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(d) “non-resident Indian” means an individual, who is not a resident and is—

(i) a citizen of India; or

(ii) a person of Indian origin;

(e) “specified asset” means any of the following assets:—

(i) shares in an Indian company; or

(ii) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 2013; or

(iii) deposits with an Indian company which is not a private company as defined in the Companies Act, 2013; or

(iv) any security of the Central Government as defined in section 2(c) of the Public Debt Act, 1944; or

(v) such other assets as the Central Government may specify in this behalf by notification.

212.2Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115C under Chapter XII-A SPECIAL PROVISIONS RELATING TO CERTAIN INCOMES OF NON-RESIDENTS are as under:

Definitions.

115C. In this Chapter, unless the context otherwise requires,—

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999) , and any rules made thereunder;

(b) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(c) "investment income" means any income derived from a foreign exchange asset;

(d) "long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(e) "non-resident Indian" means an individual, being a citizen of India or a person of Indian origin who is not a "resident".

Explanation.—A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India;

(f) "specified asset" means any of the following assets, namely :—

(i) shares in an Indian company;

(ii) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 1956 (1 of 1956) ;

(iii) deposits with an Indian company which is not a private company as defined in the Companies Act, 1956 (1 of 1956) ;

(iv) any security of the Central Government as defined in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944) ;

(v) such other assets as the Central Government may specify in this behalf by notification in the Official Gazette.

212.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 212 of the Bill seeks to provide for interpretation of terms used in clause 213 to 218 of the Bill. The clause corresponds to section 115C of the Act. Definition of “Convertible Foreign Exchange” which was provided in section 115C(a) of the Act has been moved to clause 2(30) of the Bill for simplification purpose. The provisions of the existing section have been simplified and retained with the same intent in this clause.

212.4 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 212 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115C of the Income-Tax Act, 1961, and the definition of "convertible foreign exchange" has been removed here and placed under Clause 2(30) of the Bill for simplification and ease of reference. The Ministry of Finance has explained that this change is meant to streamline the structure of the Act without affecting the policy intent or application of these provisions. Furthermore, the existing provisions have been simplified and presented more clearly in this clause while retaining their original intent.Therefore, the Committee accept the proposed provisions under Clause 212 as it stands.

213. Special provision for computation of total income of non-residents

213.1 Provision proposed in the Income-Tax Bill, 2025:

(1) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(2) In the case of an assessee, being a non-resident Indian, where—

(a) the gross total income consists only of investment income or income by way of long-term capital gains or both then no deduction shall be allowed under Chapter VIII;

(b) the gross total income includes any income referred to in clause (a) ,—

(i) the gross total income shall be reduced by such income; and

(ii) the deductions under Chapter VIII shall be allowed as if the gross total income as so reduced was the gross total income of the assessee.

213.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115D are as under :

Special provision for computation of total income of non-residents.

115D. (1) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(2) Where in the case of an assessee, being a non-resident Indian,—

(a) the gross total income consists only of investment income or income by way of long-term capital gains or both, no deduction shall be allowed to the assessee under Chapter VI-A and nothing contained in the provisions of the second proviso to section 48 shall apply to income chargeable under the head "Capital gains";

(b) the gross total income includes any income referred to in clause (a) , the gross total income shall be reduced by the amount of such income and the deductions under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

213.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 213 of the Bill seeks to provide for special provision for computation of total income of non-residents. The clause corresponds to section 115D of the Act. The provisions of the existing sections have been simplified and retained with the same intent in this clause.

213.4 Observations/Recommendations of the Committee:

The Committee, after careful consideration of the proposal under Clause 213, including the justification provided by the Ministry of Finance, find the proposed provisions appropriate and consistent with the existing legal framework. The Committee note that Clause aims to rationalize the computation of total income for non-resident Indians by consolidating and clarifying provisions previously contained in Section 115D of the Income-Tax Act, 1961.Accordingly, the Committee accept Clause 213 as proposed, recognizing that it provides greater clarity and ease of application in line with the policy intent.

214. Tax on investment income and long-term capital gains

214.1 Provision proposed in the Income-Tax Bill, 2025:

Provisions of clause the 214 are as under:

The Income-tax payable, on the total income of an assessee, being a non-resident Indian, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income from investment or income from long-term capital gains of an asset other than a specified asset.	20 %
2.	Income from long-term capital gainson specified asset.	12.5%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

214.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115E are as under:

Tax on investment income and long-term capital gains.

115E. Where the total income of an assessee, being a non-resident Indian, includes—

(a) any income from investment or income from long-term capital gains of an asset other than a specified asset;

(b) income by way of long-term capital gains,

the tax payable by him shall be the aggregate of—

(i) the amount of income-tax calculated on the income in respect of investment income referred to in clause (a) , if any, included in the total income, at the rate of twenty per cent;

46[(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b) , if any, included in the total income,--

(A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and]

(iii) the amount of income-tax with which he would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b) .

214.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 214 of the Bill provides for the special rates of taxes on investment income and long terms capital gains earned by non-resident Indians. The clause corresponds to Section 115E of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. (The reference to “income from long term capital gains of an asset other than specified asset” must be deleted as this is inconsistent with the provisions of IT Act, 1961) .

214.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important Views/Suggestions given by Experts/Stakeholders are provided as under:

i. In table, at S No. 1, the phrase can be reworded as follows - Income from investment or income from long-term capital gains of an asset other than a specified asset The Income from any asset other than specified asset (income/ capital gains) does not form part of this Chapter. Hence, specifying rate for such income under this chapter is not required. This may be considered to be removed.

214.5 Examination by the Committee:

The corresponding written responses received from the Ministry of Finance on the above suggestions made by stakeholders are as under:

i. This is in the nature of drafting correction. The phrase "income from long-term capital gains of an asset other than a specified asset" may be deleted. The suggestion is acceptable.

214.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 214 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause prescribes the special rate of income tax payable by non-resident Indians on their investment income and long-term capital gains.

The Committee note that thesaid clause of Income-Tax Bill, 2025 broadly corresponds to Section 115E of the Income-Tax Act, 1961. The provisions have been simplified and presented more clearly while retaining their original intent. However, the Committee observe that the reference to "income from long-term capital gains of an asset other than a specified asset" under Serial No. 1 of the table is a drafting oversight and should be removed. Therefore, the Committee accept the proposed Clause 214 with the following modifications:

To delete the words "income from long-term capital gains of an asset other than a specified asset" under Serial No. 1 of the table.

215. Capital gains on transfer of foreign exchange assets not to be charged in certain cases

215.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where, in case of an assessee, being a non-resident Indian,—

(a) any long-term capital gains arises from the transfer of a foreign exchange asset (herein referred as original asset) ; and

(b) within six months after the date of such transfer, he has invested the whole or any part of the net consideration in any specified asset (herein referred as new asset) ,

then the capital gains shall be dealt with in the following manner:—

(i) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 67;

(ii) if the cost of the new asset is less than the net consideration in respect of the original asset, then the capital gain computed by the following formula shall not be charged under section 67:—

$$A = \frac{B \times C}{D}$$

Where,

A = the capital gains not to be charges being computed;

B = whole of the capital gain;

C = cost of acquisition of the new asset;

D = net consideration in respect of the original asset.

(2) For the In sub-section (1) ,—

(a) “cost”, in relation to any new asset, being a deposit referred to in section 212(e) (iii) (v) , means the amount of such deposit;

(b) “net consideration” in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(3) Where the new asset is transferred or converted (otherwise than by transfer) into money, within three years from date of its acquisition, the capital gain arising from transfer of original asset not so charged under section 67 shall be deemed to be income by way of capital gains of the tax year in which such transfer or conversion takes placerelating to capital assets other than short-term capital assets of the tax year in which the new asset is transferred or converted (otherwise than by transfer) into money.

215.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115F are as under:

Capital gains on transfer of foreign exchange assets not to be charged in certain cases.

115F. (1) Where, in the case of an assessee being a non-resident Indian, any long-term capital gains arise from the transfer of a foreign exchange asset (the asset so transferred being hereafter in this section referred to as the original asset) , and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any specified asset, or in any savings certificates referred to in clause (4B) of section 10 (such specified asset, or such savings certificates being hereafter in this section referred to as the new asset) , the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the net consideration shall not be charged under section 45.

Explanation.—For the purposes of this sub-section,—

(i) "cost", in relation to any new asset, being a deposit referred to in sub-clause (iii) , or specified under sub-clause (v) , of clause (f) of section 115C, means the amount of such deposit;

(ii) "net consideration", in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the new asset is transferred or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b) , of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.

215.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 215 of the Bill provides for the exemption of taxation of long-term capital gains on foreign exchange assets earned by non-resident Indians, if they make specific investment(s) subject to certain conditions. The clause corresponds to Section 115F of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause. Formula has been provided in the clause for ease of computation.

215.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important Views/Suggestions given by Experts/Stakeholders are provided as under:

> The following words may be deleted. (2) For the In sub-section (1) ,— Words “for the” are not required.

215.5 Examination by the Committee:

214.5.1Clarifying the drafting error, the Ministry in its written reply stated as follows:The word "in" may be deleted and the phrase would read. 215: (2) For the In sub-section

214.5.2 Regarding safeguards to prevent misuse or artificial structuring of the three-year holding period, the Ministry stated as follows:—

> The savings certificates mentioned in Section 10(4B) pertain to those issued before 01.06.2002. and hence these provisions are redundant now. Regarding rollover, the suggestion seeks that once benefit of exemption from capital gains is taken on reinvestment in a specified asset, the condition of lock-in of 3 years should not be treated as being violated if further investment is made to another specified asset. This is a provision given to benefit the tax payer and avoid capital gains tax by reinvestment. This is not provided for further investment or trading in such "specified assets".

215.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 215 under examination, including the justification provided by the Ministry of Finance, find the proposed provisions broadly acceptable. The Committee note that this clause corresponds to Section 115F of the Income-Tax Act, 1961, and the Ministry has simplified the text while retaining its original intent. The formula for computing exemption when the cost of the new asset is less than the net consideration of the original asset has been explicitly incorporated in the Bill for ease of application and clarity.However, the Committee identified a drafting error in sub-section (2), where the phrase 'For the' are unnecessary and should be omitted to avoid redundancy.

Therefore, the Committee accept the proposed Clause 215 with the following modifications:

To omit the words "For the" in sub-section (2) for greater clarity.

216. Return of income not to be furnished in certain cases

216.1 Provision proposed in the Income-Tax Bill, 2025:

It shall not be necessary for a non-resident Indian to furnish a return of his income under section 263(1) , if—

(a) his total income during the tax year consisted only of investment income or income by way of long-term capital gains or both; and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

216.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115G are as under:

Return of income not to be filed in certain cases.

115G. It shall not be necessary for a non-resident Indian to furnish under sub-section (1) of section 139 a return of his income if—

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of investment income or income by way of long-term capital gains or both; and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

216.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 216 of the Bill provides for the exemption from filing of the return of income of non-resident Indians, if his income consists only of long-term capital gains or from investment or both, and tax has been deducted on such income. The clause corresponds to Section 115G of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.

216.4 Observations/Recommendations of the Committee:

The Committee, after consideration of Clause 216 of the Bill, find the proposal reasonable and in keeping with the intent of the existing Section 115G of the Income-Tax Act, 1961.The clause provides that a non-resident Indian is not required to furnish a return of income if their total income consists only of investment income or long-term capital gains or both, and the applicable tax has already been deducted at source under Chapter XIX-B.The Ministry's justification—that this simply textually streamlines the existing exemption without making any substantial change—is appropriate and desirable.Therefore, the Committee recommend retaining Clause 216 as it stands in the Bill.

217. Benefit under Chapter to be available in certain cases even after assessee becomes resident

217.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where a non-resident Indianin any tax year,—
(a) becomes assessable as a resident in India in a subsequent tax year; and
(b) furnishes a declaration in writing to the Assessing Officer along with his return of income under section 263for the tax year for which he is so assessable,to the effect that provisions of sections 212 to 218 shall continue to apply to him in relation to the investment income derived from any foreign exchange asset referred to in section 212(e) other than a share in an Indian company,
then the provisions of this Chapter shall continue to apply in relation to such income until the transfer or conversion (otherwise than by transfer) of such assets into money.

217.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115H are as under:

Benefit under Chapter to be available in certain cases even after the assessee becomes resident.

115H. Where a person, who is a non-resident Indian in any previous year, becomes assessable as resident in India in respect of the total income of any subsequent year, he may furnish to the Assessing Officer a declaration in writing along with his return of income under section 139 for the assessment year for which he is so assessable, to the effect that the provisions of this Chapter shall continue to apply to him in relation to the investment income derived from any foreign exchange asset being an asset of the nature referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of clause (f) of section 115C; and if he does so, the provisions of this Chapter shall continue to apply to him in relation to such income for that assessment year and for

every subsequent assessment year until the transfer or conversion (otherwise than by transfer) into money of such assets.

217.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 217 of the Bill provides for benefit to be available in case of investment income from foreign exchange asset to a non-resident Indian if he becomes a resident at a later year. The clause corresponds to Section 115H of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.

217.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important suggestions given by Experts/ Stakeholders are as under:

> Form is yet to be prescribed for electing to be governed by special provisions to avail the benefit of this provision. The requirement of selection of this Scheme may be made as part of return of income itself. Since the ROI is annexure less and electronic, suitable provisions may be incorporated in the ROI itself to be governed by the provisions of Chapter XIIIE.

217.5Examination by the Committee:

Views of the Ministry of Finance on the above suggestions given by Experts/Stakeholders are as under :

> The provisions of the Clause do not allow for any prescription of Rules/Forms as this power has not been delegated by the Parliament. The only requirement of the section is to provide a declaration in writing to the AO. Moreover, this

suggestion relates to the drafting of Rules/Forms or making a change in the Return of Income. This will be examined during the drafting of the Rules if the provisions of the Clause are modified to provide for any prescription. This suggestion is noted.

217.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 217 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find that this clause aims to provide a benefit to a non-resident Indian who subsequently becomes a resident in India. It allows such a person to continue to be governed by the provisions of this Chapter in relation to income from certain specified assets, provided a declaration is furnished to the Assessing Officer along with their return of income.

The Ministry has explained that this change simply streamlines the text of the existing Section 115H of the Income-Tax Act, 1961, while retaining its main intent.

The Committee feel that the option of furnishing a separate declaration to the Assessing Officer could be incorporated directly into the return of income form instead. However, the Committee find this to be a procedural matter, which can be addressed at the time of framing Rules and designing the income tax return form. Therefore, the Committee consider it appropriate to retain the clause in its present form, subject to this consideration.

218. Chapter not to apply if the assessee so chooses

218.1 Provision proposed in the Income-Tax Bill, 2025:

(1) A non-resident Indian may choose not to be governed by the provisions of sections 212 to 217 for any tax year by declaring it in his return of income under section 263 for such tax year.and if he does so,—

(a) the provisions of sections 212 to 217 shall not apply to him for that tax year, and

(b) his total income for that tax year shall be computed and charged to tax according to the other provisions of this Act.

218.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115-Iare as under

Chapter not to apply if the assessee so chooses.

115-I. A non-resident Indian may elect not to be governed by the provisions of this Chapter for any assessment year by furnishing his return of income for that assessment year under section 139 declaring therein that the provisions of this Chapter shall not apply to him for that assessment year and if he does so, the provisions of this Chapter shall not apply to him for that assessment year and his total income for that assessment year shall be computed and tax on such total income shall be charged in accordance with the other provisions of this Act.

218.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 218 of the Bill provides for the method for opting out of the provisions of the clauses 212 to 217 by a non-resident. Where such an option is made, the income shall be computed and charged in accordance with other provisions of the Act. The clause corresponds to Section 115-I of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.

218.4 Examination by the Committee:

On the question of whether the narrower language unintentionally exclude other linked provisions (such as exemption from return filing under Clause 216), the Ministry in its written reply stated as under:

> There is no change/confusion in the transition from assessment year to tax year as "tax year" means "previous year". The Chapter XXII-A referred to in Section 115-I contains sections 115C to 115-I. These correspond to Clause 212 to 218 and hence the reference in Clause 218 is correct.

218.5 Observations/Recommendations of the Committee:

The Committee, after careful consideration of the proposal made in Clause 218 under examination — including the justification provided by the Ministry of Finance — find that this clause simply streamlines and retains the intent of Section 115-I of the Income-Tax Act, 1961. It provides a non-resident Indian with the option to opt out of the special provisions of this Chapter by making a declaration in their return of income under Section 263.Once such a declaration is made, the provisions of this Chapter will not apply for that tax year, and the total income of the non-resident Indian will be computed and taxed in the normal manner under the other provisions of the Act.The Committee consider this a reasonable and flexible approach, allowing non-resident Indians to choose the regimen most beneficial to them in a given year.The Committee, therefore,accept the provisions under clause 218 as proposed.

Clause 219- Conversion of an Indian branch of foreign company into subsidiary Indian company

219.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary Indian company as per the scheme framed by the Reserve Bank of India, then, irrespective of anything contained in this Act and subject to the conditions as notified by the Central Government,—

(a) the capital gains arising from such conversion shall not be chargeable to tax in the tax year in which such conversion takes place; and

(b) the provisions of this Act relating to—

(i) treatment of unabsorbed depreciation, set off or carry forward and set off of losses;

(ii) tax credit in respect of tax paid on deemed income relating to certain companies; and

(iii) computation of income of the foreign company and subsidiary Indian company,

shall apply with such exceptions, modifications and adaptations as specified in that notification.

(2) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1) , all the provisions of this Act shall apply to the foreign company and the said subsidiary Indian company without any benefit, exemption or relief under the said sub-section.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted as per the provisions of sub-section (1) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under the said sub-section then,—

(a) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment; and

(c) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (8) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

219.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115JG are as under:

Chapter XII-BBSPECIAL PROVISIONS RELATING TO CONVERSION OF INDIAN BRANCH OF A FOREIGN BANK INTO A SUBSIDIARY COMPANY

Conversion of an Indian branch of foreign company into subsidiary Indian company.

115JG. (1) Where a foreign company is engaged in the business of banking in India through its branch situate in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank of India, then, notwithstanding anything contained in the Act and subject to the conditions as may be notified by the Central Government in this behalf,—

(i) the capital gains arising from such conversion shall not be chargeable to tax in the assessment year relevant to the previous year in which such conversion takes place;

(ii) the provisions of this Act relating to treatment of unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of the foreign company and Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification.

(2) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1) , all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without any benefit, exemption or relief under sub-section (1) .

(3) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company in accordance with the provisions of sub-section (1) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1) , then,—

(i) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(ii) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment; and

(iii) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

219.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 219 of the Bill provides for relaxation from capital gains tax and entitlement to carry forward losses, etc., when an Indian branch of a foreign bank is converted into an Indian company. The clause corresponds to Section 115JG of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.

219.4 Examination by the Committee:

On the issue of Clause 219(3) introduces a reversal of benefit provision similar to GAAR-like rules. Should taxpayers be required to self-report non-compliance within a specified period to avoid penalties, and will there be a grace period before reassessment under Section 287 is triggered?

> There are no new provisions introduced in Clause 219(3) of the Bill. There is no change from the corresponding provisions of Section 115JG(2) of the Act. These are beneficial provisions given for conversion of Indian branch of a foreign banking company into a subsidiary Indian company - the failure of which will lead to withdrawal of benefit. The taxpayer has already enjoyed the benefit and is required to ensure compliance to the conditions. Therefore, there are no provisions either for self-reporting of non-compliance and grace period of reassessment/rectification.

219.5 Observations/Recommendations of the Committee:

> **The Committee, after careful consideration of the proposal made in Clause 219 under examination — including the justification provided by the**

Ministry of Finance — find that this clause largely retains the intent and benefits previously available under Section 115JG of the Income-Tax Act, 1961.

The main objective of this clause is to facilitate the conversion of a branch of a foreign bank in India into a subsidiary company, without causing a capital gains event and while preserving certain benefits, such as carry forward of losses and depreciation and tax credit on previously deemed income.The conditions for this exemption and the procedure to withdraw these benefits if conditions are subsequently contravened have been adequately specified. The Ministry has simplified the wording while retaining the substance of the existing provisions.The Committee, therefore, consider it appropriate to retain Clause 219 of the Bill as it stands.

Clause 220

Clause- 220Foreign company said to be resident in India

220.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where a foreign company is said to be a resident in India in any tax year and such company has not been a resident in India in earlier tax years, then, irrespective of anything in this Act and subject to the conditions as notified by the Central Government in this behalf, the provisions of this Act relating to—

(a) the computation of total income;

(b) treatment of unabsorbed depreciation;

(c) set off or carry forward and set off of losses;

(d) collection and recovery; and

(e) special provisions relating to avoidance of tax,

shall apply with such exceptions, modifications and adaptations as specified in that notificationfor such tax years;

(2) Where the determination regarding foreign company to be resident in India has been made in the assessment proceedings for any tax year, then, the provisions of sub-section (1) shall also apply to any other tax year succeeding such tax year, which ends on or before the date of completion of such assessment proceeding.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted to the foreign company as per the provisions of sub-section (1) , and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under the said sub-section, then,—

(a) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the

necessary amendment as if the exceptions, modifications and adaptation referred to in sub-section (1) did not apply; and

(c) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (8) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

220.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115JHare as under:

Chapter XII-BCSPECIAL PROVISIONS RELATING TO FOREIGN COMPANY SAID TO BE RESIDENT IN INDIA

Foreign company said to be resident in India.

115JH. (1) Where a foreign company is said to be resident in India in any previous year and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in this Act and subject to the conditions as may be notified by the Central Government in this behalf, the provisions of this Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations as may be specified in that notification for the said previous year:

Provided that where the determination regarding foreign company to be resident in India has been made in the assessment proceedings relevant to any previous year, then, the provisions of this sub-section shall also apply in respect of any

other previous year, succeeding such previous year, if the foreign company is resident in India in that previous year and the previous year ends on or before the date on which such assessment proceeding is completed.

(2) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company in accordance with the provisions of sub-section (1) , and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under sub-section (1) , then,—

(i) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(ii) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment as if the exceptions, modifications and adaptations referred to in sub-section (1) did not apply; and

(iii) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the conditions referred to in sub-section (1) takes place.

(3) Every notification issued under this section shall be laid before each House of Parliament.

220.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 220 of the Bill provides for implications related to, inter alia, computation of total income, treatment of unabsorbed depreciation, set off or carry forward of losses, collection and recovery and special provisions related to avoidance of taxes, where a foreign company is said to be a resident in India in any tax year and such company is not resident in earlier tax years. The clause corresponds to Section 115JH of the Act. The provision of the existing section has been textually simplified and retained with the same intent in this clause.

220.4 Observations/Recommendations of the Committee:

The Committee, after consideration of Clause 220 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115JH of the Income-Tax Act, 1961.The Committee notethe justification furnished by the Ministry that this simply streamlines the text and retains the main intent of the existing provision. Therefore, the Committee accept the proposed clause.

F.—Special provisions relating to pass-through entities

221. Tax on income from securitisation trusts

221.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in this Act, where a person being an investor of a securitisation trust, receives any income or any income accrues or arises to him, out of investments made in the securitisation trust, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(2) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) , as if it had been received by, or had accrued or arisen to, the securitisation trust during the tax year.

(3) The income accruing or arising to, or received by, the securitisation trust during a tax year, if not paid or credited to the person referred to in sub-section (1) , shall be deemed to have been credited to the account of the said person—

(a) on the last day of the tax year; and

(b) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(4) The person responsible for crediting or making payment of the income on behalf of securitisation trust, and the securitisation trust, shall furnish, within such period, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(5) Any income which has been included in the total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or

arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the securitisation trust.

(6) In this section,—

(a) “investor” means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust;

(b) “securities” means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(c) “securitised debt instrument” shall have the same meaning as assigned to it in regulation 2(1) (s) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956;

(d) “securitisation trust” means a trust, being a—

(i) “special purpose distinct entity” as defined in regulation 2(1) (u) of the Securities and Exchange Board of India (Public Offer and Listing of SecuritisedDebt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956 and regulated under the said regulations; or

(ii) “Special Purpose Vehicle” as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; or

(iii) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India,

which fulfils such conditions, as prescribed;

(e) “security receipt” shall have the same meaning as assigned to it in section 2(1) (zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

221.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115TCAare as under:

Tax on income from securitisation trusts.

115TCA. (1) Notwithstanding anything contained in this Act, any income accruing or arising to, or received by, a person, being an investor of a securitisation trust, out of investments made in the securitisation trust, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(2) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) , as if it had been received by, or had accrued or arisen to, the securitisation trust during the previous year.

(3) The income accruing or arising to, or received by, the securitisation trust, during a previous year, if not paid or credited to the person referred to in sub-section (1) , shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(4) The person responsible for crediting or making payment of the income on behalf of securitisation trust and the securitisation trust shall furnish, within such period, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

(5) Any income which has been included in the total income of the person referred to in sub-section (1) , in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the securitisation trust.

Explanation.—For the purposes of this Chapter,—

(a) "investor" means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust;

(b) "securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(c) "securitised debt instrument" shall have the same meaning as assigned to it in clause (s) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;

(d) "securitisation trust" means a trust, being a—

(i) "special purpose distinct entity" as defined in clause (u) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) , and regulated under the said regulations; or

(ii) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; or

(iii) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) , or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India,

which fulfils such conditions, as may be prescribed;

(e) "security receipt" shall have the same meaning as assigned to it in clause (zg) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) .

221.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 221 of the Bill provides for special taxation regime for income from a securitisation trust earned by its investors. The clause corresponds to section 115TCA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

221.4 Observations/Recommendations of the Committee:

The Committee, after careful consideration of Clause 221 of the Bill, find the proposal reasonable and in consonance with the intent and policy objective of Section 115TCA of the Income-Tax Act, 1961.The Committee notethe Ministry's submission that the proposed clause does not introduce any substantial change in policy but rather streamlines and clarifies the existing provisions to align them more closely with their original legislative intent. The Committee find this approach appropriate and desirable. Therefore, the Committee accept the proposal as contained in Clause 221 of the Bill.

222. Tax on income in case of venture capital undertakings

222.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in any other provision of this Act, where a person, out of investments made in a venture capital company or venture capital fund, receives any income, or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had he made investments directly in the venture capital undertaking.

(2) The person responsible for crediting or making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(3) The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the tax year.

(4) The provisions of Chapter XIX-B shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

(5) The income accruing or arising to or received by the venture capital company or venture capital fund during a tax year from investments made in venture capital undertaking, if not paid or credited to the person referred to in sub-section (1) , shall be deemed to have been credited to the account of the said person—

(a) on the last day of the tax year; and

(b) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(6) Any income which has been included in total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the venture capital company or the venture capital fund.

(7) Nothing contained in this section shall apply in respect of any income accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in section 224(10) (a) .

(8) For the purposes of this section, “venture capital company”, “venture capital fund” and “venture capital undertaking” shall have the meanings respectively assigned to them in Schedule V (Note 4) .

222.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115U are as under:

Chapter XII-FSPECIAL PROVISIONS RELATING TO TAX ON INCOME RECEIVED FROM VENTURE CAPITAL COMPANIES AND VENTURE CAPITAL FUNDS

Tax on income in certain cases.

115U. (1) Notwithstanding anything contained in any other provisions of this Act, any income accruing or arising to or received by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to or received by such person had he made investments directly in the venture capital undertaking.

(2) The person responsible for crediting or making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time as may be

prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details as may be prescribed.

(3) The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the previous year.

(4) The provisions of Chapter XII-D or Chapter XII-E or Chapter XVII-B shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

(5) The income accruing or arising to or received by the venture capital company or venture capital fund, during a previous year, from investments made in venture capital undertaking if not paid or credited to the person referred to in sub-section (1) , shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(6) Nothing contained in this Chapter shall apply in respect of any income, of a previous year relevant to the assessment year beginning on or after the 1st day of April, 2016, accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115UB.

Explanation 1.—For the purposes of this Chapter, "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (23FB) of section 10.

Explanation 2.—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the venture capital company or the venture capital fund.

222.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 222 of the Bill seeks to provide for tax on income in case of venture capital undertakings. The clause corresponds to section 115U of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

222 .4 Observations/Recommendations of the Committee:

The Committee, having carefully considered Clause 222 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative intent of Section 115U of the Income-Tax Act, 1961.The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective and procedural safeguards. Importantly, the mechanisms for attribution of income, filing of statements by the venture capital company or fund, and disclosure to the income-tax authorities remain adequately robust to facilitate proper oversight and compliance.In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the principle of pass-through taxation. Therefore, the Committee accept Clause 222 of the Bill in its present form.

223. Tax on income of unit holder and business trust

223.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(2) Subject to the provisions of sections 196 and 197, the total income of a business trust shall be charged to tax at the maximum marginal rate.

(3) If in any tax year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in Schedule V (Table: Sl. No. 3) or (Table: Sl. No. 4) , then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the tax year.

(4) The provisions of sub-section (1) shall not apply in respect of any sum referred to in section 92(2) (k) received by a unit holder from a business trust.

(5) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder, shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner, asprescribed, giving the details of the nature of the income paid during the tax year and such other details, as prescribed.

223.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115UAare as under:

Chapter XII-FA SPECIAL PROVISIONS RELATING TO BUSINESS TRUSTS

Tax on income of unit holder and business trust.

115UA. (1) Notwithstanding anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(2) Subject to the provisions of 53[section 111A and section 112], the total income of a business trust shall be charged to tax at the maximum marginal rate.

(3) If in any previous year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in clause (23FC) or clause (23FCA) of section 10, then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the previous year.

54[(3A) The provisions of sub-section (1) shall not apply in respect of any sum referred to in clause (xii) of sub-section (2) of section 56, received by a unit holder from a business trust.]

(3) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner as may be prescribed, giving the details of the nature of the income paid during the previous year and such other details as may be prescribed.

223.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 223 of the Bill provides for special taxation regime for Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 and Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 and their unit holders. The clause corresponds to section 115UA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

223.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important Views/Suggestions given by Experts/Stakeholders are as under:

i. The amendment to Section 115UA(2) proposed in Finance Bill, 2025, which includes the tax rate of 12.5% for income covered by Section 112A, is not reflected in Section 223(2) of ITB 2025. Amend Section 223(2) of ITB 2025 to include the proposal contained in Finance Bill, 2025, ensuring the tax rate of 12.5% for income covered by Section 112A is applied.

ii. Sub-section (2) of section 223 may be reworded as follows - (2) Subject to the provisions of sections 196 and 197 and 198 the total income of a business trust shall be charged to tax at the maximum marginal rate. Capital gains on transfer of long-term capital assets referred to in section 198 also has to be charged to tax at the rate of 12.5% and not at MMR However, there is no reference to section 198 in section 223(2) Accordingly, reference to Section 198 to be added.

223.5 Examination by the Committee:

In response to the above suggestions submitted by the Experts/Stakeholders are provided as under :

Reference to section 112A was made in section 115UA(2) by the Finance Act, 2025. Similarly, the reference of cl. 198 was required to be made in cl. 223(2) . Same is missing in the proposed Income-Tax Bill, 2025. Reference of clause 198 corresponding to section 112A may be inserted in the Income-Tax Bill, 2025.It is a drafting correction and may be considered acceptable.)

223.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 223 — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable and in consonance with the policy intent of Section 115UA of the Income-Tax Act, 1961.

However, the Committee observe a minor drafting inconsistency in sub-section (2) of Clause 223. The proposal, as currently worded, omits a specific reference to Section 112A and Section 198, which was incorporated into Section 115UA(2) by the Finance Act, 2025. This oversight may affect the application of the 12.5% tax rate to income covered under Section 112A and the proper treatment of capital gains on transfer of long-term capital assets.

The Committee, therefore, consider it appropriate to recommend that Clause 223(2) be amended to expressly refer to Section 112A and Section 198. Such a modification would align the provision with its legislative intent and policy framework, thereby ensuring fairness, consistency, and clarity in application.

The Committee, therefore, accept the provisions of Clause 223 of the Bill subject to the above modification.

224. Tax on income of investment fund and its unit holders

224.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in any other provision of this Act and subject to the provisions of this section, where a person, being a unit holder of an investment fund, out of investments made in the investment fund, receives any income or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments made by the investment fund been made directly by him.

(2) Where in any tax year, the net result of computation of total income of the investment fund, without giving effect to the provisions of Schedule V (Table: Sl. No. 1) , is a loss under any head of income and such loss cannot be or is not wholly set off against income under any other head of income of the said tax year, then out of such loss,—

(a) the loss arising to the investment fund as a result of the computation under the head “Profits and gains of business or profession”, if any, shall be—

(i) allowed to be carried forward and it shall be set off by the investment fund as per the provisions of Chapter VII; and

(ii) ignored for the purposes of sub-section (1) ;

(b) the loss other than the loss referred to in clause (a) , if any, shall also be ignored for the purposes of sub-section (1) , if such loss has arisen in respect of a unit which has not been held by the unit holder for at least twelve months.

(3) The loss other than the loss under the head “Profits and gains of business or profession”, if any, accumulated at the level of investment fund as on the 31st March, 2019, shall be—

(a) deemed to be the loss of a unit holder who held the unit on the 31st March, 2019 in respect of the investments made by him in the investment fund, in the same manner as provided in sub-section (1) ; and

(b) allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in as per the provisions of Chapter VII.

(4) The loss so deemed under sub-section (3) shall not be available to the investment fund on or after the 1st April, 2019.

(5) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) , as if it had been received by, or had accrued or arisen to, the investment fund during the tax year subject to the provisions of sub-section (2) .

(6) The total income of the investment fund shall be charged to tax—

(a) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(b) at maximum marginal rate, in any other case.

(7) The income accruing or arising to, or received by, the investment fund, during a tax year, if not paid or credited to the person referred to in sub-section (1) , shall subject to the provisions of sub-section (2) , be deemed to have been credited to the account of the said person on the last day of the tax year in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(8) Any income, which has been included in total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the investment fund.

(9) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(10) In this section,—

(a) “investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been—

(i) granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992; or

(ii) regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019;

(b) “trust” means a trust established under the Indian Trusts Act, 1882 or under any other law in force; and

(c) “unit” means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

224.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115UBare as under:

Chapter XII-FBSPECIAL PROVISIONS RELATING TO TAX ON INCOME OF INVESTMENT FUNDS AND INCOME RECEIVED FROM SUCH FUNDS

Tax on income of investment fund and its unit holders.

115UB. (1) Notwithstanding anything contained in any other provisions of this Act and subject to the provisions of this Chapter, any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.

(2) Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss under any head of income and such loss cannot be or is not wholly set off against income under any other head of income of the said previous year, then,—

(i) out of such loss, the loss arising to the investment fund as a result of the computation under the head "Profits and gains of business or profession", if any, shall be,—

(a) allowed to be carried forward and it shall be set off by the investment fund in accordance with the provisions of Chapter VI; and

(b) ignored for the purposes of sub-section (1) ;

(ii) the loss other than the loss referred to in clause (i) , if any, shall also be ignored for the purposes of sub-section (1) , if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast twelve months.

(2A) The loss other than the loss under the head "Profits and gains of business or profession", if any, accumulated at the level of investment fund as on the 31st day of March, 2019, shall be,—

(i) deemed to be the loss of a unit holder who held the unit on the 31st day of March, 2019 in respect of the investments made by him in the investment fund, in the same manner as provided in sub-section (1) ; and

(ii) allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in accordance with the provisions of Chapter VI:

Providedthat the loss so deemed under this sub-section shall not be available to the investment fund on or after the 1st day of April, 2019.

(3) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) , as if it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2) .

(4) The total income of the investment fund shall be charged to tax—

(i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(ii) at maximum marginal rate in any other case.

(5) The provisions of Chapter XII-D or Chapter XII-E shall not apply to the income paid by an investment fund under this Chapter.

(6) The income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the person referred to in sub-section (1) , shall subject to the provisions of sub-section (2) , be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(7) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

Explanation 1.—For the purposes of this Chapter,—

(a) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or 55[regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made] under the International Financial Services Centres Authority Act, 2019 (50 of 2019) ;

(b) "trust" means a trust established under the Indian Trusts Act, 1882 (2 of 1882) or under any other law for the time being in force;

(c) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

Explanation 2.—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.

224.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 224 of the Bill provides for special taxation regime for income of investment fund and its unit holders. The clause corresponds to section 115UB of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

224.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of important suggestions given by Experts/ Stakeholders are provided as under:

The definition in ITB 2025 suggests that any company, LLP, or trust regulated by IFSC (Fund Management) Regulations, 2022, is considered an investment fund, which may lead to unintended inclusion of Cat III AIF. Amend the definition in Section 224(10) to specify that the AIF should be Category I or II AIF under IFSCA regulations to be entitled to pass-through taxation.

224.5 Examination by the Committee:

In response to the abovesuggestions given by Experts/ Stakeholders are as under:

The definition of ‘investment fund’ may be redrafted and thephrase “granted a certificate of registration as a category I or a Category II Alternative Investment Fund and is” may be inserted in the opening paragraph of clause 224(1) (a) at the end and same may be omitted from clause 224(10) (a) (i)

224.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 224 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable and in consonance with the policy objective of pass-through taxation for investment funds and their unit holders.

However, the Committee observes a discrepancy arising from the current definition of "investment fund" in Clause 224(10).As presently drafted, the definition could inadvertently encompass Categories of funds (such as Category III AIF) that were not intended to benefit from pass-through treatment. Specifically, the use of the broad expression "regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022" may lead to the unintended inclusion of funds that do not fall under Categories I or II AIF.

The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that Clause 224(10) be amended to expressly provide that only "Category I or II Alternative Investment Funds, as defined under the International Financial Services Centres Authority (Fund Management) Regulations, 2022" shall be eligible for pass-through treatment.

G.—Specialprovisions relating toincomeof shipping ompanies

225. Income from business of operating qualifying ships

225.1 Provision proposed in the Income-Tax Bill, 2025:

Irrespective of anything contained in sections 26 to 54, in the case of a company, the income from the business of operating qualifying ships—

(a) may, at its option, be computed as per provisions of this Part; and

(b) such income shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession”.

225.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VA are as under:

B.—Computation of tonnage income from business of operating qualifying ships

Computation of profits and gains from the business of operating qualifying ships.

115VA. Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

225.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 225 of the Bill seeks to provide for income from the business of operating qualifying ships and the option to tax payers to opt for the scheme of tonnage tax. The clause corresponds to section 115VA of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

225.4 Observations/Recommendations of the Committee:

The Committee, having carefully considered Clause 225 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative intent of Section 115VA of the Income-Tax Act, 1961.The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to simplify and bring predictability to the tax treatment of income from the operations of qualifying ships. Importantly, this approach aligns with international practices and policy incentives designed to foster growth in the country's merchant navy and Shipping industry.In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy intent of tonnage-based taxation. Therefore, the Committee accept the provisions under Clause 225 of the Bill in its present form.

Chapter XI

GENERAL ANTI-AVOIDANCE RULE

226. Tonnage tax scheme

226.1 Provision proposed in the Income-Tax Bill, 2025:

(1) In this Part, a company shall—

(a) be regarded as operating a ship or inland vessel, as the case may be, if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship or inland vessel, as the case may be, has been chartered in by it in an arrangement such as slot charter, space charter or joint charter; and

(b) not be regarded as operating a ship or inland vessel, as the case may be, which has been chartered out by it on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

(2) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(3) The tonnage tax business shall be considered as a separate business distinct from all other activities or business carried on by the company.

(4) The profits referred to in sub-section (2) shall be computed separately from the profits and gains from any other business.

(5) The tonnage tax scheme shall apply only if an option to that effect is made as per section 231.

(6) Where a company engaged in the business of operating qualifying ships,—

(a) is not covered under the tonnage tax scheme; or

(b) has not made an option in respect of the tonnage tax scheme as per section 231,

the profits and gains of such company from such business shall be computed as per other provisions of this Act.

(7) Subject to the other provisions of this Part,—

(a) the tonnage income, shall be—

(i) computed as per section 227; and

(ii) deemed to be the profits chargeable under the head “Profits and gains of business or profession”; and

(b) the relevant shipping income referred to in section 228(1) shall not be chargeable to tax.

226.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VB 115VE and 115VF are as under:

Operating ships.

115VB. For the purposes of this Chapter, a company shall be regarded as operating a ship if it operates any ship 57[or inland vessel, as the case may be,] whether owned or chartered by it and includes a case where even a part of the ship 57[or inland vessel, as the case may be,] has been chartered in by it in an arrangement such as slot charter, space charter or joint charter:

Providedthat a company shall not be regarded as the operator of a ship 57[or inland vessel, as the case may be,] which has been chartered out by it on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

Manner of computation of income under tonnage tax scheme.

115VE. (1) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(2) The business of operating qualifying ships giving rise to income referred to in sub-section (1) of section 115V-I shall be considered as a separate business (hereafter in this Chapter referred to as the tonnage tax business) distinct from all other activities or business carried on by the company.

(3) The profits referred to in sub-section (1) shall be computed separately from the profits and gains from any other business.

(4) The tonnage tax scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP.

(5) Where a company engaged in the business of operating qualifying ships is not covered under the tonnage tax scheme or, has not made an option to that effect, as the case may be, the profits and gains of such company from such business shall be computed in accordance with the other provisions of this Act.

Tonnage income.

115VF. Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (1) of section 115V-I shall not be chargeable to tax.

226.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 226 of the Bill seeks to provide for tonnage tax scheme and provides the manner of computation of income under tonnage tax scheme for a tonnage tax company for its tonnage income. The clause corresponds to section 115VB, 115VE and 115VF of the Act. The provisions of the above existing section has been textually simplified and merged and retained with the same intent in this clause.

226.4Examination by the Committee:

On question of How does a partial charter arrangement affect tax liability, the ministry its written reply stated as under:

> The existing provisions of the Act have been simplified and retained in the Bill. There has been no change in the Bill relating to provision of excluding bareboat charter-out ships for over 3 years from the definition of "operating a ship". In cl 226(6)(b) of the Bill (sec 115VE), it has been explicitly provided that if a company does not make an option in respect of the tonnage tax scheme as per cl 231 (sec 115VP), the profits will be computed under other provisions of the Act. Cl 231 of the Bill clearly provides for (i) The period for which tonnage tax option will remain in force (ii)From when the option for tonnage tax scheme shall cease to have effect (iii) Renewal of tonnage tax scheme (iv) Prohibition to opt for tonnage tax scheme in certain cases.

226.5Observations/Recommendations of the Committee:

The Committee, having carefully examined Clause 226 of the Bill, find the proposal to be reasonable, well-structured, and in harmony with the legislative intent of Sections 115VB, 115VE, and 115VF of the Income-Tax Act, 1961.

The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to facilitate ease of computation, provide stability in tax treatment, and foster growth in the merchant navy sector. Importantly, the conditions for applicability of the scheme, the procedure for exercising the option, and the treatment of related income remain adequately clear and robust under the new framework.

In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy of tonnage-based taxation. Therefore, the Committee accept Clause 226 of the Bill in its present form.

Clause-227. Computation of tonnage income

227.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The tonnage income of a tonnage tax company for a tax year shall be the aggregate of the tonnage income of each qualifying ship computed as per sub-sections (2) and (3) .

(2) For the purposes of sub-section (1) , the tonnage income of each qualifying ship shall be computed as per the following formula:—

TI= DTI x N

where,—

TI = the tonnage income of each qualifying ship;

DTI = the daily tonnage income of each qualifying ship;

N = the number of days, in the tax year, or in part of the tax year in case the ship is operated by the company as a qualifying ship for only part of the tax year.

(3) For the purposes of sub-section (2) , the daily tonnage income of a qualifying ship having tonnage referred to in column A of the Table below shall be the amount specified in the corresponding entry in column B thereof.

Sl. No.	Qualifying ship having net tonnage	Amount of daily tonnage income
A	B	C
1.	Up to 1,000.	₹ 70 for each 100 tons.
2.	Exceeding 1,000 but not more than 10,000.	₹700 *plus* ₹53 for each 100 tons exceeding 1,000 tons.
3.	Exceeding 10,000 but not more than 25,000.	₹5,470 *plus* ₹42 for each 100 tons exceeding 10,000

		tons.
4.	Exceeding 25,000.	₹11,770 *plus* ₹29 for each 100 tons exceeding 25,000 tons.

(4) In this Part, the tonnage shall—

(a) mean the tonnage of a ship or inland vessel, as the case may be, indicated in the certificate referred to in sub-section (9) ; and

(b) include the deemed tonnage, being the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel, computed in the manner, as prescribed.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and if the tonnage so rounded off, as per clause (a) , is not a multiple of hundred, then, if the last figure in that amount is,—

(a) fifty tons or more, the tonnage shall be increased to the next higher tonnage;

(b) less than fifty tons, the tonnage shall be reduced to the next lower tonnage,

which is a multiple of hundred and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) No deduction or set off shall be allowed in computing the tonnage income under this Part, irrespective of anything contained in any other provision of this Act.

(7) Where a qualifying ship is operated by two or more companies by way of—

(a) joint interest in the ship; or

(b) an agreement for the use of the ship,

and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(8) Subject to the provisions of sub-section (7) , where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

(9) In this Part,—

(a) the tonnage of a ship or inland vessel, as the case may be, shall be determined as per the valid certificate indicating its tonnage;

(b) “valid certificate” means,—

(i) in case of ships registered in India,—

(A) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958;

(B) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the said Act;

(ii) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration, where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship;

(iii) in case of inland vessel registered in India, a certificate issued under the Inland Vessels Act, 2021.

227.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VG, 115VH and 115VX are as under:

Computation of tonnage income.

115VG. (1) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-sections (2) and (3) .

(2) For the purposes of sub-section (1) , the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by—

(*a*) the number of days in the previous year; or

(*b*) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year, as the case may be.

(3) For the purposes of sub-section (2) , the daily tonnage income of a qualifying ship having tonnage referred to in column (1) of the Table below shall be the amount specified in the corresponding entry in column (2) of the Table:

TABLE

Qualifying ship having net tonnage	*Amount of daily tonnage income*
(1)	*(2)*
up to 1,000	Rs. 70 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs. 700 *plus* Rs. 53 for each 100 tons exceeding 1,000 tons
exceeding 10,000 but not more than 25,000	Rs. 5,470 *plus* Rs. 42 for each 100 tons exceeding 10,000 tons
exceeding 25,000	Rs. 11,770 *plus* Rs. 29 for each 100 tons exceeding 25,000 tons.

(4) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship 59[or inland vessel, as the case may be,] indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

Explanation.—For the purposes of this sub-section, "deemed tonnage" shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or

more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

Calculation in case of joint operation, etc.

115VH. (1) Where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(2) Subject to the provisions of sub-section (1) , where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

Determination of tonnage.

115VX. (1) For the purposes of this Chapter,—

(*a*) the tonnage of a ship [69]**[***or inland vessel, as the case may be,***]** shall be determined in accordance with the valid certificate indicating its tonnage;

(*b*) "valid certificate" means,—

(*i*) in case of ships registered in India—

(*a*) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958 (44 of 1958) ;

(*b*) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987

made under the Merchant Shipping Act, 1958 (44 of 1958) ;

(*ii*) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958 (44 of 1958) specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship.

Following sub-clause (*iii*) shall be inserted after sub-clause (*ii*) of sub-section (1) (*b*) of section 115VX by the Finance Act, 2025, w.e.f. 1-4-2026:

(*iii*) *in case of inland vessel registered in India, a certificate issued under the Inland Vessels Act, 2021 (24 of 2021) .*

227.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 227 of the Bill seeks to provide for computation of tonnage income. The clause corresponds to section 115VG, 115VH and 115VX of the Act. The provisions of the above existing section has been textually simplified and merged and retained with the same intent in this clause.

227.4 Observations/Recommendations of the Committee:

The Committee, having carefully considered Clause 227 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative intent of Sections 115VG, 115VH, and 115VX of the Income-Tax Act, 1961.

The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to simplify and bring predictability to the computation of tonnage income for companies engaged in the business of operating qualifying ships. Importantly, this approach aligns with international practices and policy incentives designed to foster growth in the country's merchant navy and Shipping industry.

In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy intent of tonnage-based taxation. Therefore, the Committee accept Clause 227 of the Bill in its present form.

228. Relevant shipping income and exclusion from book profit

228.1 Provision proposed in the Income-Tax Bill, 2025:

(1) In this Part, the relevant shipping income of a tonnage tax company means—

(a) its profits from core activities referred to in sub-section (3) ; and

(b) its profits from incidental activities referred to in sub-section (7) .

(2) Where the aggregate of all such incomes specified in sub-section (1) (b) exceeds 0.25% of the turnover from core activities referred to in sub-section (3) , such excess shall not form part of the relevant shipping income for the purposes of this Part and shall be taxable under the other provisions of this Act.

(3) The core activities of a tonnage tax company shall be—

(a) its activities from operating qualifying ships; and

(b) other ship-related or inland vessel related activities, as the case may be, as follows:—

(i) shipping contracts in respect of—

(A) earning from pooling arrangements;

(B) contracts of affreightment;

(ii) specific shipping trades, being—

(A) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on-board;

(B) slot charters, space charters, joint charters, feeder services and container box leasing of container shipping.

(4) In sub-section (3) (b) (i) ,—

(a) “pooling arrangement” means an agreement between two or more persons for providing services through a pool or operating one or more ships or inland vessels as the case may be, and sharing earnings or operating profits on the basis of mutually agreed terms; and

(b) “contract of affreightment” means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period.

(5) The Central Government, if it consider necessary or expedient so to do, may, by notification, exclude any activity referred to in sub-section 3(b) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(6) Every notification issued under this Part shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(7) The incidental activities shall be the activities which are incidental to the core activities and as prescribed for the purpose.

(8) Where a tonnage tax company operates any ship or inland vessels as the case may be, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed under other provisions of this Act.

(9) Where any goods or services held for the purposes of—

(a) tonnage tax business are transferred to any other business carried on by a tonnage tax company; or

(b) any other business carried on by such tonnage tax company are transferred to the tonnage tax business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(10) In sub-section (9) , “market value”, in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(11) Where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner specified in sub-section (9) presents exceptional difficulties, he may compute such income on such reasonable basis as he consider fit.

(12) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Part, take income as may reasonably be deemed to have been derived therefrom.

(13) In this Part, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

(14) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(15) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purposes of the tonnage tax business and for the other business.

(16) The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (1) , shall be excluded from the book profit of the company for the purposes of section 206.

228.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115V-I, 115V and 115V-O are as under:

Relevant shipping income.

115V-I. (1) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

(i) its profits from core activities referred to in sub-section (2) ;

(ii) its profits from incidental activities referred to in sub-section (5) :

Providedthat where the aggregate of all such incomes specified in clause (ii) exceeds one-fourth per cent of the turnover from core activities referred to in sub-section (2) , such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(2) The core activities of a tonnage tax company shall be—

(i) its activities from operating qualifying ships; and

(ii) 60[other ship-related activities] mentioned as under :—

(A) shipping contracts in respect of—

(i) earning from pooling arrangements;

(ii) contracts of affreightment.

Explanation.— For the purposes of this sub-clause,—

(a) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships 61[or

inland vessels, as the case may be,] and sharing earnings or operating profits on the basis of mutually agreed terms;

(b) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(B) specific shipping trades, being—

(i) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

(ii) slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

(3) The Central Government, if it consider necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (ii) of sub-section (2) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(4) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(5) The incidental activities shall be the activities which are incidental to the core activities and which may be prescribed for the purpose.

(6) Where a tonnage tax company operates any ship, 61a[or inland vessel, as the case may be,] which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed in accordance with the other provisions of this Act.

(7) Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

Providedthat where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(8) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Chapter, take the amount of income as may reasonably be deemed to have been derived therefrom.

Explanation.—For the purposes of this Chapter, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income

CHAPTER XII-G

SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

A.—Meaning of certain expressions

Definitions.

115V. In this Chapter, unless the context otherwise requires,—

(*a*) "bareboat charter" means hiring of a ship [56]**[***or inland vessel, as the case may be,***]** for a stipulated period on terms which give the charterer possession and control of the ship [56]**[***or inland vessel, as the case may be,***]** including the right to appoint the master and crew;

(*b*) "bareboat charter-*cum*-demise" means a bareboat charter where the ownership of the ship [56]**[***or inland vessel, as the case may be,***]** is intended to be transferred after a specified period to the company to whom it has been chartered;

(*c*) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under sub-section (1) of section 7 of the Merchant Shipping Act, 1958 (44 of 1958) ;

(*d*) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(*e*) "fishing vessel" shall have the meaning assigned to it in clause (*12*) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958) ;

Following clause (*ea*) shall be inserted after clause (*e*) of section 115V by the Finance Act, 2025, w.e.f. 1-4-2026:

(*ea*) *"inland vessel" shall have the same meaning as assigned to it in clause (*q*) of*

section 3 of the Inland Vessels Act, 2021 (24 of 2021) ;

(*f*) "pleasure craft" means a ship [57]**[***or inland vessel, as the case may be,***]** of a kind whose primary use is for the purposes of sport or recreation;

(*g*) "qualifying company" means a company referred to in section 115VC;

(*h*) "qualifying ship" means a ship [57]**[***or inland vessel, as the case may be,***]** referred to in section 115VD;

(*i*) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(*j*) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(*k*) "tonnage tax activities" means the activities referred to in sub-sections (2) and (5) of section 115V-I;

(*l*) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(*m*) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

Exclusion from provisions of section 115JB.

115V-O. The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (1) of section 115V-I, shall be excluded from the book profit of the company for the purposes of section 115JB.

228.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 228 of the Bill seeks to provide for relevant shipping income and exclusion from book profit. The clause corresponds to section 115V-I, 115VJ and 115V-O of the Act. The provisions of the above existing sections have been consolidated and textually simplified and retained with the same intent in this clause.

228.4 Observations/Recommendations of the Committee:

The Committee, after careful consideration of Clause 228 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115V-I, 115VJ, and 115V-O of the Income-Tax Act, 1961.The Committee note the justification furnished by the Ministry that this change simply merges existing provisions into a unified framework while retaining their main intent. The Committee find this approach appropriate and desirable for simplifying the legislation and improving clarity in its application. Therefore, the Committee accept the Clause 228 as it stands in the Bill.

229 . Depreciation and gains relating to tonnage tax assets

229.1 Provision proposed in the Income-Tax Bill, 2025:

(1) For the purposes of computing depreciation under section 230(1) (d) , the depreciation for the first tax year of the tonnage tax scheme (herein referred to as the first tax year) shall be computed on the written down value of the qualifying ships as specified under sub-section (2) .

(2) The written down value of the block of assets, being ships or inland vessels as the case may be, as on the first day of the first tax year, shall be divided in the ratio of the book written down value of the qualifying ships (herein referred to as the qualifying assets) and the book written down value of the non-qualifying ships (herein referred to as the other assets) , as per the following formula:—

$$D = A \times \frac{B}{B+C}$$

$$E = A \times \frac{C}{B+C}$$

where,—

D = the written down value of the block of qualifying assets as on the first day of the tax year;

E = the written down value of the block of other assets as on the first day of the tax year;

A = the written down value of the existing block of assets, being ships as on the last day of the immediately preceding tax year;

B = the aggregate of book written down value of qualifying assets as on the last day of the preceding tax year; and

C = the aggregate of the book written down value of other assets as on the last day of the preceding tax year.

(3) The block of qualifying assets as determined under sub-section (2) shall constitute a separate block of assets for the purposes of this Part.

(4) Where an asset forming part of a block of,—

(a) qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets as per the following formula:—

$$A = \frac{B \times C}{D}$$

where,—

A = the appropriate portion to be added to the block of the other assets;

B = the written down value of block of qualifying assets as on the first day of the tax year;

C = the book written down value of qualifying asset which begins to be used for purpose other than the tonnage tax business; and

D = the aggregate of book written down value of all the assets forming the block of qualifying assets;

(b) other assets, begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset as per the following formula:—

$$E = \frac{F \times G}{I}$$

where,—

E = the appropriate proportion to be added to the block of qualifying asset;

F = the written down value of block of other assets as on the first day of the tax year;

G = book written down value of the other asset which begins to be used for tonnage tax business; and

I = the aggregate of book written down value of all the assets forming the block of other assets.

(5) For the purposes of computing depreciation under section 230(1) (d) in respect of an asset mentioned in sub-sections (4) (a) and (b) , the depreciation computed for the tax year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

(6) For the removal of doubts, it is hereby declared that for the purposes of this Act, the depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (2) had been brought forward from the preceding tax year.

(7) In this section,—

(a) “book written down value” means the written down value as per books of accounts; and

(b) “written down value” means the written down value as calculated for purposes of income-tax.

(8) Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax as per sections 67 and 74, and the capital gains so arising shall be computed as per sections 67 to 81.

(9) For the purposes of computing such profits or gains, as referred to in sub-section (8) , the provisions of section 74 shall have effect as if for the words “written down value of the block of assets”, the words “written down value of the block of qualifying assets” had been substituted.

(10) In this section, “written down value of the block of qualifying assets” means the written down value computed as per sub-section (2) .

229.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VKand 115VN are as under:

Depreciation.

115VK. (1) For the purposes of computing depreciation under clause (iv) of section 115VL, the depreciation for the first previous year of the tonnage tax scheme (hereafter in this section referred to as the first previous year) shall be computed on the written down value of the qualifying ships as specified under sub-section (2) .

(2) The written down value of the block of assets, being ships 62[or inland vessels, as the case may be], as on the first day of the first previous year, shall be divided in the ratio of the book written down value of the qualifying ships (hereafter in this section referred to as the qualifying assets) and the book written down value of the non-qualifying ships (hereafter in this section referred to as the other assets) .

(3) The block of qualifying assets as determined under sub-section (2) shall constitute a separate block of assets for the purposes of this Chapter.

(4) For the purposes of sub-section (2) , the book written down value of the block of qualifying assets and the block of other assets shall be computed in the following manner, namely:—

(a) the book written down value of each qualifying asset and each other asset as on the first day of the previous year and which form part of the block of assets to be divided shall be determined by taking the book written down value of each asset appearing in the books of account as on the last day of the preceding previous year:

Providedthat any change in the value of the assets consequent to their revaluation after the date on which the Finance (No. 2) Act, 2004 receives the assent of the President shall be ignored;

(b) the book written down value of all the qualifying assets and other assets shall be aggregated; and

(c) the ratio of the aggregate book written down value of the qualifying assets to the aggregate book written down value of the other assets shall be determined.

(5) Where an asset forming part of a block of qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets.

Explanation.—For the purposes of this sub-section, appropriate portion of the written down value allocable to the asset, which begins to be used for purposes other than the tonnage tax business, shall be an amount which bears the same proportion to the written down value of the block of qualifying assets as on the first day of the previous year as the book written down value of the asset beginning to be used for purposes other than tonnage tax business bears to the book written down value of all the assets forming the block of qualifying asset.

(6) Where an asset forming part of a block of other assets begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset.

Explanation.—For the purposes of this sub-section, appropriate portion of written down value allocable to the asset which begins to be used for the tonnage tax business shall be an amount which bears the same proportion to the written down value of the block of other assets as on the first day of the previous year as the book written down value of the asset beginning to be used for tonnage tax business bears to the total book written down value of all the assets forming the block of other assets.

(7) For the purposes of computing depreciation under clause (iv) of section 115VL in respect of an asset mentioned in sub-sections (5) and (6) , depreciation computed for the previous year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this Act, depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (2) had been brought forward from the preceding previous year.

Explanation 2.—For the purposes of this section, "book written down value" means the written down value as appearing in the books of account.

Chargeable gains from transfer of tonnage tax assets.

115VN. Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax in accordance with the provisions of section 45, read with section 50, and the capital gains so arising shall be computed in accordance with the provisions of sections 45 to 51:

Provided that for the purpose of computing such profits or gains, the provisions of section 50 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

Explanation.—For the purposes of this Chapter, "written down value of the block of qualifying assets" means the written down value computed in accordance with the provisions of sub-section (2) of section 115VK.

229.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 229 of the Bill provides for manner of calculation of depreciation along with treatment of capital gains relating to tonnage tax assets. The clause corresponds to section 115VK and 115VN of the Act. The provisions of the above existing section have been textually simplified and merged and retained with the same intent in this clause.

229.4 Observations/Recommendations of the Committee:

> **The Committee, after considering Clause 229 of the Bill, find the proposal reasonable and in keeping with the main intent of Section 115VK and Section 115VN of the Income-Tax Act, 1961. The Ministry's explanation that this simply clarifies and reorganises the text, without making substantial**

policy changes, is appropriate and desirable.Therefore, the Committee accept the provisions under Clause 229 as proposed in the Bill.

Clause- 230.Exclusion of deduction,loss, set off etc.

230.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Irrespective of anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any tax year (herein referred to as the "relevant tax year") in which it is chargeable to tax as per this Part—

(a) sections 28 to 52 shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant tax years, had been given full effect to for that tax year itself;

(b) no loss referred to in section 108(1) or (2) (a) or 109 or 112(1) or 116(1) , in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the tax years when the company is under the tonnage tax scheme;

(c) no deduction shall be allowed under Chapter VIII in relation to the profits and gains from the business of operating qualifying ships; and

(d) in computing the depreciation allowance under section 33, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant tax years.

(2) Section 112 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the tax years when the company is under the tonnage tax scheme.

(3) The losses referred to in sub-section (2) shall not be available for set off against any income other than relevant shipping income in any tax year beginning on or after the company exercises its option under section 231.

(4) Any apportionment necessary to determine the losses referred to in sub-section (2) shall be made on a reasonable basis.

230.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VL and 115VM are as under:

General exclusion of deduction and set off, etc.

115VL. Notwithstanding anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any previous year (hereafter in this section referred to as the "relevant previous year") in which it is chargeable to tax in accordance with this Chapter—

(*i*) sections 30 to 43B shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant previous years, had been given full effect to for that previous year itself;

(*ii*) no loss referred to in sub-sections (1) and (3) of section 70 or sub-sections (1) and (2) of section 71 or sub-section (1) of section 72 or sub-section (1) of section 72A, in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the previous years when the company is under the tonnage tax scheme;

(*iii*) no deduction shall be allowed under Chapter VI-A in relation to the profits and gains from the business of operating qualifying ships; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous years.

Exclusion of loss.

115VM. (1) Section 72 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the

relevant shipping income in any of the previous years when the company is under the tonnage tax scheme.

(2) The losses referred to in sub-section (1) shall not be available for set off against any income other than relevant shipping income in any previous year beginning on or after the company exercises its option under section 115VP.

(3) Any apportionment necessary to determine the losses referred to in sub-section (1) shall be made on a reasonable basis.

230.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

Clause 230 of the Bill seeks to provide for exclusion of losses, deductions and set off including the accrued losses incurred or claimed prior to opting of tonnage tax scheme by the company. The clause corresponds to section 115VL and 115VM of the Act. The provisions of the above existing section have been textually simplified and merged and retained with the same intent in this clause.

230.4 Examination by the Committee:

On the issue as whether the Ministry will issue rules or guidance to ensure consistent application of the "reasonable basis" apportionment method in Clause 230(4) of the Income-Tax Bill 2025, replacing the Assessing Officer's discretion under Section 115VI, the Ministry in its written reply stated as under:

The existing provisions of the Act have been simplified and retained in the Bill. The provisions of cl 230(4) are clear in the sense that AO shall on reasonable basis apportion the losses which have accrued to company before opting of tonnage tax scheme. There is no need to prescribe rules, guidance in this regard.

Further, provisions of cl. 230(4) of the Bill are same as provided in sec. 115VM(3) of the Act.

230.5Observations/Recommendations of the Committee:

The Committee, after careful consideration of Clause 230 of the Bill, find the proposal reasonable and in keeping with the intent of sections 115VL and 115VM of the Income-Tax Act, 1961.The Committee note Ministry's justification that Clause 230 simply merges and streamlines the text of the existing provisions of Income-Tax Act, 1961while retaining their main intent is appropriate and desirable. Therefore, the Committee recommend retaining Clause 230 as it stands in the Bill.

231. Method of opting of tonnage tax scheme and validity

231.1 Provision proposed in the Income-Tax Bill, 2025:

(1) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner, as prescribed, for such scheme.

(2) A qualifying company may make an application within three months, of the date of its incorporation, or of the date on which it becomes a qualifying company for the first time.

(3) A Unit of an International Financial Services Centre which has availed of deduction under section 147 may make an application within three months from the date on which such deduction ceases.

(4) On receipt of an application for option for tonnage tax scheme under sub-section (1) , the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he shall pass an order in writing—

(a) approving the option for tonnage tax scheme; or

(b) refusing to approve the option for tonnage tax scheme, if he is not so satisfied,

and a copy of such order shall be sent to the applicant.

(5) No order under sub-section 4(b) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(6) Every order under sub-section (4) shall be passed before the expiry of three months from the end of the quarter in which the application under sub-section (1) was received.

(7) Where an order granting approval is passed under sub-section (4) , the provisions of this Part shall apply from the tax year in which the option for tonnage tax scheme is exercised.

(8) An option for tonnage tax scheme, after it has been approved under sub-section (4) , shall remain in force for ten years from the date on which such option has been exercised and shall be taken into account from the tax year in which such option is exercised.

(9) An option for tonnage tax scheme shall cease to have effect from the tax year, in which—

(a) the qualifying company ceases to be a qualifying company;

(b) a default is made in complying with the provisions contained in section 232(1) to (20) ;

(c) the tonnage tax company is excluded from the tonnage tax scheme under section 234;

(d) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Part may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed as per other provisions of this Act.

(10) An option for tonnage tax scheme approved under sub-section (4) may be renewed within one year from the end of the tax year in which the option ceases to have effect.

(11) The provisions of sub-sections (1) to (10) shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

(12) A qualifying company,—

(a) which on its own, opts out of the tonnage tax scheme; or

(b) which makes a default in complying with the provisions contained in sections232(1) to (20) ; or

(c) whose option has been excluded from tonnage tax scheme in pursuance of an order made under section 234(4) ,

shall not be eligible to opt for tonnage tax scheme for ten years from the date of opting out or default or order.

231.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VP, 115VQ, 115VR and 115VS are as under:

C.—Procedure for option of tonnage tax scheme

Method and time of opting for tonnage tax scheme.

115VP. (1) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner as may be prescribed, for such scheme.

(2) The application under sub-section (1) may be made by any existing qualifying company at any time after the 30th day of September, 2004 but before the 1st day of January, 2005 (hereafter referred to as the "initial period") :

Providedthat—

(i) a company incorporated after the initial period; or

(ii) a qualifying company incorporated before the initial period but which becomes a qualifying company for the first time after the initial period,

may make an application within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be:

63[Provided further that a Unit of an International Financial Services Centre which has availed of deduction under section 80LA may make an application within three months from the date on which such deduction ceases.]

(3) On receipt of an application for option for tonnage tax scheme under sub-section (1) , the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he—

(i) shall pass an order in writing approving the option for tonnage tax scheme; or

(ii) shall, if he is not so satisfied, pass an order in writing refusing to approve the option for tonnage tax scheme,

and a copy of such order shall be sent to the applicant:

Providedthat no order under clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(4) Every order granting or refusing the approval of the option for tonnage tax scheme under clause (i) or clause (ii) , as the case may be, of sub-section (3) shall be passed before the expiry of one month from the end of the month in which the application was received under sub-section (1) :

64[Provided that for an application received under sub-section (1) on or after the 1st April, 2025, order under sub-section (3) shall be passed before the expiry of three months from the end of the quarter in which such application was received.]

(5) Where an order granting approval is passed under sub-section (3) , the provisions of this Chapter shall apply from the assessment year relevant to the previous year in which the option for tonnage tax scheme is exercised.

65[Explanation.—For the purposes of this section "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005) .]

Period for which tonnage tax option to remain in force.

115VQ. (1) An option for tonnage tax scheme, after it has been approved under sub-section (3) of section 115VP, shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised.

(2) An option for tonnage tax scheme shall cease to have effect from the assessment year relevant to the previous year in which—

(*a*) the qualifying company ceases to be a qualifying company;

(*b*) a default is made in complying with the provisions contained in section 115VT or section 115VU or section 115VV;

(*c*) the tonnage tax company is excluded from the tonnage tax scheme under section 115VZC;

(*d*) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Chapter may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

Renewal of tonnage tax scheme.

115VR. (1) An option for tonnage tax scheme approved under sub-section (3) of section 115VP may be renewed within one year from the end of the previous year in which the option ceases to have effect.

(2) The provisions of sections 115VP and 115VQ shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

Prohibition to opt for tonnage tax scheme in certain cases.

115VS. A qualifying company, which, on its own, opts out of the tonnage tax scheme or makes a default in complying with the provisions of section 115VT or section 115VU or section 115VV or whose option has been excluded from tonnage tax scheme in pursuance of an order made under sub-section (1) of section 115VZC, shall not be eligible to opt for tonnage tax scheme for a period of ten years from the date of opting out or default or order, as the case may be.

231.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 231 of the Bill seeks to provide for the method of opting of tonnage tax scheme and its validity. The clause corresponds to section 115VP, 115VQ, 115VR, 115VS of the Act. Redundant provisions have been removed. The provisions of the existing section have been simplified and retained with the same intent in this clause.

231.4 Observations/Recommendations of the Committee:

The Committee, after consideration of Clause 231 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115VP, 115VQ, 115VR, and 115VS of the Income-Tax Act, 1961.The clause sets out the procedure for a qualifying company to opt for the tonnage tax scheme, the period of its validity, renewal conditions, and the circumstances under which the option may cease or be withdrawn. The justification furnished by the Ministry — that the provisions have been simplified and redundancy removed while retaining their main intent — is appropriate and desirable.Therefore, the Committee recommend retaining Clause 231 as it stands in the Bill.

Clause-232. Certain conditions for applicability of tonnage tax scheme

232.1 Provision proposed in the Income-Tax Bill, 2025:

(1) A tonnage tax company shall, subject to and as per the provisions of this section, be required to credit to a reserve account (herein referred to as the Tonnage Tax Reserve Account) an amount, being 20% or more of the book profit derived from the activities referred to in section 228(1) (a) and (b) in each tax year to be utilised in the manner laid down in sub-section (6) .

(2) In this section, “book profit” shall have the meaning assigned to it in section 206(2) so far as it relates to the income derived from the activities referred to in section 228(1) (a) and (b) .

(3) Where the company has—

(a) book profit from the business of operating qualifying ships; and

(b) book loss from any other sources,

and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (1) , the company shall create the reserves to the extent possible in that tax year and the shortfall, if any, shall be added to the reserves required to be created for the following tax year and such shortfall shall be deemed to be part of the reserve requirement of that following tax year.

(4) For the purposes of sub-section (3) , to the extent the shortfall in creation of reserves during a particular tax year is carried forward to the following tax year under the said sub-section, the company shall be considered as having created sufficient reserves for the first mentioned tax year.

(5) Nothing contained in sub-section (4) shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive tax years.

(6) The amount credited to the Tonnage Tax Reserve Account under sub-section (1) shall be utilised by the company before the expiry of eight years following the tax year in which the amount was credited—

(a) for acquiring a new ship or new inland vessel, as the case may be, for the purposes of the business of the company; and

(b) until the acquisition of a new ship or new inland vessel, as the case may be, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(7) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (1) ,—

(a) has been utilised for any purpose other than that referred to in sub-section (6) ; or

(b) has not been utilised for the purpose specified in sub-section (6) (a) ; or

(c) has been utilised for the purpose of acquiring a new ship or new inland vessel, as the case may be,as specified in sub-section (6) (a) , but such shipor new inland vessel, as the case may be, is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the tax year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (1) shall be taxable under the other provisions of this Act—

(i) in a case referred to in clause (a) , in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b) , in the year immediately following eight years specified in sub-section (6) ; or

(iii) in a case referred to in clause (c) , in the year in which the sale or transfer took place.

(8) The income so taxable under the other provisions of this Act, referred to in sub-section (7) , shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(9) Irrespective of anything contained in any other provision of this Part, where the amount credited to the Tonnage Tax Reserve Account as per sub-section (1) is less than the minimum amount required to be credited under sub-section (1) , an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required

to be credited under sub-section (1) , shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(10) If the reserve required to be created under sub-section (1) is not created for any two consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the failure to create the reserve under sub-section (1) had occurred.

(11) In this section, “new ship”or “new inland vessel”, as the case may be, includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

(12) A tonnage tax company, after its option has been approved under section 231(4) , shall comply with the minimum training requirement in respect of trainee officers as per the guidelines made by the Director-General of Shipping and notified by the Central Government.

(13) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping in the form and manner as prescribed, along with the return of income under section 263 to the effect that such company has complied with the minimum training requirement as per the guidelines referred to in sub-section (12) for the tax year.

(14) If the minimum training requirement is not complied with for any five consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the fifth consecutive tax year in which the failure to comply with the minimum training requirement as per sub-section (12) had occurred.

(15) In the case of every company which has opted for tonnage tax scheme, not more than 49% of the net tonnage of the qualifying ships operated by it during any tax year shall be chartered in.

(16) The proportion of net tonnage referred to in sub-section (15) in respect of a tax year shall be calculated based on the average of net tonnage during that tax year.

(17) For the purposes of sub-section (16) , the average of net tonnage shall be computed in such manner, as prescribed, in consultation with the Director-General of Shipping.

(18) Where the net tonnage of ships or new inland vessel, as the case may be, chartered in exceeds the limit under sub-section (15) during any tax year, the total income of such company in relation to that tax year shall be computed as if the option for tonnage tax scheme does not have effect for that tax year.

(19) Where the limit under sub-section (15) had exceeded in any two consecutive tax years, the option for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the limit had exceeded.

(20) In this section, the term “chartered in” shall exclude a ship or new inland vessel, as the case may be, chartered in by the company on bareboat charter-cum-demise terms.

(21) An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a tax year unless such company—

(a) maintains separate books of account in respect of the business of operating qualifying ships; and

(b) furnishes, before the specified date referred to in sections 63, the report of an accountant, in the prescribed form, duly signed and verified by such accountant.

(22) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Part.

(23) Where a qualifying company continues to operate a ship or new inland vessel, as the case may be, which temporarily ceases to be a qualifying ship, such ship or inland vessel, as the care may be shall not be deemed as a qualifying ship for the purposes of this Part.

232.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VT, 115VU, 115VV, 115VW, 115VZA are as under:

D.—Conditions for applicability of tonnage tax scheme

Transfer of profits to Tonnage Tax Reserve Account.

115VT. (1) A tonnage tax company shall, subject to and in accordance with the provisions of this section, be required to credit to a reserve account (hereafter in this section referred to as the Tonnage Tax Reserve Account) an amount not less than twenty per cent of the book profit derived from the activities referred to in clauses (i) and (ii) of sub-section (1) of section 115V-I in each previous year to be utilised in the manner laid down in sub-section (3) :

Providedthat a tonnage tax company may transfer a sum in excess of twenty per cent of the book profit and such excess sum transferred shall also be utilised in the manner laid down in sub-section (3) .

Explanation.—For the purposes of this section, "book profit" shall have the same meaning as in the Explanation to sub-section (2) of section 115JB so far as it relates to the income derived from the activities referred to in clauses (i) and (ii) of sub-section (1) of section 115V-I.

(2) Where the company has book profit from the business of operating qualifying ships and book loss from any other sources, and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (1) , the company shall create the reserves to the extent possible in that previous year and the shortfall, if any, shall be added to the amount of the reserves required to be created for the following previous year and such shortfall shall be deemed to be part of the reserve requirement of that following previous year :

Providedthat to the extent the shortfall in creation of reserves during a particular previous year is carried forward to the following previous year under this sub-section,

the company shall be considered as having created sufficient reserves for the first mentioned previous year:

Provided furtherthat nothing contained in the first proviso shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive previous years.

(3) The amount credited to the Tonnage Tax Reserve Account under sub-section (1) shall be utilised by the company before the expiry of a period of eight years next following the previous year in which the amount was credited—

(a) for acquiring a new ship 66[or new inland vessel, as the case may be], for the purposes of the business of the company; and

(b) until the acquisition of a new ship 66[or new inland vessel, as the case may be], for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(4) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (1) ,—

(a) has been utilised for any purpose other than that referred to in clause (a) or clause (b) of sub-section (3) ; or

(b) has not been utilised for the purpose specified in clause (a) of sub-section (3) ; or

(c) has been utilised for the purpose of acquiring a new ship 67[as specified in clause (a) of sub-section (3) , but such ship]is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the previous year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (1) shall be taxable under the other provisions of this Act—

(i) in a case referred to in clause (a) , in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b) , in the year immediately following the period of eight years specified in sub-section (3) ; or

(iii) in a case referred to in clause (c) , in the year in which the sale or transfer took place:

Providedthat the income so taxable under the other provisions of this Act shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(5) Notwithstanding anything contained in any other provision of this Chapter, where the amount credited to the Tonnage Tax Reserve Account in accordance with sub-section (1) is less than the minimum amount required to be credited under sub-section (1) , an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (1) shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(6) If the reserve required to be created under sub-section (1) is not created for any two consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the failure to create the reserve under sub-section (1) had occurred.

Explanation.—For the purposes of this 68[section, "new ship" includes] a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

Minimum training requirement for tonnage tax company.

115VU. (1) A tonnage tax company, after its option has been approved under sub-section (3) of section 115VP, shall comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director-General of Shipping and notified in the Official Gazette by the Central Government.

(2) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping along with the return of income under section 139 to the effect that such company has complied with the minimum training requirement in accordance with the guidelines referred to in sub-section (1) for the previous year.

(3) If the minimum training requirement is not complied with for any five consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the fifth consecutive previous year in which the failure to comply with the minimum training requirement under sub-section (1) had occurred.

Limit for charter in of tonnage.

115VV. (1) In the case of every company which has opted for tonnage tax scheme, not more than forty-nine per cent of the net tonnage of the qualifying ships operated by it during any previous year shall be chartered in.

(2) The proportion of net tonnage referred to in sub-section (1) in respect of a previous year shall be calculated based on the average of net tonnage during that previous year.

(3) For the purposes of sub-section (2) , the average of net tonnage shall be computed in such manner as may be prescribed in consultation with the Director-General of Shipping.

(4) Where the net tonnage of ships [69]**[***or inland vessels, as the case may be,***]** chartered in exceeds the limit under sub-section (1) during any previous year, the total income of such company in relation to that previous year shall be computed as if the option for tonnage tax scheme does not have effect for that previous year.

(5) Where the limit under sub-section (1) had exceeded in any two consecutive previous years, the option for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the limit had exceeded.

Explanation.—For the purposes of this section, the term "chartered in" shall exclude a ship [69]**[***or inland vessel, as the case may be,***]** chartered in by the company on bareboat charter-*cum*-demise terms.

Maintenance and audit of accounts.

115VW. An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a previous year unless such company—

(*i*) maintains separate books of account in respect of the business of operating qualifying ships; and

(*ii*) furnishes, before the specified date referred to in section 44AB, the report of an accountant, in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section, "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288.

Effect of temporarily ceasing to operate qualifying ships.

115VZA. (1) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Chapter.

(2) Where a qualifying company continues to operate a ship, [70]**[***or inland vessel, as the case may be,***]** which temporarily ceases to be a qualifying ship, such ship [70]**[***or inland vessel, as the case may be,***]** shall not be considered as a qualifying ship for the purposes of this Chapter.

232.2 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 232 of the Bill seeks to provide for certain conditions for applicability of tonnage tax scheme. The clause corresponds to section 115VT, 115VU, 115VV, 115VW, 115VZA of the Act. The provisions of the existing section have been simplified and retained with the same intent in this clause.

232.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of suggestions received from stakeholders/ experts are given as under:

> The prefix "new" is inserted only for inland vessels, not for ships. This may lead to unintended relaxation, allowing more second-hand vessels to be chartered-in without breaching the limit.Address and rectify the discrepancy in referencing "new inland vessel" to ensure consistent application of the 49% limit for all chartered-in vessels. Ensure that the relief applies to both new and second-hand inland vessels as intended.

232.5 Examination by the Committee:

In response to the suggestion that the prefix “new” should be inserted only for inland vessels and not for ships—identifying this as a drafting error—the Ministry, in its written reply, clarified tha that itis an inadvertent drafting error. The suggestion made by the stakeholders is acceptable.

232.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 232 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable.

However, the Committee observe a discrepancy arising from the use of the prefix "new" for inland vessels but not for ships. This may inadvertently allow more second-hand vessels to be chartered in, exceeding the intended 49% limit.

The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that the terminology be amended to apply the 49% limit uniformly to all chartered-in vessels — whether new or second-hand — in order to maintain fairness and policy consistency.The Committee, therefore, suggestthat the Ministry consider this modification while finalizing the provisions of Clause 232 of the Bill.

233. Amalgamation and demerger

233.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company, if it is a qualifying company.

(2) Where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under section 231(1) within three months from the date of the approval of the scheme of amalgamation.

(3) Where the amalgamating companies are tonnage tax companies, the provisions of this Part shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force.

(4) Where one of the amalgamating companies is a qualifying company as on the 1st October, 2004 and which has not exercised the option for tonnage tax scheme before the 1st January, 2005, the provisions of this Part shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed as per the other provisions of this Act.

(5) Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Part, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period, if it is a qualifying company.

(6) The option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

233.2 Existing provisions of the Section 115VY and 115VZ are as under:

E.—Amalgamation and demerger of shipping companies

Amalgamation.

115VY. Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company if it is a qualifying company:

Provided that where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under sub-section (1) of section 115VP within three months from the date of the approval of the scheme of amalgamation:

Provided furtherthat where the amalgamating companies are tonnage tax companies, the provisions of this Chapter shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force:

Provided alsothat where one of the amalgamating companies is a qualifying company as on the 1st day of October, 2004 and which has not exercised the option for tonnage tax scheme within the initial period, the provisions of this Chapter shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

Demerger.

115VZ. Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then,

subject to the other provisions of this Chapter, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period if it is a qualifying company:

Provided that the option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

233.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 233 of the Bill seeks to provide for continuance of and validity of the tonnage tax scheme in the case of amalgamation and demerger. The clause corresponds to section 115VY, 115VZ of the Act. The provisions of the existing section have been simplified and retained with the same intent in this clause.

233.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of suggestions received from stakeholders/ experts are given as under:

ICAI Clause (23) of Section 233 may be amended as under: Where a qualifying company continues to operate a ship or new inland vessel, as the case may be, which temporarily ceases to be a qualifying ship, such ship or inland vessel, as the care case may be shall not be deemed as a qualifying ship for the purposes of this Part. The discrepancy may have arisen due to the substitution of the term 'inland vessel' with 'new inland vessel' in other provisions of this Part However, using it in this particular clause may not be appropriate The use of the term 'new inland vessel' herein may constitute an apparent discrepancy, which may require clarification or definition.

233.5 Examination by the Committee:

233.5.1 In response to the above suggestion, the ministry in its written reply stated as under:

> It is an inadvertent drafting error. The word "new" has been inadvertently added with the words inland vessel in clause 233(23) of the Bill. The word "new" is to be omitted from clause 233(23) of the Bill.

233.5.2 On the question of whether multiple successive amalgamations (i.e., amalgamation of already amalgamated entities) impact the continuity of the tonnage tax scheme and whether the unexpired period gets recalculated in such cases:

> The existing provisions of the Act have been simplified and retained in the Bill. The stakeholder has sought response to specific queries with regard to amalgamation and demerger, which depends on facts of the case. It may not be possible to draft law based on each facts of the case. The law has stated its position in clear terms and AO has to apply the law based on the facts of the case.

233.6 Observations/Recommendations of the Committee:

The Committee, after thorough deliberation upon the proposal made in Clause 233 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable.

However, the Committee observea discrepancy arising from the use of the term "new inland vessel" in this context. The use of "new" may inadvertently create confusion and inconsistency in application, particularly when the policy intent applies uniformly to all inland vessels, regardless of whether they are new or second-hand.

The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that the terminology be amended to refer simply to "inland vessel" — thereby applying the provisions uniformly to all such vessels — in order to maintain fairness and policy consistency.The Committee, therefore, suggest that the Ministry consider this modification while finalizing the provisions of Clause 233 of the Bill.

234. Avoidance of tax and exclusion from tonnage tax scheme

234.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Subject to the provisions of this Part, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section (1) , a transaction or arrangement shall be considered an abuse, if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(a) a person other than a tonnage tax company; or

(b) a tonnage tax company in respect of its non-tonnage tax activities.

(3) In this section, “tax advantage” includes—

(a) the determination of—

(i) the allowance for any expense or interest; or

(ii) any cost or expense allocated or apportioned,

which has the effect of reducing the income or increasing the loss, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the tax year in which the transaction was entered into; or

(b) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

(4) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (1) , the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme.

(5) The Assessing Officer shall pass an order under sub-section (4) , after—

(a) giving an opportunity to the company by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme; and

(b) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner.

(6) The provisions of this section shall not apply where the company satisfies the Assessing Officer that the transaction or arrangement was a bona fide commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Part.

(7) Where an order has been passed under sub-section (4) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the tax year in which the transaction or arrangement was entered into.

234.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115VZB and 115VZC are as under:

G.—Provisions of this Chapter not to apply in certain cases

Avoidance of tax.

115VZB. (1) Subject to the provisions of this Chapter, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section (1) , a transaction or arrangement shall be considered an abuse if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(i) a person other than a tonnage tax company; or

(ii) a tonnage tax company in respect of its non-tonnage tax activities.

Explanation.—For the purposes of this section, "tax advantage" include,—

(i) the determination of the allowance for any expense or interest, or the determination of any cost or expense allocated or apportioned, or, as the case may be, which has the effect of reducing the income or increasing the loss, as the case may be, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the previous year in which the transaction was entered into; or

(ii) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

Exclusion from tonnage tax scheme.

115VZC. (1) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (1) of section 115VZB, the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme:

Providedthat an opportunity shall be given by the Assessing Officer by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme:

Provided furtherthat no order under this sub-section shall be passed without the previous approval of the Principal Chief Commissioner or Chief Commissioner.

(2) The provisions of this section shall not apply where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Chapter.

(3) Where an order has been passed under sub-section (1) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the previous year in which the transaction or arrangement was entered into.

234.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed amendment is as under:

> Clause 234 of the Bill relates to avoidance of tax and exclusion from tonnage tax scheme in case of abuse of the provisions by way of any arrangement made to avail tax advantage. The clause corresponds to section 115VZB, 115VZC of the Act. The provisions of the existing section have been simplified and retained with the same intent in this clause.

234.4 Examination by the Committee:

Regarding the issue whether the Clause 234 provide adequate differentiation between intentional abuse and innocent mischaracterization of inter business allocations , the Ministry in its written reply stated as under:

> The existing provisions of the Act have been simplified and retained in the Bill. Cl 234 of the Bill provides that tonnage tax scheme shall not apply where tonnage tax company is a party to any transactions or arrangement which amounts to an abuse of tonnage tax scheme. Sub-clause (2) and (3) of cl 234 provide when a transaction or arrangement is to be considered an abuse. Any "innocent mischaracterization of inter-business allocations" is to be examined in the context of cl 234(2) and (3) of the Bill to determine whether the transaction is an abuse to tonnage tax scheme.

Observations/Recommendations of the Committee:

234.5 The Committee, after thorough deliberation upon the proposal made in Clause 234 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable.

The Committee note that this clause aims to curb abuse of the tonnage tax scheme and to empower the Assessing Officer to exclude companies from the scheme where transactions or arrangements are entered into with the main purpose of avoiding tax. The provisions largely retain the intent of the existing sections 115VZB and 115VZC of the Income-Tax Act, 1961, while simplifying their language.

The Committee believe that this measure is reasonable and necessary to safeguard revenue and to maintain fairness in the application of the tonnage tax scheme. However, the Committee underscores the importance of proper safeguards — including a show-cause notice and the approval of the Principal Chief Commissioner or Chief Commissioner — to avoid arbitrary decisions and to provide companies with an opportunity to explain their transactions.

Therefore, the Committee find the proposal appropriate and broadly endorse its retention in the Bill.However, the Committee suggest that the Ministry and the Assessing Officer should apply these provisions judiciously, to deal with cases of abuse while not affecting bona fide transactions.The Committee, therefore, recommend that the Ministry consider this observation while finalizing the provisions of Clause 234 of the Bill.

Clause- 235. Interpretation

235.1 Provision proposed in the Income-Tax Bill, 2025:

In this Part,—

(a) “bareboat charter” means hiring of a ship or inland vessel, as the case may be, for a stipulated period on terms which give the charterer possession and control of the ship or new inland vessel, as the case may be, including the right to appoint the master and crew;

(b) “bareboat charter-cum-demise” means a bareboat charter where the ownership of the ship or inland vessel, as the case may be, is intended to be transferred after a specified period to the company to whom it has been chartered;

(c) “Director-General of Shipping” means the Director-General of Shipping appointed by the Central Government under section 7(1) of the Merchant Shipping Act, 1958;

(d) “factory ship” includes a vessel providing processing services in respect of processing of the fishing produce;

(e) “fishing vessel” shall have the meaning assigned to it in section 3(12) of the Merchant Shipping Act, 1958;

(f) “inland vessel” shall have the meaning assigned to it in section 3(q) of the Inland Vessels Act, 2021;

(g) “pleasure craft” means a ship or inland vessel, as the case may be, of a kind whose primary use is for the purposes of sport or recreation;

(h) “qualifying company” means a company, if—

(i) it is an Indian company;

(ii) the place of effective management of the company is in India;

(iii) it owns at least one qualifying ship; and

(iv) the main object of the company is to carry on the business of operating ships,

and for the purposes of sub-clause (ii) , “place of effective management of the company” means—

(A) the place where the board of directors of the company or its executive directors, make their decisions; or

(B) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

(i) “qualifying ship” means a ship or inland vessel, as the case may be, if—

(i) it is a seagoing ship or vessel or inland vessel, as the case may be, of fifteen net tonnage or more;

(ii) it is a ship registered under the Merchant Shipping Act, 1958, or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or 407 of said Act or an inland vessel registered under the Inland Vessels Act, 2021, as the case may be; and

(iii) a valid certificate in respect of such ship or inland vessel, as the case may be,indicating its net tonnage is in force,

but does not include—

(A) a seagoing ship or vessel or inland vessel, as the case may be, if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(B) fishing vessels;

(C) factory ships;

(D) pleasure crafts;

(E) harbour and river ferries;

(F) offshore installations; and

(G) a qualifying ship which is used as a fishing vessel for more than thirty days during a tax year;

(j) “seagoing ship” means a ship, if it is certified as such by the competent authority of any country;

(k) “tonnage income” means the income of a tonnage tax company computed as per the provisions of this Part;

(l) “tonnage tax activities” means the activities referred to in section 228(3) and (7) ;

(m) “tonnage tax business” means the business of operating qualifying ships giving rise to relevant shipping income as referred to in section 228(1) ;

(n) “tonnage tax company” means a qualifying company in relation to which tonnage tax option is in force;
(o) “tonnage tax scheme” means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Part.

235.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961) :

Existing provisions of the Section 115V are as under:

Chapter XII-G SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

A.—Meaning of certain expressions

Definitions.

115V. In this Chapter, unless the context otherwise requires,—

(a) "bareboat charter" means hiring of a ship 56[or inland vessel, as the case may be,] for a stipulated period on terms which give the charterer possession and control of the ship 56[or inland vessel, as the case may be,] including the right to appoint the master and crew;

(b) "bareboat charter-cum-demise" means a bareboat charter where the ownership of the ship 56[or inland vessel, as the case may be,] is intended to be transferred after a specified period to the company to whom it has been chartered;

(c) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under sub-section (1) of section 7 of the Merchant Shipping Act, 1958 (44 of 1958) ;

(d) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(e) "fishing vessel" shall have the meaning assigned to it in clause (12) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958) ;

Following clause (ea) shall be inserted after clause (e) of section 115V by the Finance Act, 2025, w.e.f. 1-4-2026:

(ea) "inland vessel" shall have the same meaning as assigned to it in clause (q) of section 3 of the Inland Vessels Act, 2021 (24 of 2021) ;

(f) "pleasure craft" means a ship 57[or inland vessel, as the case may be,] of a kind whose primary use is for the purposes of sport or recreation;

(g) "qualifying company" means a company referred to in section 115VC;

(h) "qualifying ship" means a ship 57[or inland vessel, as the case may be,] referred to in section 115VD;

(i) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(j) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(k) "tonnage tax activities" means the activities referred to in sub-sections (2) and (5) of section 115V-I;

(l) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(m) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter..

235.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

The justification furnished by the Ministry for the proposed clause is as under:

> Clause 235 of the Bill provides for definition of certain terms relating to tonnage tax scheme. The clause corresponds to section 115V of the Act. All definitions in Chapter XII-G of the Act have been placed together in a single independent clause in the Bill to improve readability. The provisions of the existing section have been simplified and retained with the same intent in this clause.

235.4 Important Views/Suggestions given by Experts/Stakeholders:

Gist of suggestions received from stakeholders/ experts are given as under:

i. It is suggested that section 235(a) may be amended as under: (a) “bareboat charter” means hiring of a ship or inland vessel, as the case may be, for a stipulated period on terms which give the charterer possession and control of the ship or new inland vessel, as the case may be, including the right to appoint the master and crew; Use of the word “new” with “inland vessel” is not needed as the word “new” is not used with “ship” The use of “new” with “inland vessel” may result in interpretational issues.

ii. The provision must be amended to provide a clear inclusive definition of “qualifying ship” There must be a clarification regarding non-requirement of valid certificate in indicating net tonnage for slot charter arrangements There is lack of clarity on what a “qualifying ship” is and whether it includes offshore support vessels, dredgers etc The current definition is not inclusive and this may lead companies engaged in offshore services to face adverse tax assessments due to restrictive interpretation Therefore, this clarification would be beneficial for companies engaged in offshore services In cases of slot charter arrangements, valid certificate is not required as it would fall within “deemed tonnage” as envisioned by the Legislature Therefore, there must be an express provision

excluding the same (CIT v Trans Asian Shipping Services P Ltd Civil Appeal No 5870/2016 (SC)

235.5 Examination by the Committee:

235.5.1 In response to the above suggestions made by the stakeholders, the Ministry, in its written submission, stated as under:

i. There is an inadvertent drafting error. The word "new" is not required with "inland vessel" and the same needs to be deleted.
ii. The stakeholder through suggestion seeks to amend definition of "qualifying ship" based on the decision of Hon'ble SC in the case of CIT v Trans Asian Shipping Services P Ltd Civil Appeal No 5870/2016 (SC) . The suggestion is in the nature of policy change and is beyond the scope of IT Bill 2025. There is no change in the provisions of the Bill vis a vis Act. Every decision of higher courts is not required to be codified in law. The decisions are given on complex facts and all facts written in law will make the law immensely complex. In any case, benefit provided by decision of Supreme Court is available to taxpayer.

235.5.2 On the issue of adoption of definition of qualifying ship which is given by the Supreme Court for the purposes of our provisions, Ministry of finance during its deposition before the ministry stated as under:

> " In this, the stakeholder is requesting that there is a definition of qualifying ship which is given in a Supreme Court judgment. So, the suggestion is that we should adopt that definition which is given by the Supreme Court for the purposes of our provisions. So, we have a specific definition of what is a qualifying ship and then, how its income would be charged to tax. The issue is primarily not codifying the Supreme Court judgment. The issue is that the assessee is now requesting that you make the definition of qualifying ship as an inclusive definition, in terms of which things are included in the term 'Qualifying

Ship'. That means, it is not an exhaustive definition. Wherever we are writing 'qualifying', for tonnage tax scheme, a separate code is being specified for them. We have to make that window closed. The Supreme Court in this specific case just went beyond that definition to also include certain types of ships where parts of that ship were under bare boat charter. So, the Supreme Court recognized that part of a ship as being eligible for the tonnage tax scheme. So, codifying that type of judgment is very difficult and not being able to codify does not mean that I remove the exhaustiveness of my definition. What he is suggesting is since you did not codify this thing or it is not if you are not able to codify, make the definition inclusive. We will examine that."

235.5.3 "On the question of whether the implications of new shipping laws should be preemptively incorporated at this stage to avoid future amendments and complications, especially considering the potential impact of recent Supreme Court judgments, even if on niche matters, the Secretary during the sitting of the select committee deposed that they will examine that."

235.6 <u>Observations/Recommendations of the Committee:</u>

The Committee has carefully examined Clause 235 of the Income-Tax Bill, 2025, which sets out definitions for key terms used in the tonnage tax scheme. The Committee find these definitions broadly align with the existing provisions under Section 115V of the Income-Tax Act, 1961, and help streamline and consolidate all related definitions into a single clause for better readability and clarity. <u>The Committee has taken note of a drafting inconsistency in Clause 235(a) , where the word "new" has inadvertently been placed before "inland vessel"—a terminology not present in the principal Act and not required in this context.</u> The use of "new" may confuse stakeholders and lead to interpretational issues. Therefore, in view of this oversight, the Committee recommend the deletion

of the word “new” from Clause 235(a) to align it with the terminology used for “bareboat charter” under the principal Act. The rest of the definitions in this clause may be retained as originally drafted, given their clarity and utility in simplifying the tonnage tax framework. The Committee, therefore, endorses Clause 235 with this minor modification.

Chapter XIV - TAX ADMINISTRATION

Clause 236 – Income-tax authorities

236.1 **Provision proposed in the Income-Tax Bill, 2025:**

For the purposes of this Act, there shall be the following classes of income-tax authorities:—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(*b*) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax;

(*c*) Directors General of Income-tax or Chief Commissioners of Income-tax;

(*d*) Principal Directors of Income-tax or Principal Commissioners of Income-tax;

(*e*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);

(*f*) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals);

(*g*) Joint Directors of Income-tax or Joint Commissioners of Income-tax or Joint Commissioners of Income-tax (Appeals);

(*h*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax;

(*i*) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax;

(*j*) Income-tax Officers;

(*k*) Tax Recovery Officers; and

(*l*) Inspectors of Income-tax.

236.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Income-tax authorities.

116. There shall be the following classes of income-tax authorities for the purposes of this Act, namely :—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),

(*aa*) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax,

(*b*) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(*ba*) Principal Directors of Income-tax or Principal Commissioners of Income-tax,

(*c*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(*cc*) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),

(*cca*) Joint Directors of Income-tax or Joint Commissioners of Income-tax [71][or Joint Commissioners of Income-tax (Appeals)],

(*d*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(*e*) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(*f*) Income-tax Officers,

(*g*) Tax Recovery Officers,

(*h*) Inspectors of Income-tax.

236.3 **Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 236 of the Bill provides for the provisions relating to Income-tax Authorities. The clause corresponds to section 116 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

236.4 **Observations/Recommendations of the Committee:**

The Committee, upon examination and the justification provided by the Ministry, note that the provisions proposed in the clause are in line with corresponding section of the 1961 Act. The Committee find the provisions to be a textual simplification and therefore accept the Clause as proposed.

Clause 237 – Appointment of income-tax authorities.

237.1 **Provision proposed in the Income-Tax Bill, 2025:**

(*1*) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(*2*) The Central Government may, subject to the rules and its orders regulating the conditions of service of persons in public services and posts, authorise the Board, or a Principal Director General or Director General, or a Principal Chief Commissioner or Chief Commissioner, or a Principal Director or Director, or a Principal Commissioner or Commissioner, to appoint income-tax authorities below the rank of a Deputy Commissioner or Assistant Commissioner.

(*3*) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board, may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

237.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Appointment of income-tax authorities.

117. (1) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(2) Without prejudice to the provisions of sub-section (1), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Principal Director General or Director-General, a Principal Chief Commissioner or Chief Commissioner or a Principal Director or Director or a Principal Commissioner or Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner or Deputy Commissioner.

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

237.3 **Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 237 of the Bill provides for provisions relating to appointment of income-tax authorities. The clause corresponds to section 117 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

237.4 **Observations/Recommendations of the Committee:**

The Committee, upon examination and the justification provided by the Ministry, note that the provisions proposed in the clause are mere textual simplification of the existing provision of the 1961 Act. The Committee, therefore, accept the Clause as it stands.

Clause 238– Control of income-tax authorities

238.1 **Provision proposed in the Income-Tax Bill, 2025:**

The Board may, by notification, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as specified in such notification.

238.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Control of income-tax authorities.

118. The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in such notification.

238.3 **Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 238 of the Bill provides for provisions relating to control of income-tax authorities. The clause corresponds to section 118 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

238.4 **Observations/Recommendations of the Committee:**

The Committee note the justification provided by the Ministry and find the provisions of the Clause 238 in line with the existing provisions of the 1961 Act. Being a textual simplification, the Committee accept the Clause as proposed.

Clause 239– Instructions to subordinate authorities

239.1 **Provision proposed in the Income-Tax Bill, 2025:**

(*1*) The Board may issue such orders, instructions and directions to other income-tax authorities as it considers fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions.

(*2*) No orders, instructions or directions under sub-section (*1*) shall be issued to—

(*a*) require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) interfere with the discretion of the Joint Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(*3*) Without prejudice to the foregoing power, the Board may,—

(*a*) if it considers necessary or expedient so to do for the proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of section263, 270, 271, 279, 280, 287, 298, 398(*3*), 406, 407, 423, 424, 425, 427, 428, 439, 448, 449or otherwise), general or special orders in respect of any class of incomes or class of cases,—

(*i*) setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties; and

(*ii*) any such order may, if the Board is of the opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) if it considers desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, not being a Joint Commissioner (Appeals) or a Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified in this Act for making such application or claim and deal with the same on merits as per law;

(*c*) if it considers desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of

Chapter IV or VIII, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions:—

(*i*) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(*ii*) the assessee has complied with such requirement before the completion of assessment in relation to the tax year in which such deduction is claimed.

(*4*) The Central Government shall cause every order issued under sub-section (*3*)(*c*) to be laid before each House of Parliament.

239.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Instructions to subordinate authorities.

119. (1) The Board may, from time to time, issue such orders, instructions and directions to other income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board :

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of [72-73][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(*a*) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK, 139, 143 , 144, 147, 148, 154, 155, 158BFA, sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C, 234E, 234F, 270A, 271, 271C, 271CA and 273 or otherwise), general or special orders in respect of any class of incomes or fringe benefits or class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties

and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, not being [72-73][a Joint Commissioner (Appeals) or] a Commissioner (Appeals)] to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law;

(*c*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:—

(*i*) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(*ii*) the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed :

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.

(3) [***]

239.3 **Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 239 of the Bill provides for provisions relating to instructions to subordinate authorities. The clause corresponds to section 119 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Redundant provisions of section 119 related to reference to sections 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ and 115WK has been omitted as they relate to fringe benefit tax which is no longer on statute.

239.4 **Important Views/Suggestions given by Experts/Stakeholders:**

239.4.1 A gist of the suggestions received from the stakeholders is as under:

i. The CBDT, in exercise of its powers under section 119 of the Income-tax Act, 1961, issues circulars for clarifying the provisions of tax laws. Circulars have been issued since the introduction of the Income-Tax Act, 1961, and even prior to that, under the Income-tax Act, 1922, which are still relevant and important. It, however, becomes very difficult for the taxpayers to be aware as to which of the different circulars issued over decades are still relevant for the current assessment year (tax year in the New Regime). There are a number of circulars which are relevant and important even now. Therefore, akin to the Master Circular issued by RBI on Foreign Investment in India, which is issued with a sunset clause of one year and is replaced by an updated Master Circular on the Subject, under the New Income-tax Regime, the CBDT can issue a Master Circular at the beginning of each tax year under the new regime consolidating all such circulars issued which are relevant for the tax year. This would serve as a one stop reference and facilitate ease of compliance.

ii. It is suggested that section 239(3)(a) may be redrafted as '(3) Without prejudice to the foregoing power, the Board may,(a) if it considers necessary or expedient so to do for the proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of section 263, 270, 271, 279, 280, 287, 288, 298, 398(3), 406, 407, 408, 423, 424, 425, 427, 428, 439, 448, 449 or otherwise), general or special orders in respect of any class of incomes or class of cases'. Reference to the following Sections of the Income-tax Bill, 2025, may be included in Clause 239, since the corresponding existing sections of the Income-tax Act, 1961 have been included in section119. 1. Section288 of the Income-tax Bill, 2025-Otheramendments (corresponding to Section155ofthe Income-tax Act, 1961). 2.Section408ofthe Income-tax Bill, 2025-Instalmentsof advance tax and due dates(corresponding tosection211ofthe Income-taxAct,1961)

239.5 **Examination by the Committee:**

239.5.1 In a written reply in regard to the suggestion received to issue a Master Circular, the Ministry submitted as under:

> *The Income-Tax Act, 1961, is a comprehensive and evolving statute with frequent amendments, a wide range of provisions, and applicability across a diverse taxpayer base. Consolidating all departmental circulars into a single Master Circular may lead to oversimplification and overlook the nuanced and context-specific nature of tax administration. Unlike regulatory circulars of bodies like RBI or SEBI, Income Tax circulars have often been subject to judicial*

interpretation. Courts have, at times, laid down binding views that differ from departmental positions. A Master Circular risks restating positions that may be inconsistent with established legal precedents, leading to confusion or potential litigation. Thus, suggestion is administrative in nature and does not pertain to the Bill.

239.5.2 With respect to the suggestion to include reference to Clauses 288 and 408 of the Income-tax Bill, 2025 in Clause 239, the Ministry stated as "The suggestion seeks to redraft the clause 239(3)(a) [s.119] for inclusion of missing sections which were earlier present in existing Act. The suggestion is in nature of drafting correction. The clause 288(section 155 of IT Act) and clause 408(section 211 of IT Act) which were inadvertently left out, will be inserted in clause 239(3)(a) to align it with the provisions of the Act."

239.5.3 During oral evidence, with reference to Committee's query whether there is any problem to issue the master circular for each year, the Ministry replied as follows:

Sir, I will just explain how income-tax law is implemented. सर, टैक्स ईयर के हिसाब से लॉज का इम्प्लीमेंटेशन होता है। उस साल का जो लॉ, रूल्स और सर्कुलर हैं, वह उसी साल के लिए टैक्सपेयर और एडमिनिस्ट्रेशन पर लगते हैं। अगले साल में वे लॉ चेंज हो जाते हैं। अब मान लीजिए कि अगर हम मास्टर सर्कुलर निकालते हैं तो वह एक साल के लिए ही होगा। अगर हम कम्पाइलेशन कर भी देंगे तो उसमें हमें ईयरवाइज बताना पड़ेगा कि वर्ष *1961* के लिए यह लॉ था और यह इस तरह से अप्लाई होगा। वर्ष *1962* के लिए यह लॉ था, वर्ष *1963* के लिए यह लॉ था, इस प्रकार से हमें बताना पड़ेगा।.. सर, आप देखिए कि उसमें *40-50* साल का सारा इकट्ठा हो सकता है, क्योंकि सारे लॉ के बारे में बताना पड़ेगा।

239.5.4 To Committee's apprehension about referring to Income Tax laws of 40-50 years and to existing Act every time, the Ministry stated as follows:

सर, इसे मैं एक्स्प्लेन करने का प्रयास करता हूं। एक तो प्रोसिजरल प्रोविजन है और दूसरा, सब्सटैंटिव है। जिस साल पर लगा है, उसका उस साल में प्रोसिजर चल रहा है। सब्सटेंटिव लॉ के बारे में यह है कि किसी साल मान लीजिए कि रेट *15,000* रुपये तक बढ़ गया और किसी साल कम्प्युटेशन एक रूल से हो रहा था तथा अगले साल के कम्प्युटेशन में कुछ चेंजेज हो गए, तब वह उसी साल के लिए अप्लाई करता है। अगर मान लीजिए कि हम हर साल सब्सटेंटिव को क्लैरिफाई करें कि वर्ष *2021-22* का सब्सटैंटिव लॉ यह था। अब हम अगले साल भी वर्ष *2021-22* का सब्सटेंटिव लॉ के बारे में भी बताते हैं। इसी प्रकार से अगले *10* साल के लिए भी हम सब्सटेंटिव लॉ के बारे में बताएंगे।

239.5.5 Elaborating on the same Clause, the Ministry further submitted as follows:

Sir, conceptually, the suggestion that is being made is a welcome suggestion because once we have the master circular, that brings clarity and certainty to the taxpayers also. Once we come up with this Act, since the sections have

changed, we will have to come up with a master circular. Administratively, we will have to see whether in subsequent years those master circulars would be standalone circulars and how do we present them so that it brings clarity and does not add to confusion. But conceptually, to provide clarity is an important thing and we would in any case come up with one master circular.

239.5.6 With respect to Committee's query whether structural changes have taken place now in the Bill, the Ministry submitted as follows:

My point was that since these sections have also changed, the circulars which referred to sections of Income-tax Act 1961, would have to change because the new sections would be there. Therefore, those circulars would be updated and a compendium of master circulars would be there. Once we come out with that, it will provide clarity and guidance to the taxpayer as well as to the tax officer. Subsequently, we will have to see how we update that master circular.

239.5.7 Further, to Committee's clarification whether master law is a substantive law or a procedural law or is it just a rule, the Ministry replied as follows:

Sir, this is part of the delegated legislation. It could be clarificatory also. It could be some instruction to the officers also. It could be different issues on which these circulars are brought out. Till now, what has happened is that when these circulars are taken out, they refer to the particular sections to which these circulars pertain. Naturally, with this new Act, the provisions and the sections would change. Therefore, we will have to come up with an updated master circular which will be a compendium of all the circulars. Subsequently, we will have to see how we update it as we move along in different years. It is because Income-tax Act is a dynamic Act and amendments take place frequently. That would be an administrative call.

239.5.8 When deliberated about consolidating all circulars issued which are relevant for the tax year, the Committee sought clarification from the Ministry. They have stated as follows:

सर, उनकी दूसरी डिमांड यह है कि हरेक साल पुराने कौन-कौन से परिपत्र लागू होंगे। यह हो सकता है कि एक साल के लिए परिपत्र लागू हो रहा हो, दो साल के लिए लागू हो रहा हो, इसमें आगे सालों के लिए कितने सारे ऑलरेडी रिडन्डेंट हो चुके हैं। इनका कहना है कि आप हरेक साल इसका लिस्ट दीजिए कि कौन-कौन से सर्कुलर इस साल के लिए लागू होंगे और हर साल उसको आप अपडेट करते चलिए।सर, जैसा कि चेयरमैन साहब ने कहा कि नये बिल के लिए एक मास्टर सर्कुलर तो हमें अभी लाना ही पड़ेगा, क्योंकि सब क्लॉजेज चेंज हो गए हैं। इसके बाद हम एग्जामिन कर लेंगे कि यह प्रशासनिक रूप से कितना फिजिबल होगा या लोगों के लिए कितनी सहूलियत होगी। इसको हम लोग हर साल अपडेट करेंगे। इस साल के लिए पुराना सर्कुलर लागू होगा या नहीं होगा, उसके लिए चेंजेज करते रहना चाहिए।

239.5.9 The Ministry upon deliberating on the Clause have apprised the Committee as follows:

सर, एक बड़ी इंट्रेस्टिंग एक्सरसाइज हुई। जब यूके और आस्ट्रेलिया में एक्ट को सिंप्लीफाई किया गया, तो यूके ने *14* साल लिए, आस्ट्रेलिया ने *3-4* साल लिए। उनका जो पुराना एक्ट था, वह कुछ सौ पेजेज़ का था। जब वह सिंपलीफाई हुआ, तो कुछ हजार पेजेज़ का हो गया। वह करीब चार या पांच हजार पेजेज़ का हो गया। हम लोगों ने एग्जामिन किया कि यह चार-पांच हजार पेजेज़ का क्यों हो गया? उनके वाल्यूम्स भी चेंज हो गए। एक वाल्यूम पांच वाल्यूम में हो गया। जो मास्टर सर्कुलर की चर्चा हो रही है, मैं उसी के संदर्भ में बोल रहा हूं। उन्होंने गाइडेंस नोट्स बनाए, इलैबोरेट किया, जिससे कि क्लेरिटी आए, एग्जाम्पल्स वगैरह दिए। आपने देखा होगा कि जब यह इनकम टैक्स बिल इंट्रोड्यूस हुआ, तो हमने उसके नेक्स्ट डे गाइडेंस नोट्स निकाले, एफएक्यूज़ निकाले, जिससे कि जो भी संभावनाएं या प्रश्न उठते हैं, तो उन प्रश्नों का हम जवाब दे पाएं, तो हमने उसे दिया। टैक्सपेयर्स और स्टेकहोल्डर्स की जो कैरीज़ थीं, वे वहीं के वहीं एफएक्यू से एड्रेस हो गई। *So, going forward,* हमारी यही अप्रोच भी है कि जब हम लैंगुएज को सिंप्लीफाई कर रहे हैं तो हम क्लेरिटी लाएं। *The master circular is also one of the ways in which we could bring clarity. We are on that. We would come out with a master circular which is one reference document. As has been pointed out, since the Income-Tax Act is a dynamic Act and it frequently gets changed, we will have to see that all the other years, how do we actually further take it forward. But then, the concept of master circular is a welcome concept.*

239.5.10 Further, the Ministry have also stated as follows:

सर, जैसा चेयरमैन साहब और मेबर साहब ने बताया कि डिपार्टमेंट को टैक्सपेयर के पॉइंट ऑफ व्यू से अगर देखें, जिस आदमी को टैक्स देना है तो दो बेसिक प्रिंसिपल्स हैं, जो आप लोगों ने हमें बताया। एक तो यह है कि जो हम सर्कुलर की भाषा लिखें, वह इस एक्ट के ही डायरेक्शन में चले, मतलब सरल भाषा लिखें, आराम से समझ में आने वाली भाषा लिखें। इसमें कोई दो बात नहीं है। अभी भी जो ड्रॉफ्टिंग हो रही है, वह उसी अप्रोच से हो रही है।

दूसरा, जो मास्टर सर्कुलर टर्मिनोलॉजी का प्रयोग हुआ है, उससे शायद थोड़ा सा कन्फ्यूजन क्रिएट हुआ है। डिपार्टमेंट ने अपना पॉइंट ऑफ व्यू बताने की कोशिश की है। हम चाह रहे हैं कि जो टैक्स पेयर है, उसको एक सिंगल पॉइंट ऑफ रेफरेंस मिल जाए। वह कहीं भी जाए, आज मैं कंपनी हूं, एक एनजीओ हूं या एक पर्सन हूं, मुझे टैक्स रिटर्न फाइल करना है, समझना है, तो मेरे लिए क्या-क्या वैलिड है, वह एक जगह पर रेफरेंस में मिल जाए।

यहां यह समझाने की कोशिश की गई थी कि डिफरेंट टाइप ऑफ टैक्सपेयर्स हैं, उनकी डिफरेंट टाइप ऑफ इनकम्स हैं और उनकी इनकम का ट्रीटमेंट भी अलग-अलग है। टैक्स का लॉ भी इस तरह का है। दूसरा, वह सालाना बदलता रहता है। जब हम मास्टर सर्कुलर की बात करते हैं। मैं सिर्फ टर्मिनोलॉजी की बात कर रहा हूं, अप्रोच की बात नहीं कर रहा हूं। आपका प्रिंसिपल है कि टैक्सपेयर को एक जगह पर रेफरेंस मिले, डिपार्टमेंट को उसमें कोई इश्यू नहीं है। हम लोग कोशिश करेंगे कि एक जगह पर रेफरेंस मिले। मास्टर सर्कुलर की जो टर्मिनोलॉजी है, इसमें मास्टर सर्कुलर के कांसेप्ट को एक पॉइंट ऑफ रेफरेंस में लें और उस रेफरेंस को हम अपने सिस्टम में कैसे क्रिएट करें, तो आज भी व्यवस्था है कि अगर हम चाहें तो सर्च करके उसे ढूंढ सकते हैं। उस व्यवस्था को थोड़ा डिटेल में मैं अपने लेवल पर, चेयरमैन के साथ बैठकर रिव्यू करूंगा। हमारी यही कोशिश रहेगी कि भाषा सरल हो और एक व्यक्ति को एक पॉइंट ऑफ

रेफरेंस मिले। वह मास्टर सर्कुलर के रूप में कर पाएंगे या एक रेफरेंसट सिस्टम ऐसा बना देंगे कि उसको दिक्कत न हो।

239.5.11 Further in their written reply, the Ministry have submitted as follows:

Since the new IT Bill would involve new sections, the existing circulars based on IT Act, 1961 shall be examined and suitably modified by also cutting redundancies. A compendium of modified circulars would be drawn. Further, tax laws are applicable in respect of a tax year. For every tax year, there may be change in the position of law. Therefore, any circular issued at any time has applicability to the facts and law as stated in that circular and for years as stated therein. The position continues to undergo change in subsequent years on account of changes in law and also on account of court judgments. Therefore, Master Circular in the nature of issue-wise compendium of circulars which are applicable as on date will be accordingly considered.

239.6 **Observations/Recommendations of the Committee:**

239.6.1 The Committee, upon detailed deliberations on various provisions of the Clause, find a missing reference to Clauses 288 and 408 in Clause 239(3)(a) and therefore recommend for insertion thereof for better clarity and to align it with the provisions of the Act.

239.6.2 Apart from the above recommendations, the Committee find the clause to be adequate and in line with the corresponding section of the 1961 Act and accept the same as it stands.

Clause 240– Taxpayer's Charter.

240.1 **Provision proposed in the Income-Tax Bill, 2025:**

The Board shall adopt and declare a Charter for Taxpayers and issue such orders, instructions, directions or guidelines to other income-tax authorities as it considers fit for the administration of such Charter.

240.2 **Relevant Provision of the Principal Act (Income-Tax Act, 1961):**

Taxpayer's Charter.

119A. The Board shall adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of such Charter.

240.3**Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 240 of the Bill provides for provisions relating to Taxpayer's Charter. The clause corresponds to section 119A of the Act. There are no changes in the provisions of clause 240 in comparison to existing provisions of section 119A.

240.4 **Observations/Recommendations of the Committee:**

The Committee note the justification provided by the Ministry and find the provisions of the Clause 240 in line with the existing provisions and a textual simplification and therefore accept the Clause as proposed.

Clause 241– Jurisdiction of income-tax authorities

241.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or assigned to, such authorities under this Act as per such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(*2*) Any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise the powers and perform the functions of an income-tax authority lower in rank and any such direction issued by the Board shall be deemed to be a direction issued under sub-section (*1*).

(*3*) The directions of the Board under sub-section (*1*) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(*4*) In issuing the directions or orders referred to in sub-sections (*1*), (*2*)and (*3*), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria:—

(*a*) territorial area;

(*b*) persons or classes of persons;

(*c*) incomes or classes of income; and

(*d*) cases or classes of cases.

(*5*) Without prejudice to sub-sections (*1*), (*2*) and (*3*), the Board may, by general or special order, subject to such conditions, restrictions or limitations as specified therein––

(*a*) authorise any Principal Director General or Director General or Principal Director or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the specified income-tax authorityto issue orders in writing that the powers and functions assigned to the Assessing Officer under this Act in respect of any specified area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director.

(*6*) Where any order is made under sub-section (*5*)(*b*), references in any other provision of this Act or in any rule made thereunder, to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(*7*) The directions and orders referred to in sub-sections (*1*), (*2*) and (*3*) may, wherever considered necessary or appropriate for the proper management of work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, and—

(*a*) where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct; and

(*b*) references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(*8*) Irrespective of anything contained in any direction or order issued under this section, or in section 242, the Board may, by notification, issue any direction for the purposes of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons.

(*9*) The income-tax authority exercising and performing the powers and functions in relation to the person or class of persons referred to in sub-section (*8*) shall be such authority as specified in the notification issued under that sub-section.

241.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Jurisdiction of income-tax authorities.

120. (1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

Explanation.—For the removal of doubts, it is hereby declared that any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise

the powers and perform the functions of the income-tax authority lower in rank and any such direction issued by the Board shall be deemed to be a direction issued under sub-section (1).

(2) The directions of the Board under sub-section (1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely :—

(*a*) territorial area;

(*b*) persons or classes of persons;

(*c*) incomes or classes of income; and

(*d*) cases or classes of cases.

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

(*a*) authorise any Principal Director General or Director General or Principal Director or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director, and, where any order is made under this clause, references in any other provision of this Act, or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.

241.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 241 of the Bill provides for provisions relating to Jurisdiction of income-tax authorities.The clause corresponds to section 120 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

241.4 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 241, as a textual simplification of the existing provisions of the 1961 Act and therefore accept the Clause as it stands.

Clause 242– Jurisdiction of Assessing Officers

242.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where an Assessing Officer has been vested with jurisdiction over any area by virtue of any direction or order issued under section 241(*1*) or (*2*) or (*3*), he shall have jurisdiction within the limits of such area,—

(*a*) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situated within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situated within the area; and

(*b*) in respect of any other person residing within the area.

(*2*) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the specified income-tax authority.

(*3*) Where under this section, a question arises relating to areas within the jurisdiction of different specified income-tax authorities, the question shall be determined—

(*a*) by the concerned specified income-tax authority concerned; or

(*b*) if they are not in agreement, by the Board or by such specified income-tax authority as the Board may, by notification, specify.

(*4*) No person shall call in question the jurisdiction of an Assessing Officer,—

(*a*) where he has made a return under section 263(*1*), after the expiry of one month from the date on which he was served with a notice under section 268(*1*) or 270(*8*) or after the completion of the assessment, whichever is earlier;

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under section 268(*1*) or 280(*2*) for the making of the return or by the notice under section 271(*2*) to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;

(*c*) where an action has been taken under section 247 or 248, after the expiry of one month from the date on which he was served with a notice under section 153C(*2*) of the Income-tax Act, 1961 or section 294(*1*)(*a*) or after the completion of the assessment, whichever is earlier.

(*5*) Subject to the provisions of sub-section (*4*), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied

with the correctness of the claim, refer the matter for determination under sub-section (*2*) or (*3*) before the assessment is made.

(*6*) Irrespective of anything contained in this section or in any direction or order issued under section 241, every Assessing Officer shall have all the powers conferred under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under section 241(*1*) or. (*2*) or (*3*) or section (*4*).

242.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Jurisdiction of Assessing Officers.

124. (1) Where by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

(*a*) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(*b*) in respect of any other person residing within the area.

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Principal Director General or Director General or the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner; or where the question is one relating to areas within the jurisdiction of different Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners, by the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners concerned or, if they are not in agreement, by the Board or by such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, specify.

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(*a*) where he has made a return under sub-section (1) of section 115WD or under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 115WE or sub-section (2) of section 143 or after the

completion of the assessment, whichever is earlier;

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;

(*c*) where an action has been taken under section 132 or section 132A, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier.

(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

(5) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (1) or sub-section (2) of section 120.

242.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 242 of the Bill provides for provisions relating to Jurisdiction of Assessing Officers. The clause corresponds to section 124 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Redundant provisions of section 124 related to reference to sections 115WD, 115WE, 115WF, 115WH and 115WJ has been omitted as they relate to fringe benefit tax which is no longer on statute

242.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of the suggestions received from the stakeholder is as under:

242.4.1 Sub-section (6) may be redrafted as under ‘Irrespective of anything contained in this section or in any direction or order issued under section 241, every Assessing Officer shall have all the powers conferred under this Act on an Assessing

Officer in respect of the income, if any, accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under section 241(1) or. (2) or (3) or section (4)'. For the sake of clarity and proper interpretation, the expression 'if any' should be construed with reference to the term 'income' and not with the phrase 'within the area'.

242.5 Examination by the Committee:

242.5.1 In response to the above suggestion, the Ministry has submitted as under: "The suggestion seeks to redraft the clause 242(6) [s.120] for better clarity. The suggestion is in nature of drafting correction and acceptable."

242.5.2 In a written reply to a point regarding jurisdiction of an assessing officer The Ministry stated as under:

> *Suggestion seeks to add the phrase "For the purposes of this Act," at the beginning of Clause 242(1). Clause 241 deals with the jurisdiction of the Assessing Officers. There is no change in this provision of the Bill vis-à-vis the provision of the Act. Sub-clause 242(1) refers to the direction or order referred to in clause 241 by virtue of which the Assessing Officer shall exercise certain functions. Clause 241 itself refers to income-tax authorities exercising powers "under this Act". Hence, the suggestion has already been addressed. Adding the words "For the purposes of this Act," in Clause 242(1) shall not bring any tangible drafting improvement.*

242.5.3 As regards query whether the sub-clause 4(c) of Clause 242 could be revised and self-contained without any reference to Income-Tax Act, 1961, which is to be repealed, the Ministry stated: "The same shall be examined in consultation with the Ministry of Law."

242.6 Observations/Recommendations of the Committee:

242.6.1 The Committee, upon deliberations on the Clause, note that there is a drafting error in sub-clause (6) which needed to be re-drafted for better clarity and the same is acceptable to the Ministry. The Committee, therefore, recommend that the phrase 'if any,' at Line No. 28 may be removed and be placed at Line no. 27 after 'income' so as to clearly explain the intent of the sub-clause.

242.6.2 The Committee further note a cross reference in sub-clause 4(c) to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 242 without any further change.

242.6.3 The Committee other than recommending the Ministry to carry out the necessary changes, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 243– Power to transfer cases.

243.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The specified income-tax authority may transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) subordinate to him.

(*2*) If the Assessing Officer or Assessing Officers, from whom the case is to be transferred and the Assessing Officer or Assessing Officers, to whom the case is to be transferred are not subordinate to the same specified income-tax authority, and the concerned specified income-tax authorities—

(*a*) are in agreement, then the specified income-tax authority from whose jurisdiction the case is to be transferred may pass the order;

(*b*) are not in agreement, the order transferring the case may be passed by the Board or any such specified income-tax authority as the Board may, by notification, specify.

(*3*) The order of transfer under sub-section (*1*) or (*2*) may be passed by the specified income-tax authority after giving the assessee a reasonable opportunity of being heard wherever it is possible to do so and after recording his reasons therefor.

(*4*) Nothing in sub-section (*1*) or (*2*) or (*3*) shall be considered to require any opportunity of being heard to be given, where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(*5*) The transfer of a case under sub-section (*1*) or (*2*) may be made at any stage of the proceedings, and it shall not be necessary to re-issue any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

(*6*) For the purposes of section 241 and this section, “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year, which may—

(*a*) be pending on the date of that order or direction; or

(*b*) have been completed on or before such date; or

(*c*) be commenced after the date of such order or direction in respect of any year.

(*7*) For the purposes of sections 241, 242 and this section, "specified income-tax authority" means the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

243.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power to transfer cases.

127. (1) The Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,—

(*a*) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(*b*) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer

or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation.—In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

243.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 243 of the Bill provides for provisions relating to power to transfer cases.The clause corresponds to section 127 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

243.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 243 in line with the existing provisions and a textual simplification and therefore accept the Clause as proposed.

Clause 244– Change of incumbent of an office

244.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Whenever, in respect of any proceeding under this Act, an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

(*2*) Before the proceeding referred to in sub-section (*1*) is so continued, the assessee concerned may demand that—

(*a*) the previous proceeding or any part thereof be reopened; or

(*b*) he be reheard before any order of assessment is passed against him.

244.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Change of incumbent of an office.

129. Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.

244.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 244 of the Bill provides for change of an incumbent of an office. The clause corresponds to section 129 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

244.4 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 244 in line with the corresponding provisions of the 1961 Act. Therefore, the Committee accept the Clause as proposed.

Clause 245– Faceless jurisdiction of income-tax authorities

245.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The exercise of following powers for the purposes mentioned in sub-section (*2*) shall be as per a Scheme made by the Central Government:—

(*a*) all or any of the powers and performance of all or any of the functions conferred on, or, assigned to, income-tax authorities under this Act referred to in section 241; or

(*b*) vesting the jurisdiction with the Assessing Officer under section 242; or

(*c*) power to transfer cases under section 243; or

(*d*) exercise of jurisdiction in case of change of incumbency under section 244.

(*2*) The purposes of the Scheme referred to in sub-section (*1*) shall be to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, with dynamic jurisdiction.

(*3*) The Central Government may, for the purpose of giving effect to the Scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in such notification.

(*4*) Every notification issued under sub-sections (*1*) and (*3*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

245.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Faceless jurisdiction of income-tax authorities.

130. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of—

(*a*) exercise of all or any of the powers and performance of all or any of the functions conferred on, or, as the case may be, assigned to income-tax

authorities by or under this Act as referred to in section 120; or

(*b*) vesting the jurisdiction with the Assessing Officer as referred to in section 124; or

(*c*) exercise of power to transfer cases under section 127; or

(*d*) exercise of jurisdiction in case of change of incumbency as referred to in section 129,

so as to impart greater efficiency, transparency and accountability by—

(*i*) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(*ii*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*iii*) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

245.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 245 of the Bill provides for Faceless Jurisdiction of income-tax authorities.The clause corresponds to section 130 of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

245.4 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 245 to be in line with the existing provisions of 1961 Act and being a textual simplification, the Committee accept the Clause as proposed.

Clause 246– Power regarding discovery, production of evidence, etc.

246.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The Assessing Officer, Joint Commissioner, Joint Commissioner (Appeals), Commissioner (Appeals), Commissioner or Principal Commissioner, or Chief Commissioner or Principal Chief Commissioner and the Dispute Resolution Panel referred to in section 275(*17*)(*a*), shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

(*2*) The powers conferred under sub-section (*1*) may also be exercised, in respect of any person or class of persons, even when there are no proceedings pending with respect to such person or class of persons, by the following income-tax authorities:—

(*a*) any income-tax authority (not below the rank of Assistant Commissioner of Income-tax) notified by the Board, for the purposes of making any inquiry or investigation in relation to an agreement referred to in section 159;

(*b*) the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director for the purposes of making any inquiry or investigation, if he has the reason to suspect that any income has been concealed, or is likely to be concealed; and

(*c*) the authorised officer referred to in section 247(*1*), before taking action under section 247(1)(*b*)(*i*) to (*viii*), or during the course of such action.

(*3*) Any income-tax authority exercising the powers referred to in sub-sections (*1*) and (*2*) may, subject to the rules made in this behalf, impound any books of account or other documents produced before it in any proceeding under this Act.

(*4*) The Assessing Officer or the Assistant Director shall record the reasons for impounding any books of account or other documents under sub-section (*3*) and may retain such impounded books of account or other documents up to fifteen days

(exclusive of holidays), or for such further period, with the prior sanction of the approving authority.

246.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power regarding discovery, production of evidence, etc.

131. (1) The Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner [74][, Joint Commissioner (Appeals)], Commissioner (Appeals), Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Dispute Resolution Panel referred to in clause (*a*) of sub-section (15) of section 144C shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :—

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

(1A) If the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director or Deputy Director, or the authorised officer referred to in sub-section (1) of section 132 before he takes action under clauses (*i*) to (*v*) of that sub-section, has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority.

(2) For the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as may be notified by the Board in this behalf, to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) or sub-section (1A) or sub-section (2) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act :

Provided that an Assessing Officer or an Assistant Director or Deputy Director shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing, or

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be.

246.3 **Reasons/Justification given by the Ministry of Finance for the proposed provision:**

Clause 246 of the Bill provides for power regarding discovery, production of evidence, etc. The clause corresponds to section 131 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, reference of DCIT (Appeals) has been omitted considering that no such authority exists as on date.

246.4 **Important Views/Suggestions given by Experts/Stakeholders:**

246.4.1 A gist of the suggestions received from a stakeholder is as under:

i. The powers given to the authorities under section 246(2)(b) shall be removed and restored to the powers available u/s 131(1A) of the Income-tax Act, 1961. Such powers should be exercised by the officer within whose jurisdiction, the person is situated to avoid unnecessary harassment to the assessee and not by any authority without jurisdictional restrictions.
ii. There should be an upper limit for retention and it cannot be open ended.
iii. Since what is impounded are books of account or document, it should be clarified that in first preference, copies of such records should be retained, instead of original documents.
iv. Without prejudice, an option should be given to person to take copies of documents/ books of accounts if the same are impounded.
v. There should be specific provisions for documents/ books of account in electronic form to avoid confusion.

vi. Where the impounding is done, reasons have to be recorded in writing irrespective of the designation of the officer The current clause, only requires, AO, ADIT to record reasons, whereas, the powers to impound are conferred on many other officers as well.

vii. There should be a specific provision for providing a copy of statement recorded to the person, whose statement is recorded, either immediately or in a time bound manner but not later than 10 days from the date of recording of statement. The wider scope gives unbridled powers which are capable of being misused In any event there are powers to issue commissions Such powers cannot be used to making fishing and roving inquiries There should be appropriate clarification in this regard.

246.5 Examination by the Committee:

246.5.1 The corresponding replies submitted by the Ministry, in response to the suggestions above, are as under:

(i) Accepted. This is in nature of drafting correction. The suggestion seeks to amend clause 246(2)(b) to retain the jurisdiction concept in power regarding discovery, production of evidence etc so that such powers shall be exercised by the officer within whose jurisdiction the person is situated. The clause 246(2)(b) will be amended such that the original language of the existing Act's section 131(1A) is retained with inclusion of jurisdictional concept.

(ii) The suggestion seeks to amend clause 246(3) & 246(4) to set an upper limit of retention upto 15 days in line with existing Act. This limit is already provided in cl. 246(4). There is no limit in 246(3) in line with the IT Act because of a senior functionary impounds books (which is rare) he is not required to further approach any higher authority. The suggestion is already taken care of.

(iii) The suggestion seeks to amend clause 246(3) and 246(4) to provide for retention of copies of books of accounts instead of original documents. There is no change in the provision of law in the Bill as against the Act. As per Evidence Act, the primary evidence means the original books of accounts and copies thereof means secondary evidence. Secondary evidence is to be taken only when primary evidence is out of reach, or destroyed, or is publicly available or cannot be examined due to its volume. As no such condition is satisfied, the evidentiary value is satisfied only when primary evidence i.e. original books of accounts are impounded. Thus, the suggestion is not feasible.

(iv) The suggestion seeks to provide for an option to be given to person to take copies of documents/ books of accounts if the same are impounded The provisions of the Bill

are same as that of the Act. The suggestion is of administrative nature. Copies of the impounded material are provided to the assessee as soon as feasible. It may not be feasible to include such provision in statute.

(v) The suggestion seeks to provide for a specific provision for impounding documents/ books of account in electronic form. Books of account may be in digital or non-digital format. The procedure of impounding for both are same so there is no need to separate the two items. Thus, the suggestion is not feasible.

(vi) The suggestion seeks to expand the scope of clause 246(4) wherein only Assessing Officer and ADIT are required to record the reasons for impounding. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a vis Act. Where a senior functionary impounds books (which is rare) he is not required to record the reasons for impounding as the situation is rare. The suggestion is not required to be acted upon.

(vii) The suggestion seeks to provide for a specific provision for providing a copy of statement recorded to the person, whose statement is recorded, either immediately or in a time bound manner but not later than 10 days from the date of recording of statement. Copy of the sworn statement of the assessee as well as the employees of the assessee taken during the course of survey proceedings, will be provided, as and when it is proposed to be used as evidence against the assessee. Providing multiple procedural time limits adds to litigation. These are administrative matters and are taken care of administratively.

246.6 Observations/Recommendations of the Committee:

246.6.1 The Committee, upon examination of the Clause, note that sub-clause (2)(b) requires an amendment to incorporate the concept of jurisdiction for the exercise of powers related to discovery and production of evidence. Accordingly, the Committee recommend that sub-clause (2)(b) be amended to retain the original language and intent of Section 131(1A) of the existing Income-Tax Act, while specifically including the jurisdictional concept, ensuring such powers are exercised by an officer within whose jurisdiction the assessee is situated.

246.6.2 Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to the corresponding section of the 1961 Act and hence accept the Clause as it stands, subject to the above modification.

Clause 247– Search and seizure.

247.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where the competent authority, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under section 246(*1*) or a notice under section 268(*1*),—

(*i*) was issued to produce, or cause to be produced, any books of account or other documents or any information stored in any electronic media or a computer system, has omitted or failed to produce, or cause to be produced, such books of account or other documents or such information as required by such summons or notice; or

(*ii*) has been issued or might be issued, will not, or would not, produce or cause to be produced, any books of account or other documents or any information stored in an electronic media or a computer system which will be useful for, or relevant to, any proceedings under this Act; or

(*b*) any person is in possession of any asset or information in relation to any asset and such asset represents either wholly or partly, income or property which has not been, or would not be, disclosed, for the purposes of this Act, or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, (herein referred to as the undisclosed income or property in this section),

then the approving authority may authorise any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner, so authorised, may authorise any Assistant Director or Assistant Commissioner or Income-tax Officer, hereinafter referred to as the authorised officer to—

(*i*) enter and search any building, place, vessel, vehicle, aircraft where he has reason to suspect that such assets, books of account, other documents, or any information stored in an electronic media or computer systems are kept;

(*ii*) require any person, who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record [as defined in section 2(*1*)(*ha*), (*i*), (*j*), (*k*), (*l*), (*r*), and (*t*) of the Information Technology Act, 2000], on computer systems, any information stored in an electronic media or computer systems, to afford the authorised officer with such reasonable technical and other assistance (including access code, by whatever name called) as may be necessary to enable the authorised officer to inspect any

information, electronic records and communication or data contained in or available on such computer systems;

(*iii*) break open the lock of any door, box, locker, safe, almirah, or other receptacle for exercising the powers conferred by clause (*i*), to enter and search any building, place, etc., where the keys thereof or the access to such building, place, etc., is not available, or gain access by overriding the access code to any said computer system, or virtual digital space, where the access code thereof is not available;

(*iv*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, computer systems or asset;

(*v*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom and also from computer systems;

(*vi*) make a note or an inventory of any such asset, and stock-in-trade of the business, found as a result of such search;

(*vii*) seize any such books of account, other documents, computer systems, or asset (other than stock-in-trade of the business), found as a result of such search;

(*viii*) serve an order of deemed seizure, on the owner or the person who is in immediate possession or control thereof, of any valuable article or thing, which is not stock-in-trade, not to remove, part with or otherwise deal with it, except with the previous permission of the authorised officer, if it is not possible or practicable to take physical possession or removal to a safe place of such article or thing, due to its volume, weight, or other physical characteristics or it being of a dangerous nature.

(*2*) If any building, place, vessel, vehicle or aircraft referred to in sub-section (*1*)(*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such income-tax authority has no jurisdiction over the person referred to in sub-section (*1*)(*a*) or(*b*), then, irrespective of the fact that he has no jurisdiction, it shall be competent for him to exercise the powers under sub-section (*1*), where he has reason to believe that any delay in getting the authorisation from the income-tax authority having jurisdiction over such person may be prejudicial to the interests of the revenue.

(*3*) If any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has

reason to suspect that any books of account, other documents, or any information stored in an electronic media or computer systems, or asset in respect of which an officer has been authorised by the competent authority to take action under sub-section (*1*)(*i*) to (*viii*) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (*1*), then such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, irrespective of anything contained in section 241, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

(*4*) The authorised officer may, where it is not practicable to seize, any such books of account, other documents, computer systems, asset, bank locker, bank account, for reasons other than deemed seizure under of sub-section (*1*)(*viii*),—

(*a*) serve an order on the owner or the person who is in immediate possession or control thereof, not to remove, part with or otherwise deal with it except with the previous permission of such officer and take such steps as may be necessary for ensuring compliance with the order; and

(*b*) such order shall not remain in force for a period exceeding sixty days from the date of the order and serving of such order shall not be deemed to be seizure of such books of account, other documents or assets under sub-section (*1*)(vii),

(*5*) The authorised officer may requisition the services of—

(*a*) any police officer or any officer of the Central Government, or of both; or

(*b*) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, as per with such procedure, as prescribed,

to assist him for all or any of the purposes specified in sub-sections (*1*) and (*3*) and it shall be the duty of every such officer or person or entity to comply with such requisition.

(*6*) The authorised officer may, during the course of any search or seizure, examine on oath any person who is found to be in possession or control or access holder of any computer systems, books of account, other documents or asset, or any other person who is present in the premises or is being searched, and—

(*a*) any statement made by the such person, during such examination may thereafter be used in evidence in any proceeding under this Act; and

(*b*) the examination of any such person may be not merely in respect of any books of account, other documents or assets found as a result of the search, but

also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under this Act.

(*7*) Where any books of account (in physical form or electronic form), other documents or asset, is found in the possession or control of any person in the course of a search, it may be presumed—

(*a*) that such books of account, computer systems, virtual digital space, other documents or asset, belong or belongs to such person;

(*b*) that the contents of such books of account, other documents, electronic content, records or communication found on such computer systems or virtual digital space, are true;

(*c*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person; and

(*d*) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested, and that the electronic records, data, communication, and information exchange carried out using such electronic devices is presumed to be exchanged between the parties thereto.

(*8*) The authorised officer may, by order in writing, provisionally attach any property belonging to the assessee, during the course of the search or seizure, or within sixty days from the date of execution of the last of the authorisations for the search and such provisional attachment shall—

(*a*) be made, if the authorised officer is satisfied, after recording the reasons in writing, that it is necessary to do so in the interest of the revenue, with the prior approval of Principal Director General or Director General or the Principal Director or Director;

(*b*) be valid for six months from the end of the month in which the order of provisional attachment is made, and the rules prescribed as referred to in section 413 shall, *mutatis mutandis*, apply to such provisional attachment.

(*9*) The authorised officer may, during the course of the search or seizure, or within sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer, or any person registered as a value under section 514, or any person or entity registered by or under any law enforce, requiring him to—

(*a*) estimate the fair market value of the property in the manner, as prescribed; and

(*b*) submit a report of the estimate to the authorised officer or the Assessing Officer, within sixty days from the date of receipt of such reference.

(*10*) The provisions of the BharatiyaNagarik Suraksha Sanhita, 2023 relating to searches and seizure shall apply, so far as may be, to search and seizure under this section.

(*11*) The Board may make rules in relation to any search or seizure under this section including providing for the procedure to be followed by the authorised officer—

(*a*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available; and

(*b*) for ensuring safe custody of any books of account or other documents or assets seized.

247.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Search and seizure.

132. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

(*b*) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or

(*c*) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

then,—

(*A*) the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, or

(*B*) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—

(*i*) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(*iib*) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the

necessary facility to inspect such books of account or other documents;

(*iii*) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

Providedthat bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;

(*iv*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(*v*) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing :

Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :

Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (*iii*):

Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:

Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(1A) Where any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Principal Director General or Director General or Principal Director or Director or any other Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (*i*) to (*v*) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, notwithstanding anything contained in section, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

[75][(2) The authorised officer may requisition the services of,—

(*i*) any police officer or of any officer of the Central Government, or of both; or

(*ii*) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer or person or entity to comply with such requisition.]

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (1).

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(5) [***]

(6) [***]

(7) [***]

(8) The books of account or other documents seized under sub-section (1) or sub-section (1A) shall not be retained by the authorised officer for a period exceeding [76]**[***one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made***]** under sub-section (3) of section 143 or section 144 or section 147 or section 153A or clause (*c*) of section

158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained :

Provided that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, *mutatis mutandis,* apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

[77][(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to,—

(*i*) a Valuation Officer referred to in section 142A; or

(*ii*) any other person or entity or any valuer registered by or under any law for the time being in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

who shall estimate the fair market value of the property in the manner as may be prescribed, and submit a report of the estimate to the authorised officer or the Assessing Officer, as the case may be, within a period of sixty days from the date of receipt of such reference.]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(11) [***]

(11A) [***]

(12) [***]

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;

(*ii*) for ensuring safe custody of any books of account or other documents or assets seized.

[78][*Explanation 1.*—For the purposes of sub-sections (9A), (9B) and (9D), the last of [79]**[***authorisations***]** for search shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(*b*) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the authorised officer.]

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

247.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 247 of the Bill provides for search and seizure. The Clause corresponds to Section 132 of the Act. The language of the existing section has been simplified. e.g. terms like Approving Authority or Competent Authority have been used in place of authorities prescribed as per the existing provisions of the Act. These terms have been defined in the clause 261 (Interpretation). The clause has also been enabled for undisclosed assets or property pertaining to the Black Money Act. Also, in order to clarify the existing provision, clause 247 provides that in certain cases of search and seizure authorized by the competent authority, where access code is not available and the person concerned is not cooperating with the proceedings, authorized officer may gain access by overriding the access code. 'Computer system' has been sought to be explained in detail to include virtual digital space. In clause 247(9), in addition to reference to valuation officer and a person registered under any other law, reference by an authorised officer could also be made to a person registered as valuer under new Clause 514. The changes have been made with a view to align with the changed circumstances. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct.

247.4 Important Views/Suggestions given by Experts/Stakeholders:

247.4.1 Some of the important suggestions received on Clause 247 from stakeholders are given below:

i. Access to Digital Systems in Search and Seizure Seeks to introduce a new provision requiring taxpayers to share access codes for computer systems or digital spaces during search and seizure operations. This newly inserted provision should be removed as it infringes upon the 'right to privacy' guaranteed by the Constitution.

ii. A Clear guidelines for the use of personal data obtained during searches.

iii. The phrase ‘any other person who is present in the premises..’, as mentioned in Clause 247(6)ought to be deleted. Under the proposed Bill, the power of the authorised officer as regards recording of statement on oath during search proceedings, has been extended and expanded to cover “any person who is present in the premises” at which search operation is undertaken The proposed amendment is a significant deviation from the existing power under section 132(4) of the IT Act, where the power to record a statement on oath was to be exercised only in respect of such person who was “found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing” The expanded power of the authorised officer lacks clarity, proportionality and safeguards and will result in serious violation of constitutional protections, open the door to misuse of power during search and seizure proceedings, for the following reasons:

1 Violation of Right to Privacy under Article 21 The Hon’ble Supreme Court in the case of Pooran Mal vs Directorate of Inspection [1974] 93 ITR 05 (SC), while testing the validity and constitutionality of the power of search provided under section 132 of the IT Act, noted that an action of search results in invasion of privacy; therefore, there has to be safeguards and restrictions which limits and guides the hands of the authority which exercises such a power The Hon’ble Court also noted that such a wide power needs to be utilised with strict adherence to checks and balances, as unsupervised use thereof could lead to harassment of the assessees Later, the Hon’ble Supreme Court in the case of Justice K.S Puttaswamy vs Union of India (2017) 10 SCC 1, recognised the right to privacy as an inalienable facet of the right to life guaranteed under Article 21 of the Constitution of India Clause 247(6), in its present form, permits the authorised officer to examine on oath, any person present in the premises where the search in conducted, regardless of whether such person has any connection with the subject matter of the search, or has any information relating to any undisclosed income or is in possession or control of any material even suspected of resulting in discovery of undisclosed income The provision, in its present form, allows the authorised officer, i.e., the machinery of the State, to intrude into personal space of the person, without any answerability or check warranting such invasion In other words, the clause permits sweeping questioning in a coercive

environment without any safeguards, thereby infringing on personal autonomy, dignity, and liberty

2 Scope for Harassment and Abuse The proposed provision, by its wording, is overbroad and vague as it enables the authorised officer to examine “any person” simply on the basis of their location in the searched premises, without specifying the basis for such examination This includes unrelated third parties, such as domestic help, visiting guests, minors, or employees, lawyers, advisers, etc., to name a few, all of whom can be subjected to questioning under oath, in an intimidating environment The lack of procedural safeguards creates scope for misuse, coercion, and psychological pressure, potentially amounting to harassment.

3 Arbitrary and Disproportionate Delegation of Power Clause 247(6) of the IT Bill gives unchecked discretion to the authorised Officer as there is no guiding principle, threshold requirement, or statutory limitation to the exercise of this power, unlike the provision currently existing under section 132(4) of the IT Act, which provides that the power to record a statement on oath can be exercised in respect of any person who is “found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing” Such unrestricted discretion is manifestly arbitrary and violative of Article 14 of the Constitution of India as it fails the test of proportionality. 4 No Evident Revenue or Investigative Justification There is no compelling public interest or revenue gain served by allowing tax authorities such unbridled powers to examine individuals present in the searched premises without even establishing any necessity for the same The expansion of such power is not supported by data or precedent indicating the necessity of such a measure It dilutes the legitimacy of search operations by enabling speculative and fishing inquiries, while at the same time, consuming resources which may be otherwise utilized for revenue gain.

iv. Competent authority and approving authority for 247(1) should be an officer of the designation of either Principal Director General, Director General or Principal Chief Commissioner or Chief Commissioner.

v. 247(1)(a) Reference should also be made to summons issued or notices issued under the Income-Tax Act, 1961, so as to enable smooth transition during the initial period.

vi. 247(1)(a)(i) “Reference to any information stored in electronic media or a computer system” The above referred phrase should be narrowed down to mean some specific information and should not mean, login id and password of any email account or social media account of the person.

vii. 247(1)(b) - This clause enables search even if a person is in possession of information relating to any asset. 1. This part of the clause is draconian and

should be removed. 2. There should be no presumption about the fact that the person is in possession of information of the asset 3. Without prejudice, it should be clarified that such information should be owned by or belong to the same person.

viii. 247(1)(b) – reference to the Black Money Act, should be removed. .

ix. 247(1)(ii) “Electronic record as defined in section 2(1)(ha), (i), (j), (k), (l), (r), and (t) of the Information and Technology Act, 2000” To remove reference to all clauses of section 2(1) of the Information and Technology Act, except (t) .

x. 247(1)(iii) empowers to gain access by overriding the access code of any virtual digital space. The same is defined in 261(i) to include social media account, online investment account, trading account, bank account, remote server or clouds server, digital application platforms. The power to gain access code of social media account shall be out of the purview of section 247(1)(iii). It is also necessary that if the access is gained to personal email address and computer system, the use of the same shall be made only to the extent it is relevant for Income-Tax Act and not for any purpose beyond the Income-tax Act. Suitable provisions in this regard may be considered to be made.

xi. 247(5)(b) “… or the Director General, as per with such procedure, as prescribed” The word with should be removed.

xii. 247(6) empowers recording statements of any other person who is present in the premises or is being searched. Reference to “any other person who is present in the premises” may be deleted.

xiii. 247(9) – “..or any other person registered as a value under section 514.” Replace by “valuer’ .

xiv. 247(9) – “..by or under any law enforce..” Replace by “in force’ .

xv. 247(9) – “..or any person or entity registered by or under any law…” Add “registered as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General” .

xvi. Insert a specific provision for providing copies of statement recorded within some specified time period. Further, there should be a specific provision, that if such copies of statements are not provided, then such statement cannot be used. .

xvii. The approving officer for a search should be 2 levels above the initiating officer to make the process independent.

xviii. To ensure fairness and proper oversight, data should be provided as part of the budget documents every year on the number of applications received for search and the number of applications approved and rejected by the approving authority.

xix. Incorporation of proportionality standard by requiring the least invasive method - Hon’ble Supreme Court in Justice K.S Puttaswamy v Union of India, (2017) 10 SCC 1, Defining ‘reason to believe’ to prevent arbitrariness Judicial authorisation process could be set in place Non-disclosure of reason to believe or reason to

suspect, as referred to in section 247 – may prevent taxpayer from challenging the searches – Amendment may be considered Protection of digital evidence integrity.

xx. Clause 247(1)(ii) and Clause 247(1)(iii) empowering Revenue officials to gain access to any computer system or virtual digital space even if they have no relation with the subject matter of search, may be omitted.

xxi. Alternatively, if the provision is retained, suitable safeguards may be provided in the statute to prevent abuse of power by Revenue officials as well as protect the privacy of taxpayers [such as in section 94 of Bharatiya Nagarik Suraksha Sanhita, 2023 which requires the Court to issue summons, etc for production of any document, electronic communication, etc "which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry", etc.] Tangible reasons for seeking access may be recorded in writing prior to any such activity being undertaken.

xxii. There is a need to balance privacy rights of individuals and the interest of revenue during the search proceedings Access to personal data like phones or digital content should be allowed only under strict supervision and relevance checks. Likewise, restrictions should also be introduced for protecting privileged communication (between husband and wife, with doctor/ lawyers etc.)

xxiii. The amendment should be withdrawn and old language should be restored. The Officials may seek access to personal emails, private Direct Message, whatsApp messages Unfettered access to the personal data of tax payer affect the fundamental right to privacy There may also be risk of misuse of sensitive and private data.

xxiv. It is suggested that section 247(1)(b) be amended to provide access only to official e-mail accounts of the person. This would protect the fundamental right to privacy of a person. This provision allows authorised officer to inspect any information, electronic records and communication available on computer systems. This includes emails, social media etc. This provision could infringe the fundamental right to privacy of persons. Grant of such unrestricted power to tax authorities to subject personal digital information to surveillance is a cause of concern.

xxv. Section 247(5)(b) can be redrafted as under (b) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, as per with such procedure, as prescribed, as per such procedure as prescribed, to assist him for all or any of the purposes specified in subsections (1) and (3) and it shall be the duty of every such officer or person or entity to comply with such requisition. Section 247(5)(b) may be redrafted to enhance clarity and ease of understanding.

xxvi. Section 247(9) can be redrafted as under: The authorised officer may, during the course of the search or seizure, or within sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer, or any person registered as a value valuer under section 514, or any person or entity registered by or under any law enforce in force, requiring him to— (a) estimate the fair market value of the property in the manner, as prescribed; and (b) submit a report of the estimate to the authorised officer or the Assessing Officer, within sixty days from the date of receipt of such reference.

xxvii. Section 247(9) may be redrafted to correct typographical errors and to ensure that the provision appropriately refers to a 'valuer' and to laws 'in force'.

xxviii. In proposed section 247(1), the competent authority is to form 'a reason to believe' while the power to authorise has been given to 'approving authority'. In section 261, there are four class of officers defined as approving authority and six class of officers are defined as competent authority. In the present law, in section 132, there are two set of officers in clause (A) and (B) having power to authorize. The officers in present clause (A) are referred to as approving authority in proposed law. In present clause (B) Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner are also empowered to authorize any Assistant Director, or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer. In the proposed section for authorization 'Joint director or Joint Commissioner, so authorised' is included to authorize any Assistant Director or Assistant Commissioner. However, it left the Additional Director and Additional Commissioner, which is part of competent authority as defined. It also left Deputy Director and Deputy Commissioner from authorised officer. The term Joint Director and Joint Commissioner is also qualified with 'so authorised' which means only those Joint Director and Joint Commissioner which has been authorised by the approving authority in the first part will only be empowered to authorize. Hence, this needs to be modified as under: "then (a) the approving authority may authorise any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner; (b) the authorities as referred in section 261(d)(v) or (vi) may authorise any Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner.

247.5 Examination by the Committee:

247.5.1 The corresponding views of the Ministry on the above suggestions are as under:

i. The changes have been made with a view to align with the changed circumstances. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

ii. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

iii. The suggestion seeks to delete the phrase 'ANY OTHER PERSON WHO IS PRESENT IN THE PREMISES ……', as mentioned in Clause 247(6) search and seizure. During search, situations arise where a person through not possessing any books or other documents but is in the know of the business intricacies or is a key person managing business e.g. accountant, machine operator in the manufacturing industry, gatekeepers who are maintaining exit records, quality control persons who have complete production information and so on. Statements of such person also become extremely important. Therefore, practically these statements are relevant to conduct investigations. It is relevant to note that such statements are taken during the course of search and at the premise being searched. Thus, the amendment has been rightly made to rationalise the provision.

iv. The suggestion seeks to restrict definition of Competent authority and approving authority for clause 247(1) for the purpose of search and seizure actions. No rationale has been given for the suggestion. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The Officers not below the rank of JCIT/JDIT have to record "reason to believe" in writing. After perusal of such reasons, if satisfied, authorisation is given by PDIT/PCIT/DIT/CIT which is also subject to administrative approval of the Director General of Income Tax (Investigation). Thus, the suggestion is not feasible.

v. The suggestion seeks to provide reference to summons issued or notices issued under the Income-tax Act, 1961 for undertaking search so as to enable smooth transition during the initial period. All such cases are covered by repeal and savings. Thus, the suggestion is already addressed.

vi. The suggestion seeks to narrow down the phrase "Reference to any information stored in electronic media or a computer system" to mean some specific information and exclude login id and password of any email account or social media account of the person. The phrase can not be restricted as digital data is

all encompassing including login id and password of any email or social media account which are used to hide financial data in encrypted chats. Thus, the amendment has been rightly made to rationalise the provisions.

vii. The suggestion seeks to amend 247(1)(b) be deleting the provision enabling search even if a person is in possession of information relating to any asset. The clause covers person in possession of any asset or information in relation to any asset. The suggestion seeks to exclude the person under search if he is in possession of information relating to any asset but such information is not owned by or does not belong to the same person. This amendment has been made in light of introduction of reference to Black Money Act in clause 247. Typically, asset acquired out of black money are stashed abroad but information in relation to such assets is maintained in India. To cover such cases, the amendment has been made in the Bill. The amendment has been rightly made to rationalise the provisions. Thus, the suggestion is not feasible.

viii. The suggestion seeks to remove reference to the Black Money Act in 247(1)(b) . The Black Money Act has been referred here as many people possess unaccounted foreign income/assets and were out of the purview of such actions. The reference here will enable the tax authorities to discover the undisclosed foreign assets. The amendment has been rightly made to rationalise the provisions. Thus, the suggestion is not feasible.

ix. In the Bill, reference has been made to number of clauses of the Information technology Act as against the Income-tax Act where reference was made only to clause 2(1)(t) which pertained to electronic record. The suggestion seeks to remove reference to all clauses of section 2(1) of the Information and Technology Act, except 2(1)(t). The clauses which have been added pertain to communication devices, mobile data, computer, computer network etc in which financial data is stored. For purposes of accessing digital data, this enablement was much needed. The amendment has been rightly made to rationalise the provisions. Thus, the suggestion is not feasible.

x. The suggestion seeks to exclude social media account in definition of virtual digital space. Various incriminating evidences and material are found/seized from electronic records including WhatsApp communications, emails, etc. In most of the cases of search operation the taxpayers do not share the password/login credential of online forums/portals/e-mail accounts, etc. This is because various encrypted communication modes are being used by tax payers to communicate and discuss their unaccounted transactions. The amendment has been rightly made to rationalise the provisions. Thus, the suggestion is not feasible.

xi. This is drafting correction in clause 247(5)(b) and word "with" shall be removed from phrase "… or the Director General, as per with such procedure, as prescribed".

xii. During search, situations arise where a person through not possessing any books or other documents but is in the know of the business intricacies or is a key person managing business e.g. accountant, machine operator in the manufacturing industry, gatekeepers who are maintaining exit records, quality control persons who have complete production information and so on. Statements of such person also become extremely important. Therefore, practically these statements are relevant to conduct investigations. It is relevant to note that such statements are taken during the course of search and at the premise being searched. Thus, the amendment has been rightly made to rationalise the provision.

xiii. This is drafting correction in clause 247(9) and word "value" shall be substituted by "valuer".

xiv. This is drafting correction in clause 247(9) and word "enforce" shall be substituted by "in force".

xv. This is drafting correction in clause 247(9) and the phrase "as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General" shall be added.

xvi. The suggestion seeks to expand the scope of clause 246 wherein there is no specific provision to provide copies of statement recorded. This is an administrative matter. According to the present Instructions, the statement is not given to the deponent on the spot. However, copies of statement(s) may be allowed within fifteen days from the date of receipt of application subject to some relevant conditions. There is no change in the provisions of the Bill viz-a-viz Act. The suggestion already stands addressed.

xvii. The suggestion seeks that the approving officers should be 2 levels above the initiating officer. This provision is already there. The approving officer generally is PDIT and the IO is ADIT/DDIT. The approving officer is three levels above the IO. The suggestion is already taken care of. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act.

xviii. The suggestion seeks to include in Budget, number of applications received, approved and rejected by the approving authority for the purpose of search.

Regarding issue of providing in budget number of applications received, approved and rejected by the approving authority for the purpose of search, the budget is an altogether different exercise. The suggestion may not be feasible.

xix. The suggestion seeks to define 'reason to believe', to prevent arbitrariness, Judicial authorisation process could be set in place, non-disclosure of reason to believe or reason to suspect, and raises concerns regarding protection of digital evidence integrity. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. In addition to the detailed reply submitted earlier regarding search and seizure provisions and issues concerning privacy, following submissions are further made in this regard ---

(i) The department conducts a search and seizure action, based on credible prima facie evidence indicating tax evasion or concealment of income/asset, after obtaining due approvals from senior officers. Strict guidelines and safeguards are in place to prevent any raid, not proportionate to the allegations. The search warrants are issued by senior level officers of the rank of Principal Director of Income-tax (Investigation) after recording the reasons for authorising the search. Administrative approval of the Director General of Income-tax (Investigation) is also obtained before authorising the search. The satisfaction or reasons recorded by the Principal Director of Income-tax (Investigation) can be questioned in a court of law by the aggrieved assessees by invoking the writ jurisdiction of the court. There are sufficient mechanisms in law as well as in the procedures laid down to prevent any abuse of powers. Suggestion may not be feasible.

(ii) 'Reason to believe' is a standard phrase and the jurisprudence on the interpretation thereof, is already well settled. All possible conditions for the same cannot be illustrated and codified in the statute; therefore, suggestion may not be feasible.

(iii) Search and seizure action under the Income-tax Act is only a quasi-judicial proceeding, which is conducted in the presence of two independent witnesses. The authorised officer does not have the power to arrest any person in the course of search action. The primary purpose of search and seizure action is to collect evidence, examine persons on oath and to seize assets/documents etc. as found necessary. Further, in view of the stringent provisions already laid out in the Income-tax Act and procedures prescribed by way of circulars, instructions etc., the safeguards are already in place regarding the conduct of search and seizure operations to and to prevent misuse of personal or business or professional information. In view of the above, Magistrate approval before

initiating search action is not required. Income Tax proceedings are judicial proceedings as per section 136 of IT Act 1961 and therefore such judicial proceedings cannot be subject to oversight by other judicial authority. suggestion may not be feasible.

(iv) The confidentiality of the reasons recorded is to be maintained even after the search because of the sensitivity involved. Disclosure of the same may jeopardise potential action in other similar and related cases, and may also endanger the informant, if any. It is not desirable to reveal the source of information and the subsequent process of developing the case, on the basis of which action was conducted.

xx. The suggestion seeks to omit the phrase empowering Revenue officials to gain access to any computer system or virtual digital space even if they have no relation with the subject matter of search. The warrant of authorisation is issued only after due procedure (including reason to believe) has been followed. The data from any computer system, or digital space once extracted will reveal whether there is any subject matter related to search or not. It may be difficult to contend that assessee will voluntarily disclose the specific devices or virtual digital spaces related to subject matter of search. Thus, the suggestion is not feasible.

xxi. The suggestion seeks to provide safeguard in the statute to prevent abuse of power by Revenue officials as well as protect the privacy of taxpayers. Thus, the suggestion is not feasible.

xxii. The suggestion seeks to provide for balance privacy rights of individuals and the interest of revenue during the search proceedings and protecting privileged communication.. Digital devices now hold critical, often voluminous, information relevant to investigations, including emails, chats, documents, and app data. Personal and business data are often intertwined, making it difficult to segregate information on-site during search and seizure operations. The Income Tax Department follows strict forensic procedures to acquire, document, preserve, and analyse digital data while maintaining its integrity and confidentiality. Thus, the suggestion is not feasible.

xxiii. The changes have been made with a view to align with the changed circumstances. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

xxiv. The suggestion seeks to redraft the clause 247(1)(b)-search and seizure to access only to official e-mail accounts of the person. The suggestion is not feasible.

xxv. The suggestion seeks to redraft clause 247(5)(b) for better clarity and understanding. The suggestion is in nature of drafting correction. Long line has been added to one sub-clause which is not correct. Thus, suggestion is not feasible.

xxvi. This is drafting correction in clause 247(9) and word "value" shall be substituted by "valuer". This is drafting correction in clause 247(9) and word "enforce" shall be substituted by "in force".

xxvii. The suggestion seeks to redraft the clause 247(9) to make it grammatically correct. The suggestion is acceptable.

xxviii. The suggestion seeks to redraft clause 247(1)(b) to provide for the missing authorities i.e. Additional Commissioner /Addl. Director and Deputy Commissioner /Dy. Director. The suggestion is in nature of drafting improvement. The definition of Assistant Commissioner/Asstt.Director as per clause 2(14) and 2(15) includes Deputy Commissioner Dy. Director. Similarly, the definition of Joint Commissioner/ Jt. Director in clause 2(63) and 2(64) includes Additional Commissioner/ Addl.Director. Thus, suggestion is not feasible.

241.5.2 In addition to the above submissions, the Ministry of Finance (Department of Revenue) has submitted written reply to Committee's specific clarification sought on 'Issues concerning Search and Seizure and Income Tax raids under the provisions of the Income-Tax Bill *vis-à-vis* the Right to Privacy of Individuals'. The submission made by the Ministry is as follows:

> *Search & Seizure provisions are contained in clause 247 of the Income-tax Bill, 2025 and are analogous to section 132 of the present Income-tax Act, 1961.At the outset it may be submitted that the powers provided under section 132 as well as clause 247 of the Bill are only to be exercised during the continuation of the search and seizure proceedings. Such powers start on execution of the warrant of authorization and ends when the search is concluded. To understand the import of clause 247 of the Bill, it would be relevant to discuss the objectives of section 132 of the I T Act 1961, the challenges it faced and the landmark judgments in this context.*
>
> ***Objectives of section 132***
>
> *2. Section 132 of the Income-tax Act, 1961, primarily has two objectives: (a) to discover evidence having a bearing on the tax liability of a person, which the said*

person has not disclosed or would have not disclosed to the income tax authorities; and (b) to discover assets representing income believed to be undisclosed income, to seize such assets to the extent permissible by law and to apply such seized assets to discharge the existing and anticipated tax liabilities of the person concerned.

3. Thus, the objective of the section is not merely to get information about the undisclosed income, but also to discover the money, bullion, etc. representing the undisclosed income and to seize them for the purposes of proper realization of taxes, penalties etc.

Constitutional validity of Search and Seizure Provisions

4. The Constitution enshrined fundamental rights, reflecting a commitment to individual liberties. However, the constitution also included provisions for reasonable restrictions on the fundamental rights in the interest of public order, morality, and the sovereignty of the state, highlighting the inherent tension between individual freedoms and collective well-being. Landmark judicial pronouncements have continuously shaped this dynamic aspect, striving to strike a balance between protecting individual rights and promoting the larger public good in a constantly evolving societal context

5. In this context, it may be noted that in the decision in the case of Pooran Mal vs. Director of Inspection[1974] 93 ITR 505 (SC),the constitutional validity of search & seizure operations under Section 132 of the Income-Tax Act' 1961 [analogous to clause 247 of the ITB' 2025] was decided. Hon'ble Apex Court at page 515 of its judgement has held that:

> *"Dealing first with the challenge under Article 19(1)(f) and (g) of the Constitution it is to be noted that the impugned provisions are evidently directed against persons who are believed on good grounds to have illegally evaded the payment of tax on their income and property. Therefore, drastic measures to get at such income and property with a view to recover the government dues would stand justified in themselves. When one has to consider the reasonableness of the restrictions or curbs placed on the freedoms mentioned in Article 19(1)(f) and (g), one cannot possibly ignore how such evasions eat into the vitals of the economic life of the community. It is a well-known fact of our economic life that huge sums of unaccounted money are in circulation endangering its very fabric. ……. Therefore, in the interest of the community it is only right that the fiscal authorities should have sufficient powers to prevent tax evasion."*

6. The said portion of the judgement was also referred to in the Hon'ble Apex Court's 2015 judgement in the case of DGIT(Inv), Pune and others vs. Spacewood Furnishers (SLP (Civil) no. 38611 of 2012). This 2015 judgement acknowledges that tax evasion poses a significant threat to the economic life of the community and that search operations help in—

(a) Recovering Government Dues: Search operations can lead to the discovery of undisclosed income and property, which enables the government to recover the taxes owed.
(b) Ensuring Economic Stability: By curbing tax evasion, search operations contribute to a cleaner formal economy by ensuring that taxes are paid fairly and that government revenue is protected.
(c) Maintaining Community Interests: The judgement highlights that search operations protect the interests of the community by ensuring that everyone contributes their fair share of taxes. This revenue is essential for funding public services and infrastructure.

7. It can't be overstated that the interest of the community at large is served through the investigation of the Income tax Department if the black money of tax evaders, who are evading the taxes due to the nation putting the overall developmental works of the Government at risk, is brought to taxation.

8. In the case of Income-tax Officer v. Seth Brothers(74 ITR 836 SC 1969), Hon'ble Supreme Court upheld the constitutionality of the provisions of the section 132 of the existing Act. In the said matter, it was further held that said section does not confer any arbitrary authority upon the revenue officers. Search & Seizure provisions – Contours & safeguards

9. Search & seizure action by ITD is a potent tool to recover evidence regarding serious tax evasion by the assessee, and to collect due taxes on the same. Such actions also creates deterrence against tax evasion.

10. Sources of Information: Such actions are initiated on the basis of specific information regarding tax evasion by an assessee. It may be noted that ITD receives information regarding tax evasion through various channels, inter-alia, the following:

> *(a) Information sharing platforms between various Government Agencies/ Organisations like Central Economic Intelligence Bureau (CEIB) and Regional Economic Intelligence Committee (REIC).*
> *(b) Tax evasion petitions (TEPs) received from anyone who has information about tax evasion and black money.*
> *(c) Information received through informers, which, if found credible, results in enforcement actions by the ITD.*
> *(d) Information filed with ITD in form of Specified Financial Transactions (SFTs) above notified thresholds, relating to cash deposits, credit card payments, purchase and sale of properties, purchase of shares and mutual funds, etc.*
> *(e) Suspicious Transaction Reports (STRs) received regularly through FIU-IND.*

(f) Specific information received from any other Law Enforcement Agency (LEA) for appropriate action etc. These actions are initiated only after thorough discrete surveillance/investigations and gathering credible information regarding tax evasion and undisclosed income & assets of an assessee.

11. Authority authorizing the search & seizure operations: The power to issue warrant of authorization for carrying out a search under the Income-Tax Act, 1961 has been given only to senior rank officers of Income Tax Department, not below the rank of Principal Commissioner or Principal Director of Income Tax. Such authorities have to record "reason to believe" in writing before issuing the warrant of authorization. As an additional check, the searches can only be authorized after administrative approval of the Director General of Income Tax (Investigation). Further on a broader perspective searches are carried out only in a select few cases (a miniscule percentage(less than 0.01%) of the total assessee base).

12. Independent witnesses: The search and seizure operations are carried out in the presence of witnesses who testify the record of the proceedings in a legal document in form of Panchnama. The board is conscious of the fact that enforcing higher quality standards on panchnama preparation may yield desirable outcomes and hence has issued instructions regarding the same.

13. Guidelines: Furthermore, to prevent violation of procedures laid down by CBDT during search actions, various instructions and guidelines are issued by CBDT for compliance by search parties. These include the charter of Rights & duties of the persons to be searched, which are to be shown to the searched person(s). (Annexure A). CBDT has also issued manuals, instructions and guidelines from time to time which are required to be followed by the officers involved in the search and seizure operations.

Nature of evidence unearthed during search actions: Shift from physical/paper to digital evidence

14. With the surge in digital transactions and the growing use of virtual platforms for both personal and business purposes, a large portion of financial data now exists in digital form. Further the information is available in encrypted format in password protected files. Such evidences are lying in mobile phones,laptops,servers,cloud etc including servers outside the country.

14.1 This shift has created new challenges for tax authorities, as traditional enforcement methods—focused primarily on physical assets like cash or jewellery— are no longer sufficient. Recognizing this, the Income-Tax Act, 1961 was amended by inserting Section 132(1) (iib) by the Finance Act, 2002, w.e.f. 1-6-2002. This provision explicitly empowers tax officials to access and seize digital records during enforcement actions.

14.2 Section 132(1)(iib) of Income-Tax Act, 1961 enables authorised officer to require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents. Hence the authorised officer must be provided with the necessary facility to inspect any books of accounts or any other documents by the person who is found to be in possession or control of any such books or documents maintained in electronic form.

14.2.1 Such facility includes the disclosure of passwords, otherwise the electronic records maintained in password protected electronic devices, or the password protected electronic records cannot be inspected by the authorized officers. This has also be recognized by the Delhi High Court in its decision in the case of 315 ITR 137 (Delhi)S.R. Batliboi& Co.v.Department of Income-tax (Investigation). The Court has held in this decision that Section 132(1)(iib) casts a compulsion on the owner of the laptops to provide the department with the password to the computer to enable inspection of the books of account maintained in electronic form in the laptops.

14.3 Presently, in many cases of search operation the taxpayers refuse to share the password/login credential of online forums/portals/e-mail accounts etc. However, various incriminating evidences and material are found/seized from electronic records including whatsapp communications, emails, etc. This is because various encrypted communication modes are being used by tax payers to communicate and discuss their unaccounted transactions. Further, books of account, financial statements and records are kept in the digital space and without gaining access to that fair investigation cannot be carried out. Accordingly, clause 247 of Income-Tax Bill, 2025 prescribes the authorised officer to gain access by overriding the access code of computer system or virtual digital space. It is only the reiteration of the already existing provision in a more explicit language. No additional power has been given to the tax authorities.The provisions of clause 247enable the department in respect of the following:-

> *(a) Access to Digital Records: Tax authorities can search digital data stored in cloud services, email accounts, messaging platforms, and online financial services during raids. (b) Mandatory Disclosure of Access Information: Individuals are required to share passwords or access codes when requested. Refusal to comply may result in legal consequences.*
> *(c) Authority to Bypass Encryption: If credentials are not provided, officials are permitted to override encryption and security systems to access digital data.*

(d) Seizure of Digital Devices: Devices such as laptops, hard drives, mobile phones, and servers may be confiscated as part of the investigation.

15. It is pertinent to mention that during Search & Seizure actions, large amounts of evidences showing unaccounted income are found, which are in digital space in different forms like:

(a) Devices - Standalone desktop, remotely accessed desktops, mobile, laptops etc

(b) Storage – Hard Disk Drives, Solid State Drives, Storage Servers (local or networked), Storage as a Service (STaaS) Clouds etc

(c) Services - Software as a Service (SaaS) clouds – online word processors, Accounting Software like tally on cloud, Enterprise Resource Planning (ERP) systems etc (d) Communication platforms – Emails, Text Over IP (ToIP) like WhatsApp, telegram etc.

(e) Virtual Digital Assets

16. This evidence is essential to prove the tax evasion and to compute th quantum of tax evasion. During the search and seizure operations, sometimes the person in control of books, documents and records etc. does not cooperate with the proceedings and does not provide necessary facilities to access the records maintained in electronic form. Also, many a times information is stored in servers/ storage facilities abroad which are not accessible from India and the access code is not provided by the person concerned. In these circumstances, the whole exercise of search and seizure gets frustrated if it is left at that stage. But for such provisions, it would be difficult to initiate or take steps to break password or having access to digital evidences.

17. It is further emphasized that this power is given to the tax authorities in the rare circumstances where search and seizure operation has been ordered by the Competent Authority and where the person concerned is not cooperating with the proceedings. It is necessary that such power is given to the authorised officer to enforce the law and to collect necessary evidence to fight the tax evasion and menace of black money. It is further pointed out in the conventional context that the officers had specific powers to break open locks for the purpose of conducting a search. Section 132 allows the authorised officer to-

(ii) break open the lock of any door, box, locker, safe, almirahor other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

17.1 In the present context the virtual spaces provide far more avenues for the unscrupulous to hide unaccounted assets and information. In fact, the dictionary meaning of residual phrase 'other receptacle' is'a container for holding things or that you can put things in' . If the information is stored in digital form in a password protected physical or virtual space, then the 'key' for such storage is

the password of the same. Thus the changes made vide the provisions of the Income-Tax Bill, 2025 are explanatory in nature and no new powers are being provided to the authorities. The provision of a specific power to override passwords is to keep up with the times and provide adequate mechanisms to uncover undisclosed income and wealth. There is no overreach or intention to breach the privacy of social account by these powers.

Search and Seizure provisions of Income-tax Bill viz-a-viz Right to Privacy of Individuals

18. Protection of Privacy under Income-tax Act, 1961 Section 138 of the Income-tax Act, 1961 relates to disclosure of information respecting assessees. There are two specified circumstances in section 138 in which any disclosure can be made by the Central Board of Direct Taxes or any other income-tax authority. Clause (a) of sub-section (1) of section 138 provides for disclosure to officer, authority or body performing functions under specified laws. In respect of other cases, clause (b) of sub-section (1) of section 138 provides that any such information may only be provided by the Principal Chief Commissioner, Chief Commissioner or Principal Commissioner on an application made by a person subject to the satisfaction that providing of information is in public interest. Thus, more than adequate protection has been enshrined in the section 138 of the Act to protect the privacy rights of the individual. Similar provision has been incorporated in the clause 258 of the Income-tax Bill to protect the privacy rights of the individuals.

Right to privacy as per judgment in K.S. Puttaswamy Vs. Uol, (2017) 10 SCC 1

19. As per the aforesaid judgment, the right to privacy must be considered in relation to its function in society and be balanced against other fundamental rights. The three-fold test as laid down by Nine Judges Bench in the said judgment are:- (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate state aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them" The search and seizure provisions in the Income-tax Act, 1961 or the Income-tax Bill, 2025 satisfy the three-fold test laid down by the judgement ofHon'ble Supreme Court.

20. Further, seven recognized exceptions permitting privacy restrictions include:

i. National security - Not directly applicable to tax searches
ii. Prevention/investigation of crime - Tax evasion investigations fall here
iii. Public health - Not typically applicable
iv. Public order - Generally not applicable
v. Protection of revenue interests - Directly applicable to tax investigations
vi. Individual consent - Not applicable in search scenarios
vii. Protection of rights of others - May apply in certain cases

It may be mentioned that the search powers satisfy these exceptions when properly exercised, particularly under the "protection of revenue interests" and "prevention of crime" exceptions.

Protection of Privacy as per the Provision of the Digital Personal Data Protection Act, 2023 (DPDP Act, 2023)

21. Chapter II, Chapter III and section 16 of Chapter IV of the DPDP Act lay down certain obligations on data fiduciary. However, clause (c) of sub-section (1) of section 17 of the DPDP Act provides exemptionsto a data fiduciary from the obligations cast under the said provisions. The relevant provisions of section 17 of the DPDP Act are reproduced as under:-

> *"17. (1) The provisions of Chapter II, except sub-sections (1) and (5) of section 8, and those of Chapter III and section 16 shall not apply where— (a) …; (b) …; (c) personal data is processed in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law for the time being in force in India;…"*

22. It may be mentioned that section 8 provides for general obligations of data fiduciary. While sub-section (1) provides that the data fiduciary will comply with the provisions of DPDP Act and Rules made thereunder in respect of any processing undertaken by it, sub-section (5) prescribes that data fiduciary shall protect personal data in respect of any processing of such data by taking reasonable security safeguards to prevent personal data breach. In this regard, it is hereby submitted that any digital data seized from the searched premise is duly sealed and signed by the person being searched and two independent witnesses. After search operation, such seized data is held in the safe custody of the Officer conducting the search operation. Further, retention of the seized material, if required, is duly approved by the Principal Commissioner of Income-tax.

Conclusion

23. Therefore, search and seizure provisions of the Income-tax Bill, 2025 are in line with provisions of Income-tax Act, 1961. Further, the said provisions are also constitutional and do not violate the Right to Privacy of an individual considering the provisions of reasonable restrictions as discussed above.

247.5.3 In this regard, the Committee sought clarifications about specific, detailed provisions outlining the procedures to be followed during digital searches and seizures and potential misinterpretation of digital evidence and the blurring lines between personal and financial data when accessing digital records. Accordingly, the Ministry furnished the written replies as follows:

Section 132(1)(iib) of the Act already authorises inspection of books/documents maintained in electronic form under the Information Technology Act, 2000, thereby, recognizing digital formats even in the existing Act. The provision is as under (emphasis supplied): (iib) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

2. The Bill updates the terminology to include "electronic systems" and "virtual digital spaces," reflecting modern data storage realities. It clarifies mechanisms like overriding access codes or passwords, which are an extension of existing search powers w.r.t. digital data, akin to breaking physical locks.

3. Hence, the changes ensure that the Department's ability to conduct lawful search and seizure remains effective in an increasingly digital world. It is for attaining enforcement parity in an era where tax-relevant information increasingly exists in non-physical/digital forms.

4. In the digital era, critical tax-relevant information is increasingly stored and transacted through online platforms, remote servers, and digital applications, beyond traditional physical books and documents. With the surge in digital transactions and the widespread use of virtual platforms for both personal and commercial activities, a substantial portion of financial information now resides in digital formats.

5. The definition of "virtual digital space" in the Bill rightly captures the modern technological ecosystem, including email servers, social media accounts, cloud storage, digital wallets, and investment platforms. Without express legal authority to access them, a tax search would be ineffective, especially when data is encrypted or access is secured by digital authentication.

6. The definition of "computer system" further reinforces that these platforms are legitimate areas of inquiry during a search. These powers do not introduce any new coercive measures but they simply ensure that search and seizure keeps pace with how information and assets exist and move in today's digital economy.

7. Clause 247 permits authorised officers to override encryption/digital security where access is denied and reflects provision which already authorises officers to break open physical locks on doors, safes, or other receptacles to access concealed assets. The phrase "other receptacle," broadly understood as any 'container' used to store items, includes encrypted digital devices and storage systems. A password-protected device serves as a digital equivalent of a locked safe. It ensures that the treatment of digital assets is on par with physical

evidence for accessing digital records stored across modern platforms such as cloud services, email accounts, messaging applications and online financial systems. It mandates individuals to disclose digital credentials like passwords, authorises officers to override encryption where cooperation is denied and empowers the seizure of digital devices.

8. The apprehension that clause 247 of the Bill enables ongoing surveillance or intrusive monitoring is misplaced. The powers conferred under this provision operate strictly for an authorised search. They are confined to the duration and scope of that specific operation. Such powers of overriding the access protected through password start on execution of the warrant of authorization and ends when the search is concluded i.e. Once the search is concluded, the authority to access digital records by overriding encryption automatically ceases. There is no provision that permits post-search use of this authority as general surveillance tool, or tracking of digital activity. This is neither intended nor can be used for this purpose.

9. During the course of a search, the seizure is only of information and evidence relating to prima facie undisclosed income. Even if electronic devices are seized, only the information and evidence relating to undisclosed income is examined and used.

10. During the search operation, the relevant digital device of the assessee is cloned, while taking hash value of the device at the time of seizure in presence of assessee and independent witnesses, in order to maintain sanctity & integrity of the data. Here, it is pertinent to mention that there is no available technology at present that can segregate the financial data of the assessee from his personal data before cloning, without opening the original device. However, any such attempt will, in all likelihood, alter the hash value of the original device, leading to avoidable litigations w.r.t. sanctity & integrity of the data.

11. Further, the search and seizure operations are conducted in the presence of two independent witnesses which are documented in the panchnama which captures all steps taken during the search. The CBDT has laid down a charter of Rights and Duties of the persons being searched, which are to be shown to the searched person. It has also issued manuals and guidelines which are required to be followed.

12. Further, the Hon'ble Karnataka HC has held in the case of C. Venkata Reddy And Anr. vs Income-Tax Officer (Central) I, reported as [1967]66ITR212(KAR). that "We are not, therefore, satisfied that the safeguards provided in section 132 of the Income-tax Act are ineffective or illusory for reason only of the fact that the original authorisations for search are issued by an officer of the department and not by an independent authority like the Magistrate"

13. Only a minuscule fraction of assessees are subject to search and seizure operations in any given year. These are exceptional, not routine, actions initiated only upon credible intelligence and authorized at a high level. Illustratively, such operations cover well below 0.01% of the overall taxpayer base, demonstrating the highly selective and judicious application of these powers.

14. Beyond that, the authority to issue a warrant for conducting a search is vested in senior officers of the Department - those not below the rank of Principal Director, who is of the rank of Addl Secretary to Govt of India. Before issuing such a warrant, the authorising officer must record in writing a "reason to believe" based on credible information. As an added safeguard, no search can be authorised without prior administrative approval from the Director General of Income Tax (Inv.). Further, the authorised officers at the search premises are of the rank of Asstt/Deputy Director, who are bound by the CCS Conduct Rules, 1964. In this regard, a brief comparison of authorities for granting approval of search action and issuing warrant for the same in some other LEAs is as under:

LEA	***Approval of Search granted by***	***Warrant Signatory***
Income Tax Department	*Director General Income Tax equivalent to Additional Secretary (HAG+) to Govt of India*	*Principal Director of Income Tax, equivalent to Additional Secretary (HAG) to Govt of India*
Enforcement Directorate	*Joint Director/Additional Director equivalent to Director in Govt of India*	*Deputy Director equivalent to Under Secretary in Govt of India*
NIA	*DG equivalent to DGP*	*Investigating Officer*
CBI	*SP equivalent to Deputy Secretary in Govt of India*	*Judicial Magistrate*
DGGI	*ADG equivalent to Joint Secretary in Govt of India*	*Joint Commissioner equivalent to Deputy Secretary in Govt of India*

15. The above comparison chart shows that approval of search in Income Tax Department is accorded at the highest level among other enforcement agencies. Further, as Income-tax is a civil law therefore, there is no need for the warrant to be signed by Judicial Magistrate as done in CBI. In fact, even though agencies like ED, NIA, DGGI administer criminal law, warrant there is not signed by Judicial Magistrate.

Further regarding data protection provisions in respect of searches, following submissions are made—

Data Protection provisions

A. Search and seizure action mandated in the Income-Tax Act is a fact-finding and evidence collection exercise. During these actions, it is noticed that the evidence seized by the Department increasingly consists of digital data which is extracted, preserved and analyzed to use the same for the purposes of investigation, assessment and other relevant proceedings. The digital devices usually encompass a broad spectrum of digital data, comprising a wide array of encrypted records, electronic records, files, and information. This digital information is a critical part of the investigative process, as it provides valuable insights and evidence related to potential tax irregularities, concealments, evasions or frauds.
B. The present practice of seizure of digital evidence includes:

(i) Imaging digital devices
(ii) Seizure of the physical digital device

The default practice is bit-by-bit imaging of the digital device into another portable hard during the search action at the premises and subsequently returning the physical device to the assesses after the search action at the premises is concluded with the drawing of a panchnama in the presence of independent witnesses.

The bit-by-bit imaging process is undertaken by forensic experts empaneled by the Investigation Directorates after due process. These forensic experts accompany the Authorised Officer and the team at the search premise and perform imaging of the devices found at the premises in a forensically sound manner using a sophisticated encryption standard, resulting in an encrypted image of the digital device. Once the bit-by-bit imaging of the digital device is completed, a HASH report is generated, which is a unique alphanumeric ID for the device imaged. The HASH value of that device signifies the integrity of the data present in the device. Any change in data will ultimately change the HASH value of the device.

C. Seizure of the physical device is only done in rare cases when the imaging of the digital devices cannot be done in cases where the access code to the device is not provided or in other technical issues which require expert intervention. Even in case of physical device seizure, the device is only opened and the data imaged in the presence of the assessee or persons authorised by the assessee and two independent witnesses. The original devices are returned back to the taxpayer to avoid any inconvenience to the individual or his business operations.

D. 12. Bit-by-bit imaging during the search action ensures an unbiased and secure imaging of the digital device. As the entire device is imaged into a sealed

portable hard disk, this ensures the integrity of the data is maintained, which is essential for further legal proceedings associated with the case.

E. The entire data of the device, which also includes deleted data, is imaged and sealed in a hard disk, which is then processed on premises at the Income Tax Offices, ensuring secure physical and digital access to the seized digital data. Further as per provisions of Bharatiya Sakshya Adhiniyam 2023, chain of custody of digital devices are maintained throughout the proceedings under Income-Tax Act.

F. As discussed above, segregation of personal and financial data at the time of seizure is not feasible for following reasons:

> *1. During the search action, there are many digital devices, including mobile phones, hard disks, laptops, iPads, computers, pen drives, etc., found. Thus, identifying key devices and then segregating the data at the premises itself is not feasible, since it is a time bound action at the premises. Moreover, Information is spread across bits and pieces across various digital devices, therefore imaging the entire device is the only technically feasible option.*
>
> *2. Integrity of data can only be ensured when the data from the digital device is stored in an unbiased manner using appropriate forensic tools. Segregation during the search action is technically challenging and will potentially dispute the integrity of data seized during search action.*
>
> *3. The hash value of the device ensures that the data seized from the digital device is done in a forensically sound manner with integrity. Manual intervention involved in the segregation of data can violate the integrity of data, thus making it disputed and potentially non-admissible in the court of law.*

Thus, there are significant technical and other challenges in the segregation of data into personal and financial data at the premises, compromising the integrity of the data seized and ultimately affecting the search and seizure action. While analyzing the data the Department uses only the financial transactions and the information bearing on the tax evasion.

Digital Personal Data Protection Act 2023

G. Section 8 of DPDPA, 2023 places a general obligation on the data fiduciary, in this case, the Income Tax Department. Relevant sections applicable to the department include Sections 8(1) and sections 8(5) of DPDPA, 2023 which calls upon the Data fiduciary be responsible for complying with the provisions of this Act and the rules made thereunder in respect of any processing undertaken by it

and also ensure protection of personal data in its possession or under its control, by taking reasonable security safeguards to prevent personal data breach.

H. Section 17(1)(c) of DPDPA, 2023 provides exemption in the case of personal data being processed in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law for the time being in force in India. Thus, Section 17(1)(c) is applicable to Income tax Search and Seizure actions as the fundamental mandate for the search action involves prevention, detection and investigation of tax evasion and subsequent prosecution in the interest of safeguarding the economic security of the nation.

I. With regards to the compliance of DPDPA, 2023, it is being provided that the digital data seized in a forensically sound manner is stored in another portable hard disk that is duly sealed and signed by the person searched upon and independent witnesses. This imaged data is then in the safe custody and control of the Investigating officer.

J. The seized data is under the personal custody of the officer and stored in a sanitized, access controlled environment. Hash values generated during the process of cloning are used to ensure data authencitiy. The department is establishing forensic laboratories across India which will further enhance the capabilities of department in handling the seized data through modern tools in a safe, secure and access-controlled environment.

K. Section 138 of Income-Tax Act and Clause 258 of the proposed bill establishes the legal framework to protect the right to privacy and places suitable restrictions against disclosure of seized data. Further, the department is constantly upgrading the data handling practices under the recently launched National Cyber Forensics framework. It is department's endeavor to balance investigation priorities against right to privacy so that desired outcomes are achieved with minimal invasion of privacy.

247.5.4 Further, the Ministry also submitted as follows:

In the case of Income-tax Officer v. Seth Brothers(74 ITR 836 SC 1969), Hon'ble Supreme Court upheld the constitutionality of the provisions of the section 132 of the existing Act. In the said matter, it was further held that said section does not confer any arbitrary authority upon the revenue officers.

Further, the Hon'ble Karnataka HC has held in the case of C. Venkata Reddy And Anr. vs Income-Tax Officer (Central) I, reported as [1967]66 ITR 212 (KAR). that 'The only argument strongly pressed on this part of the case is that the initial authorisation of the search is left in the hands of an officer of the department and not in the hands of an independent person like the Magistrate under section 96 of the Code of Criminal Procedure. It is urged that an officer of the department, however high, cannot be said to be wholly free from an interest in the result in the

same way as a judicial Magistrate maybe said to be and that, therefore, it may not be quite safe to proceed upon the assumption that the departmental officer will bring to bear on the question an independent, judicial, unbiased mind. It is further stated that an order by a Magistrate directing the issue of a warrant is amenable to correction by the High Court on revision and that there have been instances in which the High Courts have quashed the warrants issued by the Magistrates without proper application of the mind and without ascertaining whether the circumstances justifying the issue of a warrant actually exist.

It is no doubt true that an officer of the department cannot be said to be wholly free from some interest in the result as a Magistrate can be said to be. But the result that he is interested in is the same as, and not different from, the object of the statute itself, viz., bringing under assessment all income liable to tax and preventing evasion of tax. Such an interest cannot be said to disable an officer from performing the statutory duties impartially and with a sense of responsibility, unless of course any personal bias is alleged and is proved. Ordinarily, in the case of high-ranking officers functioning under statutes and discharging statutory duties, bias is not to be presumed because they are expected to act with a sense of responsibility appropriate to their position and duties which the statutes impose on them. Wherever personal bias is proved and wherever an officer acts in disregard of his statutory responsibility and issues an authorisation without satisfying himself about the preliminary conditions required by the particular statute, such whimsical act on his part is certainly open to correction by the High Court under article 226 of the Constitution.

We are not, therefore, satisfied that the safeguards provided in section 132 of the Income-tax Act are ineffective or illusory for reason only of the fact that the original authorisations for search are issued by an officer of the department and not by an independent authority like the Magistrate. We are not, therefore, satisfied that the safeguards provided in section 132 of the Income-tax Act are ineffective or illusory for reason only of the fact that the original authorisations for search are issued by an officer of the department and not by an independent authority like the Magistrate.'

Thus, the judiciary has also upheld the power of authorisation of search by the senior officers of the Department.

It may be noted that in the decision in the case of Pooran Mal vs. Director of Inspection [1974] 93 ITR 505 (SC), the constitutional validity of search & seizure operations under Section 132 of the Income-Tax Act' 1961 [analogous to clause 247 of the ITB' 2025] was decided. The Supreme Court emphasized that the Director of Inspection's powers are not absolute and that court intervention is limited to verifying legality and procedural correctness, not the merits of the assessment or investigation. The Court upheld the constitutionality of section 132 of the Income-Tax Act, 1961, which deals with search and seizure, and Rule 112 of the Income Tax Rules, 1962, stating that these restrictions are reasonable and

do not violate Article 19(1)(f) and (g) of the Constitution. The Court acknowledged the need for robust search and seizure provisions to recover taxes owed and protect social security.

The court also discussed that 'Some points of lesser substance were mentioned in the petition memos in support of the challenge under articles14 and 19(1)(f) and (g). They were, however, not urged at the time of the hearing, as on the other grounds urged ,it was impossible to hold that the impugned provisions were violative of either article 14, 19 or 31. We may, however, mention in this context that these points had been raised in C. Venkata Reddy v. Income-tax Officer, (Central) I, Bangalore [1967] 66 ITR 212 (Mys.) and in Ramjibhai Kalidas v. I.G. Desai, Income-tax Officer[1971] 80 ITR 721 (Guj.), where they have been quite adequately dealt with and rejected.'
Thus, the Hon'ble Apex court has also upheld the decision of Hon'ble Karnataka HC as mentioned above.

In this regard, it is hereby also submitted that section 136 of the Income-tax Act, 1961 (hereinafter "the Act") provides that proceedings before the income-tax authorities to be judicial proceedings. Section 136 is reproduced below for the ready reference:

'Proceedings before income-tax authorities to be judicial proceedings.
136. Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).'

Search and seizure action under the Income-tax Act is only a quasi-judicial proceeding, which is conducted in the presence of two independent witnesses. The authorised officer does not have the power to arrest any person in the course of search action.

The primary purpose of search and seizure action is to collect evidence, examine persons on oath and to seize assets/documents etc. as found necessary. Further, in view of the stringent provisions already laid out in the Income-tax Act and procedures prescribed by way of circulars, instructions etc., the safeguards are already in place regarding the conduct of search and seizure operations to and to prevent misuse of personal or business or professional information.

In view of the above, Magistrate approval before initiating search action is not required. Income Tax proceedings are judicial proceedings as per section 136 of IT Act 1961 and therefore such judicial proceedings cannot be subject to oversight by other judicial authority. suggestion may not be feasible. Therefore,

the power to issue warrant by the senior officers of the Department is legally valid and constitutional.

247.5.5 On the issue of expansion of powers of Assessing Officer under Clause 247, the Ministry replied as under:

In clause 247 of the proposed Bill, the power of the authorised officer as regards recording of statement on oath during search proceedings, has been expanded to cover "any person who is present at the premises" at which search proceedings are being undertaken. During search, situations arise where a person though not possessing any books or other documents but is in the know of the business intricacies or is a key person managing business e.g. accountant, machine operator in the manufacturing industry, gatekeepers who are maintaining exit records, quality control persons who have complete production information and so on. Statements of such person also become extremely important. Therefore, practically these statements are relevant to conduct investigations. It is relevant to note that such statements are taken during the course of search and at the premise being searched. Thus, the amendment has been made to rationalise the provision.

247.5.6 For an in-depth examination of the Clause, the Committee consulted with other Ministries concerned *viz.* Ministry of Home Affairs, Ministry of Electronics and Information Technology and Ministry of Law and Justice. In a written reply on the topic 'Issues concerning Search and Seizure and Income Tax raids under the provisions of the Income-Tax Bill *vis-à-vis* the Right to Privacy of Individual', the Ministry of Home Affairs stated as follows:

In this regard it is stated that the relevant provisions relating to search and seizure under the proposed Income-Tax Bill, 2025, are given under clauses 247 to 251, which have been examined, and it has been found that as per the clause 247 (10), it is mentioned that the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) relating to searches and seizure shall apply, so far as may be, to search and seizure under this section.

Further, it is highlighted that two Writ Petitions (Criminal) were filed before the Hon'ble Supreme Court, Writ Petition (Criminal) No. 138/2021 (PIL) "Rama Ramaswamy Vs UOI & Ors" and Writ Petition (Criminal) No. 395/2022 "M/s Foundation for Media Professionals Vs UOI & Ors". The petitioners have requested that the Right to Privacy of journalists, academicians, medical professionals, and doctors be protected during the investigation of the search and seizure of digital devices by Law Enforcement Agencies.

Accordingly, the Hon'ble Supreme Court vide order dated 07.11.2023 has directed the Union of India that there has to be a balancing of interests and proper guidelines need to be framed to protect the interest of the petitioners at the time of seizure, examination, and preservation of personal digital and electronic devices and their content.

In compliance with the order passed by Hon'ble Supreme Court, Indian Cyber Crime Coordination Centre (14C) under the Ministry of Home Affairs (MHA) has prepared a "Guidelines on Seizure, Examination and Preservation of Electronic Devices and their Content" which is in its draft stage and pending for further consultation with concerned stakeholders. In these guidelines, the right to privacy, protection against disproportionate seizure, and other constitutional rights have been taken into consideration.

247.5.7 Similarly, on the 'Issues concerning Search and Seizure and Income Tax raids under the provisions of the Income-Tax Bill *vis-à-vis* the Right to Privacy of Individual', Ministry of Electronics and Information Technology (MeitY) stated as follows:

The Digital Personal Data Protection (DPDP) Act, 2023 is a significant legislative step in India's data governance framework, aimed at empowering individuals by safeguarding their personal data. At its core, the DPDP Act mandates that the primary basis for processing personal data must be the free, informed, and specific consent of the data principal. However, recognizing the needs of State functions, certain categories of processing are exempt from certain obligations when personal data is processed by State or its instrumentalities for subsidies, benefits, in the interest of prevention, detection, investigation or prosecution of any offence or contravention or any function under any law for the time being in force in India or in the interest of sovereignty and integrity of India or security of the State. The DPDP Act also imposes general obligations on data fiduciaries and mandates them to implement appropriate technical and organizational measures to ensure the security of personal data and prevent breaches. Furthermore, Section 17 of the DPDP Act provides certain exemptions from its provisions for the purposes of enforcing a legal claim, or where it is necessary for the performance of any judicial or quasi-judicial function, or for the prevention, detection, investigation, or prosecution of any offence or contravention of existing laws in India.

2. Income-Tax Bill and DPDP Act

On 13th February 2025, the Ministry of Finance, through the Income Tax Department ("Department"), introduced the Income-Tax Bill, 2025 in Lok Sabha. The Bill seeks to replace the Income-Tax Act, 1961. Notably, Section 247 of the Bill grants authorities the power to search, seize, and access virtual digital spaces, including email servers, social media accounts, online investment account, trading account, remote or cloud server. Such action may involve

accessing digital personal data. The current Income-Tax Act allows income tax authorities to enter and search buildings and break open locks if certain documents or books of accounts are not produced by a person for whom summons has been issued under the Act. It also empowers the authorities to inspect electronic records. The Income-Tax Bill has further introduced some provisions in this regard, which expands the scope of search and seizure. The relevant Sections of the Income-Tax Bill are reproduced below:

> *247 (1): Where the competent authority, in consequence of information in his possession, has reason to believe that—*
>
> *(b) any person is in possession of any asset or information in relation to any asset and such asset represents either wholly or partly, income or property which has not been, or would not be, disclosed, for the purposes of this Act, or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, (herein referred to as the undisclosed income or property in this section), then the approving authority may authorise any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner, so authorised, may authorise any Assistant Director or Assistant Commissioner or Income-tax Officer, hereinafter referred to as the authorised officer to—*
>
> *(ii) require any person, who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record [as defined in section 2(1)(ha), (i), (j), (k), (l), (r), and (t) of the Information Technology Act, 2000], on computer systems, any information stored in an electronic media or computer systems, to afford the authorised officer with such reasonable technical and other assistance (including access code, by whatever name called) as may be necessary to enable the authorised officer to inspect any information, electronic records and communication or data contained in or available on such computer systems;*
>
> *(iii) break open the lock of any door, box, locker, safe, almirah, or other receptacle for exercising the powers conferred by clause (i), to enter and search any building, place, etc., where the keys thereof or the access to such building, place, etc., is not available, or gain access by overriding the access code to any said computer system, or virtual digital space, where the access code thereof is not available;*
>
> *247(7)(a): "Where any books of account (in physical form or electronic form), other documents or asset, is found in the possession or control of any person in the course of a search, it may be presumed— (a) that such books of account, computer systems, virtual digital space, other documents or asset, belong or belongs to such person; (b) that the contents of such books of account, other documents, electronic content, records or communication found on such computer systems or virtual digital space, are true;"*
>
> *261(i): "virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the*

physical, tangible world which encompasses any digital realm that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet, worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes— (i) email servers; (ii) social media account; (iii) online investment account, trading account, banking account, etc.; (iv) any website used for storing details of ownership of any asset; (v) remote server or cloud servers; (vi) digital application platforms; and (vii) any other space of similar nature."

Search and seizure and personal data protection:
The Bill retains the above-mentioned search and seizure provisions from the current Income-Tax Act, 1961, while widening its scope to allow authorities to gain access to a virtual digital space during such proceedings. This broadening of powers may be seen as a necessary measure to adapt to the realities of a rapidly evolving digital world.

The Bill defines virtual digital space as an environment, area, or realm that is constructed and experienced through computer technology. It includes email servers, social media accounts, online investment and trading accounts, and websites for storing details of asset ownership.

Notably, Section 2(t) of the Digital Personal Data Protection Act, 2023 defines "personal data" as "any data about an individual who is identifiable by or in relation to such data". And Section 2(x) defines "processing" as "any wholly or partly automated operation or set of operations performed on digital personal data," expressly encompassing activities such as collection, recording, organisation, structuring, storage, retrieval, use, disclosure, and erasure. Further, Section 2(i) of the DPDP Act defines a "Data Fiduciary" as "any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data."

From the combined reading of the above-mentioned definitions, any search and seizure of virtual digital spaces places the Income Tax Department in the role of a Data Fiduciary and will subject it to all the responsibilities and exemptions provided of a data fiduciary under the DPDP Act. Further, the DPDP Act states that data fiduciaries shall process data for a lawful purpose for which a data principal has given her consent (Sections 5 and 6), or for certain legitimate uses (Section 7). In the present scenario, Section 7(c) of the DPDP Act may be relevant as it permits processing for the purpose of performing a State function under any law without requiring consent, and reads as under:

"A Data Fiduciary may process personal data of a Data Principal for any of following uses, namely-- for the performance by the State or any of its

instrumentalities of any function under any law for the time being in force in India".

Separately, Section 7(d) also provides processing without consent " for fulfilling any obligation under any law for the time being in force in India on any person to disclose any information to the State or any of its instrumentalities, subject to such processing being in accordance with the provisions regarding disclosure of such information in any other law for the time being in force".

However, an exemption from processing under these sections still obligates the Department to comply with the obligations of a Data Fiduciary under Section 8. This includes implementing appropriate technical and organisational measures to ensure effective observance of the provisions of the DPDP Act and the rules.

It is also important to note that Section 17(1)(b) and Section 17(1)(c) provide exemptions, from certain obligations under Chapter II, except sub-sections (1) and (5) of Section 8, Chapter III, and Section 16 of DPDP Act where the processing of personal data by any court or tribunal or any other body in India which is entrusted by law with the performance of any judicial or quasi-judicial or regulatory or supervisory function, where such processing is necessary for the performance of such function or where the processing of personal data is in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law in force in India. This means that a data fiduciary qualifying for this exemption will be exempt from notice and consent requirements, among others. However, the data fiduciary will still have to comply with the provisions of Section 8 (1), which holds the data fiduciary responsible for compliance by itself and any data processor acting on its behalf, and Section 8(5), which mandates the implementation of reasonable security safeguards to prevent personal data breaches.

3. Information Technology Act and Rules

While the DPDP Act is yet to come in force, the provisions of the IT Act 2000 and accompanying rules also become relevant in this regard. Under the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 ("SPDI Rules"), passwords and financial information are classified as sensitive personal data, and written consent is required before their collection and use by a body corporate. Disclosure of such data to third parties also typically requires prior permission from the individual concerned, unless specifically allowed by contract or necessary to comply with a legal obligation. However, there is an exception for Government agencies under Rule 6 of the SPDI Rules. A body corporate may share sensitive personal data, including passwords, with such agencies without obtaining prior consent, provided the agency is authorized under law and makes a formal written request stating the purpose of the request. Additionally, the Government agency must affirm that the information will not be published or shared with any other person.

4. Right to privacy – a fundamental right

On 24th Aug 2017, in the KS Puttaswamy case, nine judges of the Hon'ble Supreme Court unanimously recognised privacy as a fundamental right guaranteed by the Constitution, within Article 21 in particular and Part III on the whole. However, it also stated that like the right to life and liberty, right to privacy is not absolute. The limitations which operate on the right to life and personal liberty would operate on the right to privacy. Any curtailment or deprivation of that right would have pass the tests of legality, necessity, and proportionality. The relevant excerpts of the judgment, in the light of proposed Section 247 of the Bill and concerns raised against privacy, are as under:

> *'176. The balance between data regulation and individual privacy raises complex issues requiring delicate balances to be drawn between the legitimate concerns of the State on one hand and individual interest in the protection of privacy on the other. …*
>
> *180. While it intervenes to protect legitimate state interests, the state must nevertheless put into place a robust regime that ensures the fulfilment of a three-fold requirement. These three requirements apply to all restraints on privacy (not just informational privacy). They emanate from the procedural and content-based mandate of Article 21. The first requirement that there must be a law in existence to justify an encroachment on privacy is an express requirement of Article 21. For, no person can be deprived of his life or personal liberty except in accordance with the procedure established by law. The existence of law is an essential requirement. Second, the requirement of a need, in terms of a legitimate state aim, ensures that the nature and content of the law which imposes the restriction falls within the zone of reasonableness mandated by Article 14, which is a guarantee against arbitrary state action. The pursuit of a legitimate state aim ensures that the law does not suffer from manifest arbitrariness. Legitimacy, as a postulate, involves a value judgment. Judicial review does not re-appreciate or second guess the value judgment of the legislature but is for deciding whether the aim which is sought to be pursued suffers from palpable or manifest arbitrariness. The third requirement ensures that the means which are adopted by the legislature are proportional to the object and needs sought to be fulfilled by the law. Proportionality is an essential facet of the guarantee against arbitrary state action because it ensures that the nature and quality of the encroachment on the right is not disproportionate to the purpose of the law. Hence, the three fold requirement for a valid law arises out of the mutual inter-dependence between the fundamental guarantees against arbitrariness on the one hand and the protection of life and personal liberty, on the other. The right to privacy, which is an intrinsic part of the right to life and liberty, and the freedoms embodied in Part III is subject to the same restraints which apply to those freedoms. …*
>
> *181. Apart from national security, the state may have justifiable reasons for the collection and storage of data..... But, the data which the state has*

collected has to be utilised for legitimate purposes of the state and ought not to be utilised unauthorizedly for extraneous purposes. This will ensure that the legitimate concerns of the state are duly safeguarded while, at the same time, protecting privacy concerns. Prevention and investigation of crime and protection of the revenue are among the legitimate aims of the state. …

183. Privacy has been held to be an intrinsic element of the right to life and personal liberty under Article 21 and as a constitutional value which is embodied in the fundamental freedoms embedded in Part III of the Constitution. Like the right to life and liberty, privacy is not absolute. The limitations which operate on the right to life and personal liberty would operate on the right to privacy. Any curtailment or deprivation of that right would have to take place under a regime of law. The procedure established by law must be fair, just and reasonable. The law which provides for the curtailment of the right must also be subject to constitutional safeguards. …

Para (T)(3)(H). Like other rights which form part of the fundamental freedoms protected by Part III, including the right to life and personal liberty under Article 21, privacy is not an absolute right. A law which encroaches upon privacy will have to withstand the touchstone of permissible restrictions on fundamental rights. In the context of Article 21 an invasion of privacy must be justified on the basis of a law which stipulates a procedure which is fair, just and reasonable. The law must also be valid with reference to the encroachment on life and personal liberty under Article 21. An invasion of life or personal liberty must meet the three fold requirement of (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate state aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them; …

Para T(5). The creation of such a regime requires a careful and sensitive balance between individual interests and legitimate concerns of the state. The legitimate aims of the state would include for instance protecting national security, preventing and investigating crime, encouraging innovation and the spread of knowledge, and preventing the dissipation of social welfare benefits.'

Therefore, it is clear that the right to privacy is limited, and shall be restricted on the basis of legitimate state aim, necessity and proportionality. In view of the above, the competent authority proposed under the draft Income-Tax Bill vide Section 247 may execute search and seizure under certain legitimate uses as envisaged in Section 7 of the DPDP Act while retaining appropriate data protection measures under Section 8 or under legitimate state functions in performance of any judicial or quasi-judicial or regulatory or supervisory function or in the interest of prevention, detection, investigation or prosecution of any offence as per Section 17(1)(c). It may be concluded that the current Income-Tax

Bill, 2025 is aligned with the proposed data protection framework in India as well as the principles laid down in the Puttaswamy judgment.

247.5.8 Further on ‘‘Issues concerning Search and Seizure and Income Tax raids under the provisions of the Income-Tax Bill *vis-à-vis* the Right to Privacy of Individuals’, Legislative Department, Ministry of Law and Justice stated as follows:

(i) At the outset, it is to submit that the Legislative Department acts mainly as a service provider in so far as the legislative business of the Union Government is concerned in drafting legislations on the basis of the proposals received from various administrative Ministries/Departments.

(ii) On the issue under reference, it is submitted that the right to privacy, which is presently guaranteed under article 21 of the Constitution, is not absolute and is subject to restriction in certain situations. The seven exceptions to this right include national security, public order, morality, contempt of court, defamation, incitement to commit an offence, and prevention of crime. These restrictions are justified to protect the general welfare and maintain the social order

(iii)The statutes dealing with taxes empower specified authorities to carry out search and seizure subject to safeguards provided therein to protect individual rights and liberties from unwarranted State actions. The provisions of the Income-tax Act, I 961 permit search and seizure only when the relevant Income-tax Authority has reason to believe the factors specified in clauses (a) to (c) of sub-section (I) of section I 32 to enter the places provided therein and to search and seize any suspected books of account, documents, money, bullion, jewellery or other valuable article or thing, etc., as specified in the said sub section.

(iv)Further, rule 112 of the Income-tax Rules, 1962 provides for the procedure to be adopted in conducting search and seizure by the Income-tax Authorities. The said rule, inter alia, elaborately provides for the procedure to be followed by the empowered Income-tax Authorities for conducting search and seizure in a lawful manner for the able administration and effective implementation of the provisions of the Income-tax Act, 196 I so as to protect the larger public interest of revenue, and to ensure deposit and safe custody of materials and other proceeds so seized in consequence to a search made, through the Custodian specified therein with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or the authorised bank or a Government Treasury.

(v) Also, the provisions of the Information Technology Act, 2000 provides for legal recognition of transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and governs digital signatures and protection of sensitive information such as personal data. The said Act was

enacted with the goal of regulating the use of electronic communication and digital signatures and providing legal recognition to transactions carried out through electronic means. It provides for security measures to stop unauthorised access to computers, computer systems, and the data kept on them.

(vi) Reference is also drawn to the relevant provisions of the Digital Personal Data Protection Act,2023 in this context. Section 7 of the said Act relating to certain legitimate uses, inter alia, provides as under-

> *"7. A Data Fiduciary may process personal data of a Data Principalfor any of following uses, namely:*
> *(a)….*
> *(b)…..*
> *(c) for the performance by the State or any of its instrumentalities of any firnction under any law for the time being in force in India or in the interest of sovereignty and integrity of India or security of the State;*
> *(d) for fulfilling any obligation under any law for the time being in force in India on any person to disclose any information to the State or an.y of its instntmentalities, subject to such processing being in accordance w'ith the provisions regarding disclosure of such information in any other law for the time being in force;"*

Further, the provisions of section 17 , inter alia, provides as under:

" 17. (l) The provisions of Chapter II, except sub-sections (l) and (5) ofsection 8, and those of Chapter III and section 16 shall not apply where
(a) the processing of personal data is necessary for enforcing any legal right or claim;
(b) the processing ofpersonal data by any court or tribunal or any other body in India which is entntsted by law, with the performance of any judicial or quasi-judicial or regulatory or supervisory function, where such processing is necessary for the performance of such function:
(c) personal data is processed in the interest of preventiort, detection, investigation or prosecution of any offence or contravention ofany law for the time being in force in India
(d).. (e) …..
(f) the processing is for the purpose of ascertaining the financial information and assets and liabilities of any person who has defaulted in payment due on accoltnt of a loan or advance taken from a financial institttion, subject to such processing being in accordance w'ith the provisions regarding disclosure of information or data in any olher law for the time being in force

(2) The provisions of this Act shall not apply in respect of the processing of personal data
(a) by such instrumentality of the State as the Central Government may notify, in the interests of sovereignty and integrity of India, security of the State, friendly relations with .foreign States, maintenance of public order or preventing incitement to ony cognizable offence relating lo any of these, and

the processing by the Central Government of an.v personal data that such instrumentalitl) may.furnish to it; and

(b) necessary for research, archiving or statistical purposes if the personal data is nol to be used to take any decision specific to a Data Principal and such processing is caried on in accordance with such standards as may be prescribed. "

Additionally, section 185 of the Bharatiya Nagarik Suraksha Sanhita, 2023 provides the basic procedure for conducting a search, and acts as a procedural safeguard in this regard, ensuring procedural due process .

(vii) The expression "reason to believe" does not have any statutory definition under tax laws, but has been defined under clause (29) of section 2 of the Bharatiya Nyaya Sanhita, 2023 (section 26 of erstwhile Indian Penal Code) and interpreted by the Courts in a series ofcases. The said clause (29) defines the expression "reason to believe" as "A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise". Such 'belief' should be honest and reasonable. ln ITO Vs. Lakhmani Mev'al Das IAIR 1976 SC 1753], the Supreme Court, while interpreting the expression "reason to believe" under section 147 ofthe Income-Tax Act, I961, observed as under:

" ...the reasons for the formation of the belief must have a rational connectiort with or relevant bearing on the formation of the belief. Rational connection postulates that there must be a direct nexus or live link between the material coming to the notice... and the formation of... belief... The reason for the formation of the belief must be held in good faith and should not be a mere pretence. "

(viii) Also, the Hon'ble Supreme Court, in the case of Justice K.S.Puttaswamy (Retd) Vs. Union Of India, dated the 26th September, 2018 (2019 (l) SCC 1), has in paragraph 372, inter a/ia, observed that restrictions on the right to privacy may be justifiable in the following circumstances subject to the principle of proportionality:

(a) the right to privacy must be considered in relation to its function in society and be balanced against other fundamental rights;

(b) legitimate national security interest;

(c) public interest including scientific or historical research purposes or statistical purposes;

(d) the need of the competent investigation, prosecution of criminal against threat to public security;

(e) the information does not relate to identified or identifiable natural person but remains anonymous. The European Union Regulation of 2016 refers to "pseudonymisation" which means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject

to technical and organisational measures to ensure that the personal data are not attributed to an identihed or identif,rable natural person;

(f) the regulatory fiamework of tax and working of financial institutions, markets may require disclosure of private information. But then this would not entitle the disclosure of the information to all and sundry and there should be data protection rules according to the objectives of the processing. There may however, be processing which is compatible for the purposes for which it is initiallycollected.

2. Clause 247 of the Income{ax Bill, 2025, which is under examination before the Hon'ble Committee, provides for search and seizure and makes provisions providing sufficient safeguards for data protection, as well as for protecting the right to privacy of individuals from being violated.

247.5.9 The Department of Legal Affairs on ‘‘Issues concerning Search and Seizure and Income Tax raids under the provisions of the Income-Tax Bill *vis-à-vis* the Right to Privacy of Individuals’’ submitted their replies as follows:

2.The matter under consideration relates to the Clause 247 of the Income-Tax Bill, 2025 ("the Bill") which authorises Search and Seizure. Clause 247 of the Bill outlines the conditions under which tax authorities can conduct searches and seizures. Clause 247 of the Bill grants the competent authority the power to authorise searches and seizures. As per sub-clause (10) of Clause 247 of the Bill, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 relating to searches and seizures shall apply for the said section. It may be relevant to mention that the provisions of the Clause 247 appear to be similar to the provisions of Section 132 of the Income-Tax Act, 1961. However, clause 247 of the Bill expands the scope of existing Section 132 of the Income-Tax Act, 1961 and authorizes designated officers to access and search "virtual digital spaces"-a term encompassing emails, social media accounts, cloud storage, online banking, and other digital platforms if there are reasons to believe to be the case of tax evasion or undisclosed assets.

3. It may be pertinent to note here that as per Section 2 (d) of the Bharatiya Sakshya Adhiniyam, 2023, the "document" means any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which maybe be used, for the purpose of recording that matter and includes electronic and digital records. As per Section 2 (1) (t) of Information Technology Act, 2000, electronic record means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer-generated micro fiche. A collective reading of all these provisions clearly reveals that after the enactment of Information Technology Act, 2000, the term document includes electronic and digital records.

4. The Right to Privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution- Supreme Court in the case of KS Puttaswamy v. Union of India ((2017) 10 SCC 1). However, the Supreme Court ruled that the Right to Privacy is not absolute, but is subject to reasonable restrictions and laid down the three-part test regime which include Legality, Legitimate State Aim; and Proportionality and Procedural Guarantees. Furthermore, as laid down in the cases of E.P. Royappa v. State of Tamil Nadu (1978 (1) SCC 3) and Maneka Gandhi v. Union of India (1978 (1) SCC 248) that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that State action must not be arbitrary and must be based on rational and relevant principles which is non-discriminatory.

5. The Digital Personal Data Protection Act, 2023 is enacted to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes and for matter connected therewith or incidental thereto. Under Section 4 (1), a person may process the personal data of a Data Principal only in accordance with the provisions of this Act and for a lawful purpose:

a. for which the Data Principal has given consent; or

b. for certain legitimate uses.

As per Section 4 (2), the expression "lawful purpose" means any purpose which is not expressly forbidden by law. Under sub-section (2) of Section 11, sharing of any personal data by the Data Fiduciary with any other Data Fiduciary authorised by law to obtain such personal data, where such sharing is pursuant to a request made in writing by such other Data Fiduciary for the purpose of prevention or detection or investigation of offences or cyber incidents, or for prosecution or punishment of offences.

6. We may mention that the issue raised for our consideration is the general interpretation. Full details of the case have not been referred to us. We have, however, examined the legal position in this note and in the light of the above factual and legal analysis, we are indicating below the broad conclusions, which have to be applied to the individual facts of the case appropriately:

i. Clause 247 of the Bill grants the competent authority the power to authorise searches and seizures. It may be relevant to mention that the provisions of the Clause 247 appear to be similar to the provisions of Section 132 of the Income-Tax Act, 1961.

ii. Clause 247 grants authorities the power to search buildings, places, vehicles or aircraft based on suspicion of hiding financial assets. It allows searches and

seizures of persons and properties, without any prior judicial warrant, if there is reason to believe that the person has concealed or evaded income.

Clause 247 specifies that the authorised officers can enter and search premises, access electronic records and seize relevant documents and assets. Emphasis on digital documents and electronic media is an important feature.

iv. The Right to Privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution- Supreme Court in the case of KS Puttaswamy v. Union of India. However, the Supreme Court ruled that the Right to Privacy is not absolute, but is subject to reasonable restrictions and laid down the three-part test regime which include Legality, Legitimate State Aim; and Proportionality and Procedural Guarantees.

v. Under the provisions of Section 4 of the Digital Personal Data Protection Act, 2023, a person may process the personal data of a Data Principal for lawful purposes and legitimate uses.

vi. When the action taken by an authorised officers is not arbitrary and based on some rational and relevant principle which is non-discriminatory and not guided by extraneous or irrelevant considerations, it would not be denial of the principle of reasonableness and equality.

247.5.10 The Committee also clarified with the Department of Revenue regarding the reason behind deviation of clause 247 from the existing Section, to which the Department have given the following response:

The existing provision where it says the documents maintained in the form of electronic record is a very wide definition. This was introduced in the year 2002 and subsequent to that, other modes have also evolved over a period of time, clouds have come, the information is kept there, mobiles are there. So, there are different devices where the information is kept as against 2002. The fact that this provision was brought in 2002 reflects that as we moved along, the provisions kept on changing. So, now, when we are talking about 2025, going forward next 25 or 50 years this is going to be there, these have to be made explicit because there should not be scope for interpretation. That is point one. So, therefore, clarifying it does not add any powers as such to the tax department. That is point one.

The second point is that there is a distinction between the search, authorization of search and actual search taking place and getting hold of a digital data which may have a private data also. So, one is authorizing the search and conducting the search itself. Now, the present provisions are there.

..Now, for example, virtual digital assets. Now, this is a new thing which has evolved. Now, where does it fit in? So, that does not come in the definition. So,

therefore, this definition has to evolve as the technology is evolving. We cannot be restrictive in this thing. Basically, we have to see that who actually authorizes the warrant of authorization. The search is conducted by an officer of the level of deputy commissioner of Income Tax or Assistant Commissioner of Income Tax. Actually, the search is conducted there and the warrant of authorization is signed by the Principal Director of Income Tax who is two levels above that officer. .The search is authorized by the Principal Director of Income Tax. It is his reason to believe and then, it is vetted by DG Investigation of Income Tax, who is one level higher. Actually, the search is conducted by the Deputy Commissioner or Assistant Commissioner or the Income Tax Officer.

247.5.11 When the Committee put forth their apprehension about ensuring checks and balances to prevent income tax raids from occurring at someone's discretion or in a whimsical manner, the Ministry submitted as follows:

हमारी जो सर्चेज होती हैं, उनकी सोर्सेज अलग-अलग होती हैं। कुछ केसेज में इंफॉर्मेन्ट आते हैं। हमारे यहां रिवार्ड स्कीम भी है। इंफॉर्मेन्ट्स आकर इंफॉर्मेशन देते हैं। हमारे जो असिस्टेंट डायरेक्टर और डिप्टी डायरेक्टर हैं, वे उनका वेरिफिकेशन करते हैं। उसी तरह हमारे सोर्सेज से भी इंफॉर्मेशंस आते हैं। आजकल कुछ अच्छा असेसमेंट हुआ, उससे भी इंफॉर्मेशन आ जाता है। हमारे पास टैक्स एविजन पेटिशन आती है। हमारे पास लोग लिख कर भेजते हैं। उसमें से भी कई बार अच्छी इंफॉर्मेशन आ जाती है। इन सारे इंफॉर्मेशंस को हमारे असिस्टेंट डायरेक्टर और डिप्टी डायरेक्टी की टीम वेरिफाई करके अपना केस बनाती है कि इस केस अनडिस्क्लोज्ड इनकम है और वह सर्च किये बिना हमारे सामने नहीं आएगा। वे अपना सैटिशफेक्शन नोट बना कर अपने हेड के साथ चर्चा करते हैं। एडिशनल डायरेक्टर जब सब कुछ से सैटिशफाइड हो जाता है, तब वह प्रिंसिपल डायरेक्टर के पास जाता है। इनकम टैक्स के जो प्रिंसिपल डायरेक्टर है, उनको वारंट देने का पावर है। जो रीजन टू बिलिव है कि इस केस सर्च होनी चाहिए, वह प्रिंसिपल डायरेक्टर ऑफ इनकम टैक्स का होता है। पहले जब केवल प्रिंसिपल डायरेक्टर ऑफ इनकम टैक्स सैटिसफाई हो जाता था, तब उसकी एक सैटिशफेकशन नोट बनती है। हमारे सैटिशफेकशन नोट कई पेजेज में होती है। जितने हमारे संबंधित इंफॉर्मेशन के डॉक्यूमेंटरी एविडेन्सेस हैं या हमारे पास जो भी डिटेल्स आये हुए हैं, सब उसके पार्ट बनते हैं। So, it is a very thick document, normally.

सर, बाद में एक और एडमिनिस्ट्रेटिव चेक लाया गया कि प्रिंसिपल डायरेक्टर को भी डायरेक्टर जेनरल ऑफ इनकम टैक्स इन्वेस्टिगेशन का एडमिनिस्ट्रेटिव अप्रूवल लेना होगा। वह एक अनदर चेक हो गया। वह चेक हायर लेवल तक पहुंच गया। उसके बाद जब यह पूरा काम हो जाता है, तब प्रिंसिपल डायरेक्टर ऑफ इनकम टैक्स वारंट इश्यू करते हैं।

सर, जो फील्ड में काम करते हैं और प्रोसेसिंग डिप्टी डायरेक्टर होता है, वह और उसकी टीम सर्च के लिए जाती है। वहां पर सभी के एसओपीज हैं। बार में एक्ट में यह भी संशोधन हुआ था कि हम स्टॉक एंड ट्रेड को सीज नहीं करते हैं। इसके अलावा, यह भी इंस्ट्रक्शंस हैं कि आप कोई भी डिसक्लोजर नहीं लेंगे। अगर असेसी ऑफर करें कि अभी जो भी टैक्स निकल रहा है, उसके लिए मैं आपको चेक दे देता हूं और आप इसे जमा कर दीजिए। मैं अपना टैक्स दे देता हूं। वह भी वे

नहीं ले सकते हैं। उनको कहा गया है कि आपका काम सिर्फ और सिर्फ एविडेन्सेज खोजना है। आप अनडिसक्लोज्ड इनकम के एविडेन्सेज खोजिए। जो अनडिसक्लोज्ड इनकम मिलता है, उसको आप सीज करके ले आइए। जब सीजर हो जाता है, यह दो स्वतंत्र साक्षियों के उपस्थिति में होता है। स्टेटमेंट भी उनकी उपस्थिति में रिकॉर्ड होता है। वे सभी पेपर्स पर साइन करते हैं। वहां पंचनामा बनती है। पंचनामा में पूरा डिटेल दिया जाता है। अगर सर्च में कोई अनटूवार्ड इंसीडेंस हो गया, कभी-कभी ऐसा हो जाता है, तो वह भी हमारे पंचनामा का पार्ट होता है। हमने जितने भी डॉक्यूमेंट्स सीज किये, सबकी पूरी लिस्टिंग होती है। जो डिजिटल डॉक्यूमेंट्स हैं, उनको हम क्लोन करके ले आते हैं।

247.5.12 Further, during the examination of the Clause, the Committee asked the Department to expound on recording the statement of any person on oath. The Department submitted as follows: "

सर, जो इनकम टैक्स अथॉरिटी है, उनको क्वासी जूडिशियल अथॉरिटी बनाया गया है। इनको पावर दिया गया है। क्लॉज 132 (4) में हमारी जो सर्च वाली प्रोविजन है, वह क्लीयर है कि जो अथॉराइज्ड ऑफिसर वहां पर गया हुआ है, जिसको सर्च करने के लिए अथॉराइज्ड किया गया है, उसको ऑन ओथ रिकार्ड स्टेटमेंट रिकॉर्ड करने का पावर देता है। हमारे जितने भी पावर्स हैं, वे एक्ट से निकल कर आ रही हैं। इसके ऊपर भी काफी पुरानी प्रोविजन है। कई कोर्ट्स के ऊपर इनके ऊपर डिसीजन्स भी हो चुके हैं। इसमें एक इश्यू आया था कि वारंट भी क्यों नहीं मजिस्ट्रेट देता है। उसके ऊपर भी मामला सुप्रीम कोर्ट तक जा चुका है। उन्होंने भी इसको अपहेल्ड किया है।

247.5.13 When the Committee asked the Ministry whether their process of recording the statement on oath is in compliant with judgement of Supreme Court, the Ministry agreed that it is in complaint.

247.5.14 The Committee have also sought information from the Ministry on statistics of search & seizure, successful rate etc.. The Ministry, accordingly, provided the following information:

The details with respect to search and seizure actions and which have taken place in last 3 years is as per table below:

F.Y.	*Number of groups searched*	*Total Seizure (Rs. in crore)*
2022-23	*741*	*1765.56*
2023-24	*1166*	*2555.05*
2024-25	*1437*	*2503.73*

Following are the major outcomes achieved through the search & seizure actions:

1. Seizure of unaccounted cash, jewellery etc.

2. Detection of unaccounted income: The value of admitted undisclosed income for previous 3 years are as follows:

F.Y.	*Value of Undisclosed Income Admitted (Rs. in Crore)*
2022-23	*8417.23*
2023-24	*9099.14*
2024-25	*3791.61*

It is, however, pertinent to inform that Department focuses on the collection of evidences of undisclosed income which can be established in court of law, instead of admission of such income.

3. Increase in tax collection

4. Deterrence effect and increase in voluntary tax compliance

5. Investigations of Black money and Benami cases Seach & seizure actions also result in unearthing of evidences related to black money and benami transactions. As on 31.03.2025, assessments have been completed in 1021 cases raising tax and penalty demand of over Rs. 35,105 crores approximately.

6. Sharing of Financial Intelligence with other Law Enforcement Agencies (LEAs).

247.5.15 For the specific query of the Committee regarding providing certified copy of the statement recorded during search at the time of search itself, the Ministry submitted as follows:

Regarding sharing of certified copy of statements, the search manual lays down the following instruction, viz.---

> *"Copy of the statement should not be given to the deponent on the spot. In case any such person makes a request for providing him a copy of the statement subsequently, a decision may be taken in accordance with the Board's letter F.No. 286/57/2002-IT(Inv. II) dated the 3rd July, 200289, which inter alia provides that copies of statement(s) should be allowed within fifteen days from the date of receipt of application in this regard."*

In this regard, it is stated that the statement of searched party is recorded during the search & seizure action as well as during the post search investigation where

the evidences gathered during the search are confronted and explanations are sought. Certain statements provide leads for further investigation or consequential actions.

It would be premature to share the statements which are recorded during the search and seizure proceedings right on the culmination of the search proceedings as it would not only disclose the line of questioning to other individuals but would also hamper the consequential investigation. Where such statement is proposed to be used against the taxpayer, there it is shared with the taxpayer in any case.

Further, In Miss A vs The State Of Uttar Pradesh on 8 October, 2020, the Apex court upheld the similar view that under no circumstances copies of statements recorded under Section 164 of the Code can be furnished till appropriate orders are passed by the Court after taking cognizance in the matter.

247.5.16 During the deliberations, the Committee were also apprised by the Ministry regarding the drafting corrections.

247.6 **Observations/Recommendations of the Committee:**

247.6.1 The Committee note certain drafting corrections needed to be carried out in some sub-clauses as under:

(i) In sub-clause(5)(b), the word "with" (Line No.46) needs to be removed from phrase "or the Director General, as per with such procedure, as prescribed."

(ii) In sub-clause 247(9) the word "value" needs to be replaced by "valuer" (Line No.42).

(iii) Further, in sub-clause(9), the word "enforce" (Line No.43) needs to be replaced by "in force" and the phrase "as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General" need to be added for better clarity.

247.6.2 Apart from the above recommendations, the Committee find the clause to be adequate and in line with the corresponding section of the 1961 Act and accept the same as it stands.

Clause 248– Powers to requisition

248.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where the approving authority, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under section 246(*1*), or notice under section 268(*1*) was issued to produce, or cause to be produced, any books of account or other documents or any information stored in an electronic media or a computer systems has omitted or failed to produce, or cause to be produced, such books of account or other documents, or any information stored in an electronic media or a computer systems as required by such summons or notice and the said books of account or other documents or such electronic media or computer systems have been taken into custody by any officer or authority under any other law in force; or

(*b*) any books of account or other documents or any information stored in an electronic media or a computer systems will be useful for, or relevant to, any proceeding under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents or any information stored in an electronic media or a computer system on the return of such books of account or other documents or such electronic media or computer system by any officer or authority by whom or which such books of account or other documents or such electronic media or computer system have been taken into custody under any other law in force; or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law in force,

then, the approving authority may authorise any, Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer (hereinafter in this section and in section 489(*2*) referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or (*b*) or (*c*), to deliver such assets or books of account, other documents or such electronic media or computer system to the requisitioning officer.

(*2*) On a requisition being made under sub-section (*1*), the officer or authority referred to in clause (*a*) or (*b*) or (*c*), of that sub-section, shall deliver such assets or books of account or other documents or electronic media or computer system to the

requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(*3*) Where any assets or books of account or other documents or electronic media or computer system have been delivered to the requisitioning officer, the provisions of sections 247(*7*) to (*11*), 250 and 251shall, so far as may be, apply as if such books of account or other documents or electronic media or computer system or assets had been seized under section 247 by the requisitioning officer from the custody of the person referred to in sub-section (*1*) (*a*) or (*b*) or (*c*), and as if for the words "the authorised officer", occurring in any of the aforesaid sections 247(*7*) to (*11*), 250and 251, the words "the requisitioning officer" were substituted.

248.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Powers to requisition books of account, etc.

132A. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act by any person from whose possession or

control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may authorise any Additional Director, Additional Commissioner, Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(2) On a requisition being made under sub-section (1), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(3) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (4A) to (14), the words "the requisitioning officer" were substituted.

248.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 248 of the Bill provides for power to requisition. The clause corresponds to section 132A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The language of the existing sections has also been simplified. E.g. terms like Approving Authority have been used in place of authorities prescribed as per the existing provisions of the Act. These terms have been defined in the clause 261 (Interpretation).

248.4 Important Views/Suggestions given by Experts/Stakeholders:

There should be a specific provision to release any goods which are requisitioned and which are stock in trade of the assessee. This is to bring the requisition provisions in sync with the search and seizure provisions. If the assets are stock in trade then the same cannot be seized. Similarly, if the assets are requisitioned, then the same cannot be kept in seizure and should be released.

248.5 Examination by the Committee:

248.5.1 To the above suggestion, the Department of Revenue submitted as follows:

सर, हमारे यहां सीज़र के दो प्रोविजन हैं, पहला सैक्शन 132 है, जिसमें हमारे आफिसर्स सर्च के लिए जाते हैं, स्पॉट पर सर्च करके सीज़ करके ले आते हैं और दूसरी प्रोविजन 132 ए है, उसमें हम सीज़ नहीं करते हैं। पुलिस कहीं सीजर कर लेती है, गोल्ड का, ज्वैलरी का, मनी का या कोई भी दूसरी अथॉरिटी से, कई बार कोर्ट में सीज़र हो जाता है, फिर वह मैटर वे हमें रेफर करते हैं। हम उसमें फिर अपनी इंक्वायरी करते हैं और हमें लगता है कि वह अनडिसक्लोज्ड असेट है तो हम एक रिक्वीजिशन सर्व करके उसे सीज़ कर लेते हैं। उनकी डिमांड यह है कि हम जो 132 में सीज़र करते हैं, स्पॉट में हमें स्टॉकिंग ट्रेड मिलता है, भले ही वह अनडिसक्लोज्ड हो, लेकिन हम उसे सीज़ नहीं कर सकते। यह हमारे एक्ट में मना किया हुआ है। वे बोलते हैं कि अगर रिक्वीजिशन में भी कोई स्टॉकिंग ट्रेड इनवॉल्व हो तो उसको आप सीज़ मत करिए।

हमारी दिक्कत यह है कि सीजर किसी और ने कर रखा है, हमें पता नहीं है कि स्टॉकिंग ट्रेड था या क्या था? जब हमारे पास इनफॉर्मेशन आती है तो वहां से रिक्वीजीशन करके ला रहे हैं, यह थोड़ा डिफिकल्ट होगा, इसीलिए यह प्रोविजन यहां नहीं है।

248.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 248 in line with the existing provisions and mere textual simplification and therefore accept the Clause as proposed.

Clause 249– Reasons not to be disclosed

249.1 Provision proposed in the Income-Tax Bill, 2025:

The reason to believe or reason to suspect, as referred to in section 247 or 248, recorded by the income-tax authority shall not be disclosed to any person or authority or the Appellate Tribunal.

249.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Search and seizure.

132. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

(*b*) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or

(*c*) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

then,—

(*A*) the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, or

(*B*) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—

(*i*) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(*iib*) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

(*iii*) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

Providedthat bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of

the business;

(*iv*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(*v*) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing :

Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :

Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (*iii*):

Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:

Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(1A) Where any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Principal Director General or Director General or Principal Director or Director or any other Principal Chief Commissioner or Chief Commissioner or Principal

Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (*i*) to (*v*) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, notwithstanding anything contained in section, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

[75][(2) The authorised officer may requisition the services of,—

(*i*) any police officer or of any officer of the Central Government, or of both; or

(*ii*) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer or person or entity to comply with such requisition.]

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (1).

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(5) [***]

(6) [***]

(7) [***]

(8) The books of account or other documents seized under sub-section (1) or sub-section (1A) shall not be retained by the authorised officer for a period exceeding [76]**[***one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made***]** under sub-section (3) of section 143 or section 144 or section 147 or section 153A or clause (*c*) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained :

Provided that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, *mutatis mutandis,* apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

[77][(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to,—

(*i*) a Valuation Officer referred to in section 142A; or

(*ii*) any other person or entity or any valuer registered by or under any law for the time being in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

who shall estimate the fair market value of the property in the manner as may be prescribed, and submit a report of the estimate to the authorised officer or the Assessing Officer, as the case may be, within a period of sixty days from the date of receipt of such reference.]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(11) [***]

(11A) [***]

(12) [***]

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;

(*ii*) for ensuring safe custody of any books of account or other documents or assets seized.

[78][*Explanation 1.*—For the purposes of sub-sections (9A), (9B) and (9D), the last of [79]**[***authorisations***]** for search shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(*b*) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the authorised officer.]

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this

section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

Powers to requisition books of account, etc.

132A. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may authorise any Additional Director, Additional Commissioner, Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as

the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(2) On a requisition being made under sub-section (1), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(3) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (4A) to (14), the words "the requisitioning officer" were substituted.

249.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 249 of the Bill provides for reasons not to be disclosed for invoking search and seizure provisions. The clause corresponds to Explanation(s) to section 132(1), 132(1A) & 132A(1) of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

249.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Introducing judicial warrants could significantly bolster fairness and accountability. Tax officials should appear before a designated civil court of law to hold in-camera proceedings to get a court order for search and seizure on the premises of a person whom they suspect of tax evasion. The tax authorities should provide to the Court the initiating officer's "reason to believe" and the approving officer's "reason to suspect" before they initiate a search.
ii. The Clause may be amended to provide that the "reasons to believe" must be supplied to the Appellate Authority or Tribunal in case any objection is raised by the taxpayer with regards to the legality of the search. Search is an extreme form of undertaking investigation, and such action must be taken within the contours of the law Reasons for undertaking search must be provided to evaluate if the search action was justified.

249.5 Examination by the Committee:

249.5.1 The corresponding replies submitted by the Ministry to the above suggestions are as under:

i. Incorporation of proportionality standard by requiring the least invasive method - Hon'ble Supreme Court in Justice K.S Puttaswamy v Union of India, (2017) 10 SCC 1, Defining 'reason to believe' to prevent arbitrariness Judicial authorisation process could be set in place Non-disclosure of reason to believe or reason to suspect, as referred to in section 247 – may prevent taxpayer from challenging the searches – Amendment may be considered Protection of digital evidence integrity.

ii. Clause 247(1)(ii) and Clause 247(1)(iii) empowering Revenue officials to gain access to any computer system or virtual digital space even if they have no relation with the subject matter of search, may be omitted.

249.5.2 During oral evidence, when the Committee asked the Department about the purpose of including this provision in the Bill and whether any analogous provision was there like Clause 249 in earlier Act, the Ministry replied as under:

> *Sir, if there is a challenge to the satisfactions that are drawn, then it is presented in the writ form and then in sealed cover, we actually make it available to the judges of the High Court or the Supreme Court and then in the sealed cover, it is sent back. There is information is shared by an informant.*
>
> *If the apprehension is that once the information is shown, and the assessee or the taxpayer gets to know about it, then the identity of the informant, that gets compromised, there is a security angle also to it. So, these are the issues based on which this act, this provision was brought out. But at the same time, this is in writ, suppose a person challenges, then in sealed cover, the satisfaction note is shown to the hon. Judges of the High Court or the hon. Court, and then in sealed cover, it is returned back. So, that it is then in the safe custody of the officers who have conducted the, I mean, authorized the warrant. So, this is the provision.*
>
> *…*
>
> *Sir, I would like to draw your attention to Section 136 of the present Act. Sir, it is the 1961 Act. It says that the proceedings before income tax authorities to be judicial proceedings. So, any proceeding under this Act before an income tax authority shall be deemed to be a judicial proceeding. So, basically, what it says is that any proceeding, even while actually considering the warrant of authorization.*
>
> *..*

My point was that quasi-judicial is not purely an administrative, executive thing, basically, all the proceedings are quasi-judicial. So, there is also a judicial element involved into it.

..

Sir, the point that I was just trying to make was that there are certain situations where the provisions of Civil Procedure Code and CRPC, they are adjudicated or they are considered by the income tax authority. Therefore, it is not purely an executive function. That is point one. The other point is, when the person, when the officer is actually authorizing a warrant, then the proceedings before him, he is exercising it also in a quasi-judicial manner. That is the point that I was just trying to make. The other is that, if we go to the explanatory memorandum, which actually explained why the provisions of this explanation to 132(1) came, and if I may read, it says confidentiality and sensitivity are hallmarks of the proceedings under Section 132 and Section132A. However, certain judicial pronouncements have created ambiguity in respect of the disclosure of reason to believe or reason to suspect recorded by the income tax authority to conduct a search under 132 or to make requisition under 132A. It is therefore proposed to insert explanation to section 132(1) or sub-Section (1) to Section 132A to declare that reason to believe or reason to suspect, as the case may be, shall not be disclosed to any person or any authority or the tribunal. So, this was considered decision at that point in time in 2017 when this provision was made and in the context of certain course pronouncements which were there. But, Sir, we will examine UK and European countries as to how best this Right to Privacy is protected.

249.5.4 When the Committee asked the Ministry about the safeguards during the exercise of powers by income-tax authorities, the Ministry replied as follows:

Sir, the safeguards measures, if I may say so, it has to be more administrative also that once we seize the document, how do we make sure that it is done, the analysis is done in a sanitized manner, it is only seen by only those who are authorized, and in case, I mean, what safeguards are there so that no unauthorized person is able to see the data and it is, the analysis is done also in a safe, in a sense, in a location, at a place which is well protected and accountability is there. So, that is an administrative call that we have got to take.

249.6 Observations/Recommendations of the Committee:

The Committee, upon deliberation on the Clause and the justification provided by the Ministry, find the provisions of the Clause 249 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 250– Application of seized or requisitioned assets

250.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Assessing Officer may recover the tax liability (including penalty or interest payable other than advance tax) out of the assets seized under section 247 or requisitioned under section 248, and such liability shall be the aggregate of—

(*a*) any existing liability under this Act, or under the Income-tax Act, 1961 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;

(*b*) any liability determined under this Act or under the Acts referred to in clause (*a*), up to the date of completion of the assessment or reassessment or recomputation in consequence to the search or the requisition;

(*c*) any liability in respect of which such person is in default or deemed to be in default under this Act or under the Income-tax Act,1961, determined on or after the completion of the assessment or reassessment or recomputation in consequence of the search or the requisition, and till the date of release of the assets; and

(*d*) any liability arising on an application made before the Interim Board of Settlement under section 245C(*1*) of the Income-tax Act, 1961.

(*2*) The Assessing Officer may release the assets seized or portion of such asset to the person from whose custody the assets were seized, on an application made by the person concerned within thirty days from the end of the month in which the asset was seized, after fulfilment of the following requirements:—

(*a*) satisfying himself about the nature and source of acquisition of any such asset;

(*b*) recovering any existing liability referred to in sub-section (*1*);

(*c*) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

(*3*) The assets referred to in sub-section (*2*) shall be released within one hundred and twenty days from the date on which the last of the authorisations for the search or requisition was executed.

(*4*) If the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in sub-section (*1*) and the assessee shall be discharged of such liability to the extent of the money so applied.

(*5*) The assets, other than money, may also be applied for discharge of liabilities referred to in sub-section (*1*) as remains undischarged and shall be deemed to be

under distraint as if such distraint was effected by the Assessing Officer or Tax Recovery Officer under authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the recovery of any liability out of such assets shall be effected in the manneras prescribed.

(*6*) The mode of recovery of liabilities under sub-section (*1*) shall not preclude the recovery of liabilities aforesaid by any other mode laid down in this Act.

(*7*) Any assets or proceeds thereof, which remain after the liabilities referred to in sub-section (*1*) are discharged shall be forthwith made over or paid to the concerned person.

(*8*) The Central Government shall pay simple interest at the rate of 0.5% for every month or part of a month for the period on the amount determined in accordance with the following formula:—

(A-B)+(C-D)

where —

A = the aggregate amount of money seized under section 247 or requisitioned under section 248;

B = the amount of money, if any, released under sub-section (*2*);

C = the proceeds, if any, of the assets sold towards the discharge of the liability under sub-section (*1*); and

D = the aggregate amount required to meet the liabilities referred to in sub-section (*1*).

(*9*) The interest referred to in sub-section (*8*) shall run from the date immediately following the expiry of one hundred and twenty days from the date on which the last of the authorisations for the search under section 247 or requisition under section 248, was executed to the date of completion of the assessment or reassessment or recomputation.

250.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Application of seized or requisitioned assets.

132B. (1) The assets seized under section 132 or requisitioned under section 132A may be dealt with in the following manner, namely:—

(*i*) the amount of any existing liability under this Act, the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift-tax Act, 1958 (18 of 1958) [79a][the Interest-tax Act, 1974 (45 of 1974) and the Black Money

(Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015)], and the amount of the liability determined on completion of the assessment or reassessment or recomputation and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C, may be recovered out of such assets :

Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained to the satisfaction of the Assessing Officer, the amount of any existing liability referred to in this clause may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, to the person from whose custody the assets were seized:

Provided further that such asset or any portion thereof as is referred to in the first proviso shall be released within a period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed;

(*ii*) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (*i*) and the assessee shall be discharged of such liability to the extent of the money so applied;

(*iii*) the assets other than money may also be applied for the discharge of any such liability referred to in clause (*i*) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-section (5) of section 226 and the Assessing Officer or, as the case may be, the Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third

Schedule.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (*i*) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4) (*a*) The Central Government shall pay simple interest at the rate of one-half per cent for every month or part of a month on the amount by which the aggregate amount of money seized under section 132 or requisitioned under section 132A, as reduced by the amount of money, if any, released under the first proviso to clause (*i*) of sub-section (1), and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (*i*) of sub-section (1), exceeds the aggregate of the amount required to meet the liabilities referred to in clause (*i*) of sub-section (1) of this section.

(*b*) Such interest shall run from the date immediately following the expiry of the period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment or reassessment or recomputation.

Explanation 1.—In this section,—

(*i*) "block period" shall have the meaning assigned to it in clause (*a*) of section 158B;

(*ii*) "execution of an authorisation for search or requisition" shall have the same meaning as assigned to it in [80]**[**Explanation *to section 158B***]**.

Explanation 2.—For the removal of doubts, it is hereby declared that the "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII.

250.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 250 of the Bill provides for application of seized or requisitioned assets. The clause corresponds to section 132B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, formula has been provided to calculate the amount on which central government shall pay the simple interest at the rate of 0.5% for every month, so as to eliminate the scope of any ambiguity.

250.4 Important Views/Suggestions given by Experts/Stakeholders:

A gist of the suggestions received from the stakeholders is as under:

i. The interest of 1% per month be provided if order is not passed/the assets are not released within the stipulated period, till the date of release of the assets. Also, a provision of appeal be provided, in such cases. If the order is not passed or assets are not released within stipulated period, there is no remedy provided No interest is provided on the value of seized assets like securities, FD's Jewelry etc This will give alternate remedy to the assessee Also, the tendency to hold on to the assets or not pass the order by the officers will be curbed.

ii. 250(1)(c) should be amended to restrict the application of seized assets to the pending demands on the date of search/ requisition and to demands arising out of assessments etc in relation to such search or requisition proceeding. The same cannot be held till the time assessee is in default in perpetuity. There should be a specific provision that an option may be given for release seized assets like jewellery etc., on giving of bank guarantee of the value of such jewellery on the date of application.

250.5 Examination by the Committee:

250.5.1 To the above suggestions, the Ministry replied as follows:

i. The suggestion seeks to amend clause 250(2) to provide for 1% interest per month if order is not passed/the assets are not released within the stipulated period, till the date of release of the assets and a provision of appeal, in such cases. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Clause 250 provides that Assessing Officer may recover the tax liability out of the seized or requisitioned assets. The main purpose of seizing these assets is to ensure the recovery of tax dues after completion of assessment. Further, as per clause 250(8) of the Bill, assessee is entitled to receive the interest of 0.5% per month in the case of refund. The rate of interest is same as interest paid to the tax payers in the case of refund under clause 437. Also, where assets themselves are appreciating, the taxpayer is entitled to the appreciated value. Assets like Jewellery are kept in Safe House till the recovery of the outstanding demand. On the complete recovery of the demand, Jewellery are returned back to the assessee. Value of Gold Jewellery continues to increase, even it is seized by the tax-authorities. Therefore, there is no loss to the tax-payers, if such jewellery is returned back after some time. Thus, the suggestion is not feasible.

ii. The suggestion seeks to provide for a specific provision for release seized assets like jewellery etc., on giving of bank guarantee of the value of such jewellery on the date of application. The suggestion is administrative in nature is already

being implemented vide CBDT instruction F. No. 286/247/98-IT (Inv. II) (Release of seized assets) and F. No.286/6/2008-IT(Inv. II)(Release of seized assets other than cash). Thus, on production of bank guarantee, the jewellery is released to the assessee as per the said instruction.

250.6 Observations/Recommendations of the Committee:

250.6.1 The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 250 to be a textual simplification with no change in intent and in line with the existing provisions of the 1961 Act. The Ministry, under the Clause, has provided a formula to calculate the amount on which the central government shall pay the simple interest at the rate of 0.5% for every month, so as to eliminate the scope of any ambiguity. The Committee, therefore, accept the Clause as proposed.

250.6.2 The Committee further note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.

Clause 251– Copying, extraction, retention and release of books of account and documents seized or requisitioned

251.1 Provision proposed in the Income-Tax Bill, 2025:

251. (*1*) Where, the authorised officer, referred to in section 247(*1*)(*b*) has no jurisdiction over the person from whom the assets or books of account or other documents or electronic media or computer system were seized or requisitioned under section 247(*1*) or 248, he shall hand over the seized or requisitioned assets or books of account or other documents or electronic media or computer system to the Assessing Officer having jurisdiction over such person and such Assessing Officer thereupon shall exercise the powers under sub-sections (*2*) to (*4*).

(*2*) The authorised officer or the Assessing Officer referred in sub-section (*1*), shall, on an application made by the person referred to therein, allow him to make copies or take extracts from, the material seized or requisitioned, at such place and time as appointed, and in the presence of a person empowered by such officer in this behalf.

(*3*) The authorised officer may—–

(*a*) retain the material seized or requisitioned, under section 247 or 248, up to one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made;

(*b*) retain such material seized or requisitioned, beyond the period specified in clause (*a*), after recording reasons in writing and obtaining approval from the approving authority.

(*4*) The approving authority shall not allow the retention of material seized or requisitioned, beyond thirty days from the date on which all proceedings under this Act in respect of the years for which the material seized or requisitioned are relevant, are completed.

(*5*) If a person legally entitled to the material seized or requisitioned under section 247(*1*) or section 248, objects for any reason, to the approval given by approving authority under sub-section (*3*)(*b*), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the material seized or requisitioned and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

251.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Search and seizure.

132. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal

Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

(*b*) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or

(*c*) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

then,—

(*A*) the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, or

(*B*) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—

(*i*) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(*iib*) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

(*iii*) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

Providedthat bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;

(*iv*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(*v*) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing :

Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Principal Chief

Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :

Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (*iii*):

Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:

Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(1A) Where any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Principal Director General or Director General or Principal Director or Director or any other Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (*i*) to (*v*) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, notwithstanding anything contained in section, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

[75][(2) The authorised officer may requisition the services of,—

(*i*) any police officer or of any officer of the Central Government, or of both; or

(*ii*) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer or person or entity to comply with such requisition.]

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (1).

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or

which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(5) [***]

(6) [***]

(7) [***]

(8) The books of account or other documents seized under sub-section (1) or sub-section (1A) shall not be retained by the authorised officer for a period exceeding [76]**[***one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made***]** under sub-section (3) of section 143 or section 144 or section 147 or section 153A or clause (*c*) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained :

Provided that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers

exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, *mutatis mutandis,* apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

[77][(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to,—

(*i*) a Valuation Officer referred to in section 142A; or

(*ii*) any other person or entity or any valuer registered by or under any law for the time being in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

who shall estimate the fair market value of the property in the manner as may be prescribed, and submit a report of the estimate to the authorised officer or the Assessing Officer, as the case may be, within a period of sixty days from the date of receipt of such reference.]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(11) [***]

(11A) [***]

(12) [***]

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;

(*ii*) for ensuring safe custody of any books of account or other documents or assets seized.

[78][*Explanation 1.*—For the purposes of sub-sections (9A), (9B) and (9D), the last of [79]**[***authorisations***]** for search shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(*b*) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the authorised officer.]

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

251.2 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 251 of the Bill provides for copying, extraction, retention and release of books of account and documents seized or requisitioned. The clause corresponds to section 132 of the Act. The provisions of the existing section have been textually simplified and rationalised.

251.3 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 251 to be mere textual simplification and in line with the corresponding provisions of 1961 Act and therefore accept the Clause as it stands.

Clause 252– Power to call for information

252.1 Provision proposed in the Income-Tax Bill, 2025:

252. (*1*) The Assessing Officer, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of this Act, require any—

(*a*) person, including a banking company or any officer thereof, to furnish, within such time, requisite information or to furnish statements of account and affairs verified in such manner specified by such authority, giving such information in relation to such matters as, in the opinion of such authority, will be useful for, or relevant to, any enquiry or proceedings under this Act;

(*b*) firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(*c*) Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(*d*) person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(*e*) assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any tax year, rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head “Salaries” amounting to more than ten thousand rupees, or such higher amount as prescribed, together with particulars of all such payments made;

(*f*) dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts.

(*2*) The powers conferred under sub-section (*1*)(*a*)may also be exercised by the competent authority or the Assistant Director.

(*3*)The powers undersub-section (*1*)—

(*a*) shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Assistant Director, without the prior approval of the Principal Director or

Director or, as the case may be, the Principal Commissioner or Commissioner, in a case where no proceeding is pending.

(*b*) may be exercised by an income-tax authority notified under section 246(*2*)(*a*), for the purposes of an agreement referred to in section 159, even if no proceedings are pending before it or any other income-tax authority.

252.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power to call for information.

133. The Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or [81][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) may, for the purposes of this Act,—

(*1*) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(*2*) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(*3*) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(*4*) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than one thousand rupees, or such higher amount as may be prescribed, together with particulars of all such payments made;

(*5*) require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts ;

(*6*) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or [82][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), giving information in

relation to such points or matters as, in the opinion of the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or [82][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), will be useful for, or relevant to, any enquiry or proceeding under this Act :

Provided that the powers referred to in clause (*6*), may also be exercised by the Principal Director General or Director-General, the Principal Chief Commissioner or Chief Commissioner, the Principal Director or Director or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director :

Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Deputy Director or Assistant Director, without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner or Commissioner:

Provided also that for the purposes of an agreement referred to in section 90 or section 90A, an income-tax authority notified under sub-section (2) of section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority.

252.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 252 of the Bill provides for power to call for information.The clause corresponds to section 133 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, reference of DCIT (Appeals) has been omitted considering that no such authority exists as on date. The threshold amount for which the information could be sought has been increased to Rs. 10,000 from the limit of Rs 1000.

252.4 Important Views/Suggestions given by Experts/Stakeholders:

252.4.1 A gist of the suggestions received stakeholders is as under:

Clause (e) of section 252(1) can be drafted as '(e) assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any tax year, rent, interest, commission, royalty or brokerage, or any annuity (not being any annuity taxable under the head "Salaries"), amounting to more than ten thousand rupees, or such higher amount as prescribed, together with particulars of all such payments made;' The real intention of clause (e) of section 252(1) is that the limit of more than Rs.10000 applies to all types of payments enumerated in clause (e) and not to only annuity taxable under the head 'salaries. This bracketing is in consonance with the language of

para 9.10 of CBDT circular no. 551 dated 23.01.1990 explaining the amendments by Direct Tax Laws (Amendment) Act, 1987.

252.5 Examination by the Committee:

252.5.1 With reference to the above suggestion, the Ministry stated as follows:

> *The suggestion seeks to redraft clause 252(1)(e) as the limit of 10000 Rs. to call information has to be properly aligned to all items of payments mentioned there, and not just to annuity. The suggestion is in nature of drafting correction and acceptable.*

252.6 Observations/Recommendations of the Committee:

The Committee note that there is a need to amend Clause 252(1)(e) to clarify the application of the financial threshold for calling for information. The Committee observe that currently Clause 252(1)(e) empowers the income tax authority to require an assessee to furnish details of payments made for "rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head 'Salaries' amounting to more than ten thousand rupees". The phrase "amounting to more than ten thousand rupees" appears to qualify only "any annuity, not being any annuity taxable under the head 'Salaries'". The Committee observe that this may create an ambiguity, suggesting that for other payments like rent, interest, commission, royalty, or brokerage, there might not be a specified minimum limit for which information can be sought. Therefore, the Committee recommend that the sub-clause (1)(e) may be amended to ensure that the limit of 'ten thousand rupees', clearly applies to all the preceding categories of payments '"rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head 'Salaries'". The Committee, other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 253– Powers of survey

253.1 Provision proposed in the Income-Tax Bill, 2025:

253. (*1*) Irrespective of anything contained in any other provision of this Act, an income-tax authority may enter any place at which a business or profession, or activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, where such place—

(*a*) is within the limits of the area assigned to such authority; or

(*b*) is occupied by any person in respect of whom such authority exercises jurisdiction; or

(*c*) in respect of which such authority is authorised for the purposes of this section by income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,

and, upon entry into such a place, may require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—

(*i*) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents, or computer system, or any other material connected with such system including virtual digital space, as may be required and which may be available at such place;

(*ii*) to provide the necessary facility to check or verify the asset, stock, which may be found therein; and

(*iii*) to furnish such information as such authority may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

(*2*) For the purposes of this section, a place where a business or profession, or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on such business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing or computer system relating to such business or profession or activity for charitable purpose, are or is kept.

(*3*) An income-tax authority may enter any place of business or profession or activity for charitable purpose referred to in sub-section (*1*), only during the hours at

which such place is open for the conduct of business or profession or activity for charitable purpose and, in the case of any other place, only after sunrise and before sunset.

(*4*) An income-tax authority acting under this section may, for the purposes of verifying that tax has been deducted or collected at source as per the provisions of Chapter XIX-B of this Act, after sunrise and before sunset, enter—

(*a*) any office, or any other place where business or profession or activity for charitable purpose is carried on, within the limits of the area assigned to such authority; or

(*b*) any place in respect of which such authority is authorised for the purposes of this section by an income-tax authority who is assigned the area within which such place is situated or where books of account or documents are kept,

and on entry to such office or place, the income-tax authority may require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work—

(*i*) to provide the necessary facility to inspect such books of account or other documents, and access to electronic media or computer system, or virtual digital space, as may be required; and

(*ii*) to furnish such information as may be required in relation to such matter.

(*5*) An income-tax authority acting under this section may—

(*a*) place marks of identification on the books of account or other documents inspected by such authority and make or cause to be made extracts or copies therefrom or from electronic media or computer system;

(*b*) record the statement of any person on oath which may be useful for, or relevant to, any proceeding under this Act;

(*c*) impound and retain in custody any books of account or other documents inspected by it, after recording reasons for doing so, for a period—

(*i*) of fifteen days (exclusive of holidays); or

(*ii*) exceeding fifteen days (exclusive of holidays) with the prior approval of the approving authority;

(*d*) make an inventory of any asset or stock checked or verified by such authority.

(*6*) The income-tax authority acting under sub-section (*4*) shall only undertake the actions referred under sub-sections (*5*)(*a*) and (*5*)(*b*).

(*7*) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein it has entered, any asset or stock.

(*8*) The income-tax authority having regard to the nature and scale of expenditure incurred, for the purposes of verifying the expenditure made by the person in connection with any function, ceremony or event, if it is of the opinion that it is necessary and expedient to do so, after such function, ceremony or event, may—

(*a*) require the person by whom such expenditure has been incurred or any other person who is likely to possess the information regarding such expenditure, to furnish such information which may be useful for, or relevant to, any proceeding under this Act;

(*b*) record the statements of the person or any other person on oath in this behalf; and

(*c*) any statement so recorded may thereafter be used as evidence in any proceeding under this Act.

(*9*) If a person is required to provide facility to the income-tax authority to inspect books of account or other documents in any form or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded, either refuses or evades to do so, the income-tax authority shall have all the powers under section 246(*1*) for enforcing compliance with the requirement.

(*10*) The action under this section shall be taken by an income-tax authority with the prior approval of the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner.

(*11*) In this section, “income-tax authority” means—

(*a*) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and

(*b*) includes an Inspector of Income-tax, for the purposes of sub-sections, (*1*)(*i*), (*5*)(*a*) and (*8*),

who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as specified by the Board.

253.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power of survey.

133A. (1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

(*a*) any place within the limits of the area assigned to him, or

(*b*) any place occupied by any person in respect of whom he exercises jurisdiction, or

(*c*) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,

at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(*ii*) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(*iii*) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.—For the purposes of this sub-section, a place where a business or profession or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on the business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession or activity for charitable purpose are or is kept.

(2) An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

(2A) Without prejudice to the provisions of sub-section (1), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset, any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,—

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and

(*ii*) to furnish such information as he may require in relation to such matter.

(3) An income-tax authority acting under this section may,—

(*i*) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

(*ia*) impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him:

Provided that such income-tax authority shall not—

(*a*) impound any books of account or other documents except after recording his reasons for so doing; or

(*b*) retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General or the Principal Commissioner or the Commissioner or the Principal Director or the Director therefor, as the case may be,

(*ii*) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(*iii*) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act :

Provided that no action under clause (*ia*) or clause (*ii*) shall be taken by an income-tax authority acting under sub-section (2A).

(4) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any cash, stock or other valuable article or thing.

(5) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(6) If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers under sub-section (1) of section 131 for enforcing compliance with the requirement made :

Provided that no action under this section shall be taken by an income-tax authority without the approval of the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner.

Explanation.—In this section,—

(*a*) "income-tax authority" means—

(*i*) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and

(*ii*) includes an Inspector of Income-tax, for the purposes of clause (*i*) of sub-section (1), clause (*i*) of sub-section (3) and sub-section (5),

who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as may be specified by the Board;

(*b*) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

253.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 253 of the Bill provides for power of survey.The clause corresponds to section 133A of the Act. The language of the existing section has been simplified. e.g. Approving Authority has been used in place of authorities prescribed as per the existing provisions of the Act. Further, provision of section 133A(3)(iii) of IT Act 1961 provides for recording the statement of any person which may be useful for, or relevant to, any proceeding under this Act. This caters to the situation where the assessee is cooperating with the Income tax authority. In situations where the assessee evades any answer or does not cooperate, the provision of recording statement under oath is available u/s 133A(6) by invoking the provisions of section 131 of I.T. Act 1961. Statements recorded u/s section 132(4) and section 131 of IT Act 1961 are taken under oath. Therefore, to rationalise the provisions, statement “on oath” is now provided in the said clause so that evidentiary value of such statement is not lost.

253.4 Important Views/Suggestions given by Experts/Stakeholders:

Under Section 133A of the existing Act, the Officer was empowered to record statement(s) of any person which may be useful. In Clause 253 of the New Bill, empowerment of the Income-tax Authority to record statements on oath can cause prejudice to a taxpayer, should such recording be under duress or resort to coercive measures. Therefore, retain the provisions of the Income-tax Act, 1961.

253.5 Examination by the Committee:

253.5.1 To the above suggestion, the Ministry replied as follows:

The provision of section 133A (3)(iii) of IT Act 1961 provides for recording the statement of any person which may be useful for, or relevant to, any proceeding under this Act. This caters to the situation where the assessee is cooperating with the Income tax authority.

In situations where the assessee evades any answer or does not cooperate, the provision of recording statement under oath is available u/s 133A(6) by invoking the provisions of section 131 of It Act 1961. The purpose of recording statement is collecting evidence which may be useful for, or relevant to, any proceeding

under the Act. Therefore, the statement recorded during survey proceedings should have evidentiary value.

Further, statements recorded u/s section 132(4) and section 131 of IT Act 1961 are taken under oath. Therefore, a decision has been taken to introduce "on oath" in clause 253 so that evidentiary value of such statement is not lost.

Further it is a misplaced apprehension that statements on oath can cause prejudice to a taxpayer as the process of recording a statement remains the same, whether the statement is on oath or otherwise. The statement on oath is a technical requirement to satisfy the higher thresholds required in a court of law for admissibility of evidence. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

253.5.2 Regarding 'recording statements on oath, procedural safeguards, etc, the Ministry provided as under:

The Income Tax Authority may record the statement of any person during the course of survey u/s 133A which may be useful for, or relevant to, any proceedings under this Act. However, the statement recorded during the course of survey is not on 'oath', unlike the statements recorded u/s 132(4) during the course of search or statement recorded by issuing summons u/s 131. The Hon'ble Supreme Court in the case of CIT vs S. Kader Khan Son 352 ITR 480, has dismissed the SLP against the decision of Hon'ble Madras HC reported in 300 ITR 157 thereby upholding its findings that section 133A does not empower any IT Authority to examine any person on oath, hence any such statement recorded have no evidentiary value and any admission made during such statement cannot by itself be made basis for addition. Several High Courts have rendered similar judgements. This led to a situation where the statement recorded during the course of survey is not serving any purpose. Therefore, the word 'oath' has been added in the bill under clause 253(5)(b) of the Income-Tax Bill so as to make the statement recorded during the course of survey as an admissible evidence in the court of law

…

The above concerns of the Hon'ble Committee are taken into due consideration. At present, there are adequate safeguards and guidelines available. They are listed as below:-

(a) The survey under clause 253(10) can be conducted only with the approval of Principal Director General or Director General or Principal Chief Commissioner or the Chief Commissioner. No survey can be conducted without approval of high ranking senior Income Tax Authorities as above. In first place, arbitrary surveys cannot be conducted as there is a mechanism provided in the Income-Tax Bill itself to supervise and approve the requirement for survey in specific cases

based on the material brought on record for conducting survey in specific cases. The high ranking income tax authorities as mentioned above apply their mind and only if they are satisfied, the approval is granted for conducting survey.

(b) The CBDT has been issuing various circulars to avoid coercion or duress during the course of survey. The CBDT vide F.No. 286/98/2013-IT (Inv.II) dt. 18-12-2014 referred to instances of compliance of undue influence or coercion to admit undisclosed income during the course of search or survey conducted by the department. The circular refers to retractions in the subsequent proceedings since such statements are not backed by credible evidence. The Board highlighted that such action show the department as a whole and the officers concerned in poor light. Therefore, the Board emphasised upon the need to focus on gathering evidence during the survey and to strictly avoid obtaining admission of undisclosed income under coercion or undue influence. The Board also reiterated that recording of such statement under undue pressure or coercion shall be viewed adversely by the Board.

(c)Specific direction was also issued vide CBDT Letter F.No. 299/105/ 2014 IT(Inv.III)/162 dt 10-07-2017 that payment of taxes in any manner including collection of cheque in respect of any income even if disclosed by a person in statement, shall not be collected and the authorised officer conducting the survey must ensure this direction and will be held responsible for lapse.

(d) The CBDT vide F. No. 299/105/2014-Dir.(Inv.III)/241 dt. 09-08-2017 issued guidelines regarding conduct of survey u/s 133A of the IT Act based upon systems study conducted by Directorate of Income Tax (Vigilance) as a measure of preventive vigilance. This guideline says that the officers proposing to conduct survey to record the reasons for conducting the survey in a "Preparatory Note" and the approving authority may grant approval based upon such Preparatory Note. There are other guidelines for submission of reports, making of detailed inventory, focus on gathering evidence etc.

The above legal safeguards in law as well as various directions / guidelines issued by the CBDT already protects misuse of authority by way of recording statement under coercion or duress or undue influence during the course of survey.

It is submitted that placing the above instructions as a legal provision in the Bill would defeat the very purpose of simplification. Administrative instructions and circulars issued by the CBDT are equally binding upon the officers of the department. The High Courts have held in several cases that the circulars issued by the CBDT are binding on the officers of the department. The taxpayer has the right to question the officer who did not follow the directions of the CBDT either before the higher authorities of the Income

The Hon'ble Committee also expressed concern that the taxpayer must have right for legal representation during the course of recording of statement during survey to mitigate the risk of coercion or potential prejudice. The Supreme Court

in the case of Birendera Kumar Pandey vs Union of India held that an advocate can be present during interrogation and recording of statement but a person is limited to observing at a visible but not audible distance. However, in Income Tax proceedings the representative of the assesee is allowed to be present at the time of recording of statement from the assessee. However, the representative is not allowed to interfere in the proceedings. As advised by the Hon'ble Committee, the assesee will be allowed legal representative during the course of recording of statement during survey to mitigate the risk of coercion or undue influence. An SOP in this regard will be considered for issue for the guidance of officers during the course of recording of statement during survey.

Taking into consideration all the concerns of the Hon'ble Committee to mitigate the risk of coercive or undue influence during the course of recording statement during survey, a detailed SOP will be considered for issue for the guidance of officers covering all the aspects discussed as above.

253.5.3 Further, on the matter of expansion of power of Assessing Officer under this Clause, the Ministry submitted as follows:

Clause 253: Introduction 'on oath' to improve evidentiary value while recording statement during survey.

Presently, an Income Tax Authority may record the statement of any person during the course of survey u/s 133A which may be useful for, or relevant to, any proceedings under this Act. However, the statement recorded during the course of survey is not on 'oath', unlike the statements recorded u/s 132(4) during the course of search or statement recorded by issuing summons u/s 131. The Hon'ble Supreme Court in the case of CIT vs S. Kader Khan Son 352 ITR 480, has dismissed the SLP against the decision of Hon'ble Madras HC reported in 300 ITR 157 thereby upholding its findings that section 133A does not empower any IT Authority to examine any person on oath, hence any such statement recorded have no evidentiary value and any admission made during such statement cannot by itself be made basis for addition. Several High Courts have rendered similar judgements. This led to a situation where the statement recorded during the course of survey is not serving any purpose.

Therefore, the word 'oath' has been added in the bill under clause 253(5)(b) of the Income-Tax Bill so as to make the statement recorded during the course of survey as admissible evidence in the court of law. As desired by the Select Committee, legal opinion was sought from the Department of Legal Affairs, Ministry of Law as to whether statement on oath can be taken during the survey operations. Department of Legal Affairs, Ministry of Law in its opinion has stated-
……..

"….....

. In the light of the above legal and judicial analysis it can be inferred that incorporating a provision in Clause 253 (5) (b) to record the statement of any person on oath which may be useful for, or relevant to, any proceeding under the Act appears to be in accordance with the settled legal principles and there appears to be no legal or constitutional objection to the same.

.....

It is for the Department of Revenue to examine the same from the angle of policy and precedent and take a policy decision." Therefore, the amendment made in the provisions of the Bill satisfies the legal and constitutional principles.

253.5.4 The Committee sought clarification from the Ministry about the difference between the provisions in Clause 253 and the existing act. The Ministry replied as follows:

सर, अगर हम 1961 एक्ट के तहत सर्वे करने जाते थे तो उसमें एक प्रोविजन था कि आप स्टेटमेंट रिकॉर्ड कर सकते हैं। लेकिन उसमें ओथ लेकर नहीं था आप नॉर्मल स्टेटमेंट देते थे। दूसरा प्रोविजन यह था कि अगर असैसी कोऑपरेट नहीं कर रहा है तो आपको सैक्शन 131 में जो पावर दी हुई हैं, उनको आप इनवोक कर सकते हैं, जिसमें समन और ओथ रिकॉर्डेड आ जाता है। दूसरे वाले केस में अगर असैसी कॉपरेट नहीं कर रहा है और असैसिंग ऑफिसर ने उसको स्पॉट पर ही 131 का नोटिस देकर के स्टेटमेंट रिकॉर्ड किया तो वह ऑन ओथ होता था। लेकिन नॉर्मल स्टेटमेंट ओथ पर नहीं होती थी। नॉर्मली हमने जो सामने आया, उसी के बारे में पूछा, लेकिन अगर कोई डिसक्रिपेंसी निकलकर आती थी तो बाद में कोर्ट बोलती थी कि इस स्टेटमेंट का कोई एविडेंसरी वैल्यू नहीं है। इसका मामला सुप्रीम कोर्ट तक पहुंचा और एस. कादर खान के जजमेंट में उन्होंने बोला कि इसकी कोई एवेडेंसरी वैल्यू नहीं है। हम लोगों ने इसको भी ऑन ओथ कर दिया है ताकि जो भी रिकॉर्डेड हो, उसकी एवेडेंसरी वैल्यू बन जाए। लेकिन यहां एप्रिहेंशन व्यक्त किया गया है कि यह कोअर्सन और ड्यूरेस हो सकता है। उसके लिए हमारे डिपार्टमेंट ने काफी एक्शन लिए हुए हैं। हमारा सरक्यूलर है कि जो मना करता है कि आप स्पॉट पर जाकर टैक्स कलेक्शन के लिए कोई चैक नहीं लेंगे। दूसरा, आप स्टेटमेंट में कोई डिसक्लोजर नहीं लेंगे।

253.5.5 Further with regard to the difference between the provisions between Clause 247(Search and Seizure) and Clause 253(Power of survey) providing for 'oath in both the Clauses, the Ministry have stated as under:

सर, सर्वे बिजनेस प्रेमाइसेस पर होता है। बिजनेस प्रेमाइसेस सर्वे में जाने पर

बुक्स के अकाउंट्स देखना, बुक्स आइडेंटिफिकेशन या उससे स्टॉक को देखना व उसे वेरिफाई करना। अतः सर्वे बिजनेस प्रेमाइसेस के कॉंटेक्स्ट में है। सर्च में बिजनेस प्रेमाइसेस की भी सर्च हो सकती है और रेजिडेंशियल प्रेमाइसेस की भी हो सकती है। So, this is the fundamental difference between the two.

..

Sir, search is a different proceeding and survey is a different proceeding. Search is authorized by the Principal D.I., and there is a separate warrant of authorization which is there, and statement under 132 (4) can only be taken in respect of cases where a warrant of authorization for search has been issued. Survey is a different proceeding.

253.5.6 To Committee's specific query regarding expansion of powers to take 'oath' in Clause 253 in addition to Clause 247, the Ministry clarified as follows:

सर, अगर हम आइसोलेशन में इन चीजों को देखते हैं तो I can understand the concerns. We are aware of the real downsides to such powers. Yet, my request is, I will seek indulgence of the Committee. मैं इसको बिगर पिक्चर के रूप में देखने की कोशिश करता हूँ। We will start with Section 136 of the existing Act, जो नए वाले एक्ट में भी है। वह यह कहता है कि Proceedings before income tax authorities to be judicial proceedings. Any proceedings under the Act before an income tax authority, shall be deemed to be judicial proceedings. वह लिमिटेशन है। As you have rightly mentioned, income tax officers are not Judiciary.

सर, अगर हम आईपीसी में जाएं, I would like to read these three sections. Section 196 of IPC says as follows: "Whoever corruptly uses or attempts to use as true or genuine any evidence which is known to be false or fabricated shall be punished in the same same manner as if he gave or fabricated false evidence."

सर, दूसरा सैक्शन 193 बताया। Section 193 says as follows: "Whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment...".

Section 228 of IPC says: "Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished...".

जितनी भी ज्यूडिशियल पावर्स दी गई हैं, बेसिक ऑब्जेक्टिव था कि जो एविडेंस कलक्ट हो, जो व्यक्ति इनपुट दे, वह सच हो। इसके लिए कुछ ऑब्लिगेशन्स क्रिएट करने की बात है। अब सिचुएशन यह है कि सर्वे की स्टेज पर ओथ नहीं है। So, there is a gap. While you are expected to collect the right evidence, there is no oath-related legal obligation getting created upon the person. Secondly, already there is oath-related power given to Income-tax Department in more intense efforts like search and seizure. I will request hon. Chairperson to explain it. Search also does not happen as per court order. उसके लिए सिस्टम है, इसे एक्सप्लेन करेंगे।

हमारी रिक्वेस्ट है कि ओथ वाला एलीमेंट जोड़ा गया है, this is based on the judicial case CIT vs. Ms. S. Kadar Khan, which was referred to by an hon. Member also, where the कोर्ट का व्यु है कि ओथ नहीं तो एविडेंशियल वैल्यू नहीं है। अगर उसने झूठ बोला,

अगर हम यह क्लॉज़ बिना ओथ के हटा देते हैं, यह एविडेंस लेते ही नहीं हैं तो इस प्रोसेस की कोई वैल्यू नहीं होगी। आज अगर हम ओथ नहीं डालेंगे तो इस प्रोसेस को करने की कोई जरूरत ही नहीं हैं।

सर, अब हम इसकी जरूरत पर आते हैं।

…..

I agree 136 is there, but for some reason, this gap got interpreted by the Court.

आपने इसके बारे में कहा है इसलिए मैंने 136 से शुरू किया है कि 136 की रिक्वायरमेंट फिलअप करने के लिए हमें जरूरत नहीं थी, कोर्ट के व्यु लेने के कारण प्रेक्टिकली यह हो गया है कि अगर हम स्टेटमेंट बिना ओथ के लेते हैं तो उसकी वैल्यु नहीं होती है। अगर नहीं लेते हैं तो यह सैक्शन इन्फ्लक्चुअस हो जाएगा। I fully appreciate the concern of the Committee on the overreach. We are fully aware of that. My only request is that instead of looking at overreach at a certain step of the process, we should look at the checks and balances or the word 'safeguards' which was used by the Committee in the process itself. After all, collection of evidence is a part of a process of survey. So, the checks and balances or safeguards is coming in selecting a case for survey and certain other safeguards which the Department has administratively built as responsibility of officer who need to go for survey. The same way, it has been built for search. The problem with these proceedings is that at the end of the day, we have to depend on some judgement at the level of officers who are going to eventually take a decision. Binding them too much will obviously result in them finding it very difficult, because these are usually cases which are very deeply entrenched. To take out the evidence requires effort. सर, आपका कन्सर्न सेफगार्ड्स के बारे में है। यह प्रोसेस का पार्ट है। उसकी यह रिक्वायरमेंट है, अगर नहीं होती है, मैं पहले ही बता चुका हूं कि गैप हो सकता है।

जहां तक मिसयूज का सवाल है, I will request the Chairman and the Members to explain how do we go through the process of selecting a case for survey and how do we go through a process of selecting a case for search. There are a number of cases of search across the country. We have nine crore people who file IT returns and 800 cases are taken. सर्वे में उससे भी कम होते हैं। परस्पेक्टिव के लिए मैं रिक्वेस्ट करता हूं कि आप पांच मिनट एक्सप्लेन करने के लिए दीजिए।

253.5.7 Further they submitted as follows:

सर, 133ए किसके ऑथोराइजेशन से होता है, तो यहां भी चैक्स एंड बैलेंसिस हैं। फाइनेंस एक्ट, 2020 में एक प्रोवाइजो इन्सर्ट किया गया, a survey can be done only after the approval of the Principal DG or the DG or the Principal Chief Commissioner or Chief Commissioner. वहां भी सेफगार्ड्स हैं, ऐसा नहीं है कि कोई भी चला जाएगा, वहां भी एप्रूवल की बात है। एक इन्फार्मड डिसीजन होता है कि किसके यहां सर्वे करना है। That thing is

there. As a part of the proceedings, as the Revenue Secretary has already mentioned, अगर एविडेंस या किसी स्टेटमेंट की वैल्यु ही नहीं होगी तो हम कैसे प्रोसीडिंग्स कंडक्ट करेंगे?

….

Basically, they have given this power to the Income Tax Officer for judicial proceedings for three provisions of IPC, but excluded a provision of CrPC. The hon. Member asked us what is that provision of IPC, exactly this provision. Income Tax Officers do not have powers to handle the offences related to violation. That is CrPC. Chapter 26 of CrPC says that a court will take cognisance of a false evidence on its own, but the Income Tax Officer cannot. He will ultimately file a complaint to a court, go and prove it to them that this person made a false statement. That power is not given, as was rightly pointed out, because the Income Tax Officers are not judges. So, the power has been limited. So, the chapter which you referred to, Chapter 26 talks of provisions as to offences affecting administration of justice. Amongst various things, it has powers of contempt, taking cognisance, which is not available with the Income Tax Officer. If you permit, I will request the Member to just explain the process and the way in which checks and balances are exercised while approving a case of search and survey.

.. सर्वे का एप्रूवल भी प्रिंसिपल चीफ कमिश्नर या चीफ कमिश्नर लेवल का ऑफिसर देता है।

वर्ष 2017 में, सर्वे में जो कम्प्लेंट्स आ रही थीं, विजिलेंस डायरेक्टोरेट ने उसके ऊपर स्टडी की। स्टडी करके यह बताया गया कि प्रिवेंटिव विजिलेंस के लिए क्या-क्या करना चाहिए, इसके ऊपर एक इंस्ट्रक्शन इश्यू किया। उसमें जो भी सर्वे करना चाहता है, जैसे सर्च करने के लिए रिजन्स रिकॉर्ड करना होता है। सर्वे के लिए भी उसको अपना नोट प्रिपेयर करना होता है, उसमें सारे फैक्ट्स रिकॉर्ड पर आने होते हैं कि मैं क्यों करना चाहता हूँ। मैं मानता हूँ कि कई बार यह हुआ होगा कि आईटीओ जाकर खुद ही अपने सर्वे करने लगा हो क्योंकि चेक एंड बैलेंस नहीं था। यह लाया गया। उसके बाद सर्वे करने के बाद कई सारे फॉर्म्स और रिपोर्ट्स इंट्रोड्यूस किये गये ताकि एकाउंटैबिलिटी रहे।

इसके बाद दूसरी बात आई कि जो एप्रिहेंशन था कि वह स्टेटमेंट रिकॉर्ड कर लेगा और उसको यूज करेगा एवं आगे कुछ नहीं करेगा। इसके ऊपर फिर से, 28.12. 2014 का एक इंस्ट्रक्शन है। मैं आपकी अनुमति से उसका जिस्ट पढ़ना चाहूँगा। इसमें लिखा है- The instruction referred to instances of complaints of undue influence or coercion to admit undisclosed income during the course of search or survey conducted by the Department. The circular refers to retractions in the subsequent proceedings since such statements are not backed by credible evidence. The Board highlighted that such action shows the Department as a whole and the officers concerned in poor light. Therefore, the Board emphasised upon the need to focus on gathering evidence during the survey --

Sir, this is very important and to strictly avoid obtaining admission of undisclosed income under coercion or undue influence. The Board also reiterated that

recording of such statement under undue pressure or coercion shall be viewed adversely by the Board. So, we have already brought such strict provisions so that no such misuse happens.

Again, in 2017, even after that, some instances came where the Departmental authorities took cheques from the assessees for payment against tax. So, again another instruction was issued which says that payment of taxes in any manner, including collection of cheque in respect of any income, even if disclosed by a person in a statement, shall not be collected. The authorised officer conducting the survey must ensure this direction and will be held responsible for lapse.

आपने जो भी बात कही, वह बिल्कुल सही था। वह हो रहा था। लेकिन वर्ष 2014 से, दस साल के अन्दर, हम लोग काफी चेक एंड बैलेंस ले आए हैं। सर्वे के नम्बर भी काफी कम हो गये हैं, जो काफी ज्यादा होते थे, अभी ये काफी काफी कम हैं। एक तो अब उन्हें लिखना है कि मैं क्यों करना चाहता हूँ। उसके लिए वह बुक्स पढ़ेगा, एकाउंट्स देखेगा, तभी वह वहाँ पर जा सकता है। ऐसा नहीं है कि कभी भी मन किया और जाकर सर्वे कर लिया।

253.5.8 With regard to clarification sought whether statement on oath can be taken during the survey operations, the Department of Legal Affairs, Ministry of Law have submitted as follows:

…In the light of the above legal and judicial analysis it can be inferred that incorporating a provision in Clause 253 (5) (b) to record the statement of any person on oath which may be useful for, or relevant to, any proceeding under the Act appears to be in accordance with the settled legal principles and there appears to be no legal or constitutional objection to the same.

..... It is for the Department of Revenue to examine the same from the angle of policy and precedent and take a policy decision.

253.5.8.1 After referring to the reply of Department of Legal affairs above, the Ministry of Finance submitted to the Committee as “Thus, from the legal opinion it could be inferred that the amendment made in the Bill satisfies the legal and constitutional requirements.”

253.6 Observations/Recommendations of the Committee:

The Committee, upon examination and justification provided by the Ministry, find the provisions of the Clause 253 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 254– Power to collect certain information

254.1 Provision proposed in the Income-Tax Bill, 2025:

254. (*1*) Irrespective of anything contained in any other provision of this Act, an income-tax authority may, for the purposes of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—

(*a*) any building or place within the limits of the area assigned to such authority; or

(*b*) any building or place occupied by any person in respect of whom such authority exercises jurisdiction,

at which a business or profession is carried on, regardless of the fact that such place be the principal place or not of such business or profession and require any proprietor or employee or any other person, who may at that time and place, be attending in any manner to, or helping in, or carrying on of such business or profession, to furnish such information as prescribed.

(*2*) The income-tax authority may enter any place of business or profession referred to in sub-section (*1*) only during the hours at which such place is open for the conduct of business or profession.

(*3*) The income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein it has entered, any books of account or other documents or any cash or stock or other valuable article or thing.

(*4*) In this section, “income-tax authority” means—

(*a*) a Joint Commissioner, or a Joint Director or an Assistant Director or an Assessing Officer; and

(*b*) an Inspector of Income-tax, authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

254.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power to collect certain information.

133B. (1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—

(*a*) any building or place within the limits of the area assigned to such authority ; or

(*b*) any building or place occupied by any person in respect of whom he exercises

jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed.

(2) An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession.

(3) For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

Explanation.—In this section, "income-tax authority" means a Joint Commissioner, an Assistant Director or Deputy Director or an Assessing Officer, and includes an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

254.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 254 of the Bill provides for power to collect certain information. The clause corresponds to section 133B of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

254.4 Examination by the Committee:

254.4.1 The Committee sought clarification from the Ministry regarding determination that "any other person" present at the business or profession premises is indeed "attending in any manner to, or helping in, or carrying on of such business or profession," and the safeguards to prevent harassment of such individuals who have peripheral connection to the business. The Ministry submitted, in a written reply, as under:

> *Clause 254 is a provision empowering the Income-tax Authority to collect information relevant for the purposes of the Act. The provision clearly states that besides the proprietor or employee, the other person, who can be required to furnish information, should be either attending to, or helping in, the carrying on of the business or profession. Further, there is a prescribed form (Form No. 45D)*

for furnishing the information to the Income-tax Authority under this provision. The Form clearly mandates the person furnishing the information to specify his capacity such as Director, Partner, Proprietor, Employee etc. Therefore, there is sufficient safeguard in the Act and the Rules (including form) to not require unconnected persons to furnish information.

Penalty under clause 466 (section 272AA) is leviable for failure to comply with the provisions of clause 254. No such penalty can be levied without providing sufficient opportunity to the person concerned. Further, such penalty order is also appealable before the appellate forums.

254.5 Observations/Recommendations of the Committee:

The Committee, upon examination and justification provided by the Ministry, find the provisions of the Clause 254 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 255– Power to inspect registers of companies

255.1 Provision proposed in the Income-Tax Bill, 2025:

255. The Assessing Officer, assessment unit, verification unit, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals), or any person subordinate thereof and authorised in writing in this behalf by such officer or authority, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

255.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power to inspect registers of companies.

134. The Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or [83][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), or any person subordinate to him authorised in writing in this behalf by the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or [83][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

255.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 255 of the Bill provides for power to inspect registers of companies. The clause corresponds to section 134 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

255.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 255 to be textual simplification of the corresponding provisions of the existing Act and therefore accept the Clause as proposed.

Clause 256– Power of competent authority

256.1 Provision proposed in the Income-Tax Bill, 2025:

256. The competent authority shall be competent to make any enquiry under this Act, and for this purpose, shall have all the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

256.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power of Principal Director General or Director General or Principal Director or Director, Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and Joint Commissioner.

135. The Principal Director General or Director General or Principal Director or Director, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Joint Commissioner shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

256.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 256 of the Bill provides for power of competent authority.The clause corresponds to section 135 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

256.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 256 to be a textual simplification of the corresponding provisions of the existing Act and therefore accept the Clause as proposed.

Clause 257– Proceedings before income-tax authorities to be judicial proceedings.

257.1 Provision proposed in the Income-Tax Bill, 2025:

257. (*1*) Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023.

(*2*) Every income-tax authority shall be deemed to be a Civil Court for the purposes of section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

257.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Proceedings before income-tax authorities to be judicial proceedings.

136. Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

257.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 257 of the Bill provides for proceedings before income-tax authorities to be judicial proceedings. The clause corresponds to section 136 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, ‘Bhartiya Nyaya Sanhita, 2023’ is incorporated in place of Indian Penal Code and “Bhartiya Nagarik Suraksha Sanhita, 2023 is incorporated in place of Code of Criminal Procedure.

257.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 257 to be textual simplification of the existing provisions with the same intent in this clause. The Committee, therefore, accept the Clause as it stands.

Clause 258– Disclosure of information relating to assessees

258.1 Provision proposed in the Income-Tax Bill, 2025:

258. (*1*) The Board or any other income-tax authority specified by it by an order in this behalf, may furnish or cause to be furnished to—

(*a*) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or dealings in foreign exchange as defined in section 2(*n*) of the Foreign Exchange Management Act, 1999; or

(*b*) such officer, authority or body performing functions under any other law, if in the opinion of the Central Government it is necessary so to do in the public interest, as it may specify by notification in this behalf,

any such information received or obtained by any income-tax authority in the performance of its functions under this Act, as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body, to perform his or its functions under that law.

(*2*) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may furnish or cause to be furnished to a person, the information relating to any assessee received or obtained by any income-tax authority in the performance of his functions under this Act,—

(*a*) on an application made by such person to the aforesaid authorities in the prescribed form and on being satisfied that it is in the public interest so to do; and

(*b*) the decision of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf, shall be final and shall not be called in question in any court of law.

(*3*) Irrespective of anything contained in sub-section (*1*) or(*2*) or any other law in force, the Central Government may, having regard to the practices and usages, customary or any other relevant factors, by notification, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees except to such authorities as specified in that notification.

258.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Disclosure of information respecting assessees.

138. (1) (*a*) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to—

(*i*) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in clause (*n*) of section 2 of the Foreign Exchange Management Act,

1999 (42 of 1999); or

(*ii*) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in the Official Gazette in this behalf,

any such information received or obtained by any income-tax authority in the performance of his functions under this Act, as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

any such information received or obtained by any income-tax authority in the performance of his functions under this Act, as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(*b*) Where a person makes an application to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in the prescribed form for any information relating to any assessee received or obtained by any income-tax authority in the performance of his functions under this Act, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for and his decision in this behalf shall be final and shall not be called in question in any court of law.

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees or except to such authorities as may be specified in the order.

258.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 258 of the Bill provides disclosure of information relating to assesses.The clause corresponds to section 138 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

258.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 258 to be textual simplification and in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 259– Power to call for information by prescribed income-tax authority.

259.1 Provision proposed in the Income-Tax Bill, 2025:

259. (*1*) For the purposes of verification of information in the possession of the prescribed income-tax authority, such authority may issue a notice requiring any person to furnish any information as may be useful for, or relevant to, any inquiry or proceeding under this Act in such form and manner and within such time, as specified in such notice.

(*2*) The prescribed income-tax authority may process and utilise such information and document received by him as per the scheme notified under section 260.

259.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power to call for information by prescribed income-tax authority.

133C. (1) The prescribed income-tax authority may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information or documents verified in the manner specified therein, which may be useful for, or relevant to, any inquiry or proceeding under this Act.

(2) Where any information or document has been received in response to a notice issued under sub-section (1), the prescribed income-tax authority may process and utilise such information and document in accordance with the scheme notified under sub-section (3) or the provisions of section 135A.

(3) The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.

(4) The scheme made under sub-section (3) shall cease to have effect from the date on which the scheme notified under section 135A in respect of this section comes into effect.

Explanation.—In this section, the term "proceeding" shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 133A.

259.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 259 of the Bill provides for power to call for information by prescribed income-tax authorityThe clause corresponds to section 133C of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

259.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 259 to be a textual simplification of the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 260– Faceless collection of information.

260.1 Provision proposed in the Income-Tax Bill, 2025:

260. (*1*) The Central Government may make a scheme, by notification, for the purposes of calling for information under section 252, collecting certain information under section 254, or calling for information by prescribed income-tax authority under section 259, or exercise of power to inspect register of companies under section 255, or exercise of power of Assessing Officer under section 256 so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(*b*) optimizing utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers, including to call for, or collect, or process, or utilise, the information, with dynamic jurisdiction.

(*2*) The Central Government may, for the purpose of giving effect to this scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(*3*) Every notification issued under sub-sections (*1*) and (*2*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

260.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Faceless collection of information.

135A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of calling for information under section 133, collecting certain information under section 133B, or calling for information by prescribed income-tax authority under section 133C, or exercise of power to inspect register of companies under section 134, or exercise of power of Assessing Officer under section 135 so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers, including to call for, or collect, or

process, or utilise, the information, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022:

[84][**Provided further** that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2022, by notification in the Official Gazette.]

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

260.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 260 of the Bill provides faceless collection of information. The clause corresponds to section 135A of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

260.4 Observations/Recommendations of the Committee:

The Committee, upon examination of the justification provided by the Ministry, find the provisions of the Clause 260 to be mere textual simplification of the existing provisions and therefore accept the Clause as proposed.

Clause 261– Interpretation

261.1 Provision proposed in the Income-Tax Bill, 2025:

261. For the purposes of this Chapter, the expressions—

(*a*) "approving authority" means—

(*i*) the Principal Director General or the Director General; or

(*ii*) the Principal Chief Commissioner or the Chief Commissioner; or

(*iii*) the Principal Director or the Director; or

(*iv*) the Principal Commissioner or the Commissioner;

(*b*) "asset" includes any money, bullion, jewellery or other valuable article or thing, held in physical or virtual form;

(*c*) "authorised officer" means—

(*i*) the Joint Director or the Additional Director;

(*ii*) the Joint Commissioner or the Additional Commissioner;

(*iii*) the Assistant Director or the Deputy Director;

(*iv*) the Assistant Commissioner or the Deputy Commissioner;or

(*v*) the Income-tax Officer or the Tax Recovery Officer;

(*d*) "competent authority" means—

(*i*) the Principal Director General or the Director General; or

(*ii*) the Principal Chief Commissioner or the Chief Commissioner; o

(*iii*) the Principal Director or the Director; or

(*iv*) the Principal Commissioner or the Commissioner; or

(*v*) the Joint Director or the Additional Director; or

(*vi*) the Joint Commissioner or the Additional Commissioner;

(*e*) "computer system" means computers, computer systems, computer networks, computer resources, communication devices, digital or electronic data storage devices, used on stand-alone mode or part of a computer system, linked through a network, or

utilised through intermediaries for information creation or processing or storage or exchange, and includes the remote server or cloud server or virtual digital space;

(*f*) "date on which the last of the authorisations for search was executed" means—

(*i*) in the case of search, the date of conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(*ii*) in the case of requisition under section 248, the date of actual receipt of the books of account or other documents or assets by the requisitioning officer;

(*g*) "material seized" means books of account or other documents or digital data storage devices, computer systems, and extracts seized from a person during the course of search under section 247 or requisitioned under section 248, and includes seizure of backup taken from any specialised programs like tally software, excel sheets, word files and all electronic records including data and information in the electronic form containing figures and any other relevant noting, and shall be construed to mean as book of accounts maintained by the said person;

(*h*) "proceeding" means any proceeding in respect of any year, whether under the Income-tax Act, 1961or under this Act, which may be pending on the date on which a search under section 247 or requisition under section 248 is authorised or powers under section 253 are exercised, as the case may be, or which may have been completed on or before such date and includes all proceedings under this Act or the Income-tax Act, 1961which may be commenced after such date in respect of any year;

(*i*) "virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital realm that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet, worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes—

(*i*) email servers;

(*ii*) social media account;

(*iii*) online investment account, trading account, banking account, etc.;

(*iv*) any website used for storing details of ownership of any asset;

(*v*) remote server or cloud servers;

(*vi*) digital application platforms; and

(*vii*) any other space of similar nature.

261.2 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 261 of the Bill provides for interpretation for the purposes of Chapter-XIV (Tax administration).This is a new clause inserted in the bill and there is no corresponding section of the Act. There is no policy change. This clause consolidates various definitions in the corresponding sections of the Act. For simplification, certain interpretations like approving authority, competent authority have also been provided.

261.3 Examination by the Committee:

261.3.1 The Committee sought written clarification from the Ministry on the rationale for not explicitly defining crucial phrases like "reason to believe" and "reason to suspect" within the Interpretation Clause. The Ministry stated as under:

> *The department conducts a search and seizure action, based on credible prima facie evidence indicating tax evasion or concealment of income/asset, after obtaining due approvals from senior officers. Strict guidelines and safeguards are in place to prevent any search, not proportionate to the allegations. The search warrants are issued by senior level officers of the rank of Principal Director of Income-tax (Investigation) after recording the reasons for authorising the search. Administrative approval of the Director General of Income-tax (Investigation) is also obtained before authorising the search. The satisfaction or reasons recorded by the Principal Director of Income-tax (Investigation) can be questioned in a court of law by the aggrieved assessees by invoking the writ jurisdiction of the court. There are sufficient mechanisms in law as well as in the procedures laid down to prevent any abuse of powers. 'Reason to believe' and 'reason to suspect' are standard phrases and the jurisprudence on the interpretation thereof, is already well settled. All possible conditions for the same cannot be illustrated and codified in the statute; therefore, suggestion is not feasible.*

261.4 Observations/Recommendations of the Committee:

261.4.1 The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.

261.4.2 The Committee, upon examination of the provisions of the Clause and the justification provided by the Ministry find that this is a new clause which consolidates various definitions in the corresponding sections of the 1961 Act. For simplification, certain interpretations like approving authority, competent authority have also been provided. Apart from the above recommendation, the Committee find the clause to be adequate and in line with the corresponding section of the 1961 Act and accept the same as it stands.

Clause 262– Permanent Account Number

262.1 Provision proposed in the Income-Tax Bill, 2025:

262.(*1*)Every person who has not been allotted a Permanent Account Number shall, within such time as prescribed, apply to the Assessing Officer for its allotment if he fulfils any of the following conditions:—

(*a*) his total income or the total income of any other person for which he is assessable under this Act during any tax year exceeded the maximum amount not chargeable to income-tax;

(*b*) he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any tax year;

(*c*) he is required to furnish a return of income under section 263 for any tax year; or

(*d*) he is a resident, other than an individual, which enters into a financial transaction aggregating to two lakh fifty thousand rupees or more in a tax year; or

(*e*) he is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (*d*) or any person competent to act on behalf of the person referred to in clause (*d*).

(*2*) Any person, not covered under sub-section (*1*) may apply to the Assessing Officer for the allotment of a Permanent Account Number after which the Assessing Officer shall allot a Permanent Account Number to such person.

(*3*) Every person shall quote Permanent Account Number in all his returns to, or correspondence with, any income-tax authority and in all challans for the payment of any sum due under this Act.

(*4*) Every person shall intimate the Assessing Officer of any change in his address or in the name and nature of his business on the basis of which the Permanent Account Number was allotted to him.

(*5*) Every person who is eligible to obtain Aadhaar number shall quote such number in the application form for allotment of Permanent Account Number and in the return of income.

(*6*)(*a*) Every person who has been allotted Permanent Account Number and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the prescribed income-tax authority in such form and manner, as prescribed;

(*b*) if a person fails to intimate his Aadhaar number as per clause (*a*), the Permanent Account Number allotted to that person shall be made inoperative in such manner as prescribed.

(*7*) Every person who is required to furnish or intimate or quote his Permanent Account Number under this Act, and who—

(*a*) has not been allotted a Permanent Account Number but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number*in lieu* of the Permanent Account Number, and such person shall be allotted a Permanent Account Number in the manner, as prescribed;

(*b*) has been allotted a Permanent Account Number, and who has intimated his Aadhaar number as per sub-section (*6*) may furnish or intimate or quote his Aadhaar number *in lieu* of the Permanent Account Number.

(*8*) A person who has already been allotted a Permanent Account Number cannot apply, obtain or possess another Permanent Account Number.

(*9*)(*a*) Every person entering into such transaction, as prescribed, shall quote his Permanent Account Number or Aadhaar number, in the documents pertaining to such transactions and also authenticate such Permanent Account Number or Aadhaar number, in the manner, as prescribed;

(*b*) every person receiving any document relating to the transactions referred to in clause (*a*), shall ensure that Permanent Account Number or Aadhaar number, has been duly quoted in such document and that such Permanent Account Number or Aadhaar number is authenticated as prescribed.

(*10*) The Board may make rules providing for—

(*a*) the form, manner and time in which an application may be made for the allotment of Permanent Account Number and the particulars which such application shall contain;

(*b*) class or classes of persons who shall be required to apply for allotment of Permanent Account Number;

(*c*) categories of documents pertaining to business or profession in which Permanent Account Number shall be quoted by every person;

(d) the form and manner in which the person who has not been allotted a Permanent Account Number shall make his declaration;

(e) manner of authentication of Permanent Account Number or Aadhaar number;

(*f*) class or classes of persons to whom the provisions of this section shall not apply having regard to the transactions or the circumstances.

(*11*)(*a*) The Central Government may, by notification, specify any class or classes of persons who shall apply to the Assessing Officer for the allotment of Permanent Account Number within such time as mentioned in such notification;

(*b*) the class or classes of persons in clause (*a*) may include such persons—

(*i*) by whom tax is payable under this Act; or

(*ii*) by whom any tax or duty is payable under any other law in force; or

(*iii*) being importers and exporters, even when no tax is payable by them.

(*12*) The provisions of sub-sections (*5*) and (*6*) shall not apply to such person or class or classes of persons or any State or part of any State, as notified by the Central Government.

(*13*) In this section,—

(*a*) "Aadhaar number" shall have the same meaning as assigned to it in section 2(*a*) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

(*b*) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting permanent account number;

(*c*) "authentication" means the process by which the Permanent Account Number or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

262.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Permanent account number.

139A. (1) Every person,—

(*i*) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax; or

(*ii*) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year; or

(*iii*) who is required to furnish a return of income under sub-section (4A) of section 139; or

(*iv*) being an employer, who is required to furnish a return of fringe benefits under section 115WD; or

(*v*) being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to two lakh fifty thousand rupees or more in a financial year; or

(*vi*) who is the managing director, director, partner, trustee, author, founder, *karta*, chief executive officer, principal officer or office bearer of the person referred to in clause (*v*) or any person competent to act on behalf of the person referred to in clause (*v*); or

(*vii*) who intends to enter into such transaction as may be prescribed by the Board in the interest of revenue,

and who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.

(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, specify, any class or classes of persons by whom tax is payable under this Act or any tax or duty is payable under any other law for the time being in force including importers and exporters whether any tax is payable by them or not and such persons shall, within such time as mentioned in that notification, apply to the Assessing Officer for the allotment of a permanent account number.

(1B) Notwithstanding anything contained in sub-section (1), the Central Government may, for the purpose of collecting any information which may be useful for or relevant to the purposes of this Act, by notification in the Official Gazette, specify, any class or classes of persons who shall apply to the Assessing Officer for the allotment of the permanent account number and such persons shall, within such time as mentioned in that notification, apply to the Assessing Officer for the allotment of a permanent account number.

(2) The Assessing Officer, having regard to the nature of the transactions as may be prescribed, may also allot a permanent account number, to any other person (whether any tax is payable by him or not), in the manner and in accordance with the procedure as may be prescribed.

(3) Any person, not falling under sub-section (1) or sub-section (2), may apply to the Assessing Officer for the allotment of a permanent account number and, thereupon, the Assessing Officer shall allot a permanent account number to such person forthwith.

(4) For the purpose of allotment of permanent account numbers under the new series, the Board may, by notification in the Official Gazette, specify the date from which the persons referred to in sub-sections (1) and (2) and other persons who have been allotted permanent account numbers and residing in a place to be specified in such notification, shall, within such time as may be specified, apply to the Assessing Officer for the allotment of a permanent account number under the new series and upon allotment of such permanent account number to a person, the permanent account number, if any, allotted to him earlier shall cease to have effect :

Provided that the persons to whom permanent account number under the new series has already been allotted shall not apply for such number again.

(5) Every person shall—

(*a*) quote such number in all his returns to, or correspondence with, any income-tax authority;

(*b*) quote such number in all challans for the payment of any sum due under this Act;

(*c*) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him:

Provided that the Board may prescribe different dates for different transactions or class of transactions or for different class of persons:

Provided further that a person shall quote General Index Register Number till such time Permanent Account Number is allotted to such person;

(*d*) intimate the Assessing Officer any change in his address or in the name and nature of his business on the basis of which the permanent account number was allotted to him.

(5A) Every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIB, shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter :

Provided further that a person referred to in this sub-section shall intimate the General Index Register Number till such time permanent account number is allotted to such person.

(5B) Where any sum or income or amount has been paid after deducting tax under Chapter XVIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person to whom such sum or income or amount has been paid by him—

(*i*) in the statement furnished in accordance with the provisions of sub-section (2C) of section 192;

(*ii*) in all certificates furnished in accordance with the provisions of section 203;

(*iii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of section 206 to any income-tax authority;

(*iv*) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200:

Provided that the Central Government may, by notification in the Official Gazette, specify different dates from which the provisions of this sub-section shall apply in respect of any class or classes of persons:

Provided further that nothing contained in sub-sections (5A) and (5B) shall apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax, a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

(5C) Every buyer or licensee or lessee referred to in section 206C shall intimate his permanent account number to the person responsible for collecting tax referred to in that section.

(5D) Every person collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer or licensee or lessee referred to in that section—

(*i*) in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C;

(*ii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority;

(*iii*) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.

(5E) Notwithstanding anything contained in this Act, every person who is required to furnish or intimate or quote his permanent account number under this Act, and who,—

(*a*) has not been allotted a permanent account number but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the permanent account number, and such person shall be allotted a permanent account number in such manner as may be prescribed;

(*b*) has been allotted a permanent account number, and who has intimated his Aadhaar number in accordance with provisions of sub-section (2) of section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of the

permanent account number.

(6) Every person receiving any document relating to a transaction prescribed under clause (*c*) of sub-section (5) shall ensure that the Permanent Account Number or the General Index Register Number or the Aadhaar number, as the case may be, has been duly quoted in the document.

(6A) Every person entering into such transaction, as may be prescribed, shall quote his permanent account number or Aadhaar number, as the case may be, in the documents pertaining to such transactions and also authenticate such permanent account number or Aadhaar number, in such manner as may be prescribed.

(6B) Every person receiving any document relating to the transactions referred to in sub-section (6A), shall ensure that permanent account number or Aadhaar number, as the case may be, has been duly quoted in such document and also ensure that such permanent account number or Aadhaar number is so authenticated.

(7) No person who has already been allotted a permanent account number under the new series shall apply, obtain or possess another permanent account number.

Explanation.—For the removal of doubts, it is hereby declared that any person, who has been allotted a permanent account number under any clause other than clause (*iv*) of sub-section (1), shall not be required to obtain another permanent account number and the permanent account number already allotted to him shall be deemed to be the permanent account number in relation to fringe benefit tax.

(8) The Board may make rules providing for—

(*a*) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;

(*b*) the categories of transactions in relation to which Permanent Account Numbers or the General Index Register Number or the Aadhaar number, as the case may be, shall be quoted by every person in the documents pertaining to such transactions;

(*c*) the categories of documents pertaining to business or profession in which such numbers shall be quoted by every person;

(*d*) class or classes of persons to whom the provisions of this section shall not apply;

(*e*) the form and the manner in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register

Number shall make his declaration;

(*f*) the manner in which the Permanent Account Number or the General Index Register Number or the Aadhaar number, as the case may be, shall be quoted in respect of the categories of transactions referred to in clause (*c*);

(*g*) the time and the manner in which the transactions referred to in clause (*c*) shall be intimated to the prescribed authority.

Explanation.—For the purposes of this section,—

(*a*) "Aadhaar number" shall have the meaning assigned to it in clause (*a*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

(*aa*) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting permanent account numbers;

(*ab*) "authentication" means the process by which the permanent account number or Aadhaar number alongwith demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as may be prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it;

(*b*) "permanent account number" means a number which the Assessing Officer may allot to any person for the purpose of identification and includes a permanent account number allotted under the new series;

(*c*) "permanent account number under the new series" means a permanent account number having ten alphanumeric characters

(*d*) "General Index Register Number" means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.

Quoting of Aadhaar number.

139AA. (1) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

(*i*) in the application form for allotment of permanent account number;

(*ii*) in the return of income:

Provided that where the person does not possess the Aadhaar Number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him:

[88-89][**Provided further** that nothing in the first proviso shall apply in respect of any application form for allotment of permanent account number or return of income furnished on or after the 1st day of October, 2024.]

(2) Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be made inoperative after the date so notified in such manner as may be prescribed.

[88-89][(2A) Every person who has been allotted permanent account number on the basis of Enrolment ID of Aadhaar application form filed prior to the 1st day of October, 2024, shall intimate his Aadhaar number to such authority in such form and manner, as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette.]

(3) The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Explanation.—For the purposes of this section, the expressions—

(*i*) "Aadhaar number", "Enrolment" and "resident" shall have the same meanings respectively assigned to them in clauses (*a*), (*m*) and (*v*) of section 2 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

(*ii*) "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.

262.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 262 of the Bill provides for permanent account number. The clause corresponds to section 139A and 139AA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

262.4 Important Views/Suggestions given by Experts/Stakeholders:

i. It is suggested that monetary limit under clause 262(1)(b) may be enhanced as follows: (b) he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed twelve lakh rupees in any tax year. The monetary limit may be enhanced in view of the amended total income limit for full rebate upto total income of Rs. 12 lakhs and also in view of the GST Registration threshold of Rs. 20 lakhs / Rs.40 lakhs. Also, the limit of 5 lakhs was set by Finance Act, 1998 w.e.f. 1-08-1998 i.e., more than 26 years back.

ii. Clause 262(4) may be redrafted as follows: Every person shall intimate the Assessing Officer of any change in his address or in the name and nature of his business on the basis of which the Permanent Account Number was allotted to him. Since the change in nature of business is already reported in Return of income as well as in Tax Audit Report, reporting of the same under sub-section (4) will amount to duplication.

iii. It is suggested that in Clause 262(9)(b), the obligation cast on the person receiving any document may be omitted. Since, a specific obligation is already provided on the person entering such transaction in Clause 262(9)(a) of the Income-tax Bill, 2025, the obligation cast on the person receiving the document may be omitted.

262.5 Examination by the Committee:

262.5.1 To the above-mentioned suggestions, the Ministry submitted as follows:

i. The suggestion seeks to amend the clause 262(1)(b) by increasing the monetary limit (from 5 lacs to Rs 12 lacs) of sales/turnover or gross receipts of business or profession upto which no person is required to obtain PAN. It is in the nature of policy change. Special rate incomes are taxed differently. For eg. Lottery income is taxed without threshold. Also basic exemption limit is upto Rs 4 lacs and for claiming any rebate beyond 4 lakh, return is required to be filed. The suggestion is not feasible.

ii. The suggestion seeks to amend the clause 262(4) by deleting the requirement of reporting any change, in nature of business, to Assessing Officer on the basis that such change is already reported in ITR and tax audit report. It is in the nature of policy change. Nature of business is required for correctly implementing provisions where option is provided for eg. For presumptive, or where deduction/ exemption is claimed or where any risk analysis is to be carried out. Also, not all persons earning business income file ITR or all required to get their accounts audited. Thus, suggestion is not feasible.

iii. The suggestion seeks to amend clause 262(9)(b) by deleting the requirement of putting obligation on the person receiving any document (relating to transaction such as sale of motor vehicle, opening of bank account, immovable property) to ensure the PAN or Aadhaar are duly reported in such documents.

262.6 Observations/Recommendations of the Committee:

The Committee, upon examination of the provisions along with justification provided by the Ministry, find the provisions of the Clause 262 to be corresponding and in line with the provisions of the existing Act. The Committee, therefore, accept the Clause in entirety.

Clause 263– Return of income.

263.1 Provision proposed in the Income-Tax Bill, 2025:

263. (*1*)(*a*) The following persons shall furnish a return of income for the tax year under this Act, on or before the due date:—

(*i*) a company;

(*ii*) a firm;

(*iii*) a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the tax year, without giving effect to the provisions of Chapter XVII-B or provisions of Schedule VIII (Table: Sl. No. 1) or deductions allowable under Chapter IV-E (Capital Gains) or Chapter VIII, as the case may be, exceeded the maximum amount which is not chargeable to income-tax;

(*iv*) a specified entity if its total income without giving effect to the provisions of section 11, exceeds the maximum amount which is not chargeable to income-tax;

(*v*) a University, college or other institution as referred to in section 45(*3*)(*a*);

(*vi*)a business trust;

(*vii*) an investment fund as referred to in section 224;

(*viii*) a person who has sustained a loss in the tax year under the head “Profits and gains of business or profession” or under the head “Capital gains” and who intends to claim that such loss, or any part thereof, is to be carried forward as per this Act;

(*ix*) a person who intends to make a claim of refund under Chapter XX;

(*x*) a person, who is a resident, other than not ordinarily resident, and who at any time during the tax year,—

(*A*) holds, as a beneficial owner or otherwise, any asset (including any financial interest in an entity)located outside India, or has signing authority in any account located outside India; or

(*B*) is a beneficiary of any asset(including any financial interest in an entity) located outside India, except where any income arising from such asset is includible in the income of person referred to in item (*A*);

(*xi*) a person, other than a company or firm, who during the tax year, fulfils such conditions as prescribed;

(*b*) for the purposes of this section, “due date” means the date of the financial year succeeding the relevant tax year as mentioned in the corresponding entry of columnCof the Table below in respect of the persons mentioned in column B of the said Table below:

Table

Sl. No.	Person	Due date
A	B	C
1.	Company.	31st October.
2.	Person (other than a company) whose accounts are required to be audited under this Act or under any other law in force.	31st October.
3.	Partner of a firm whose accounts are required to be audited under this Act or under any other law in force; or the spouse of such partner (if section 10 applies to such spouse).	31st October.
4.	Assessee, including the partners of the firm or the spouse of such partner (if section 10 applies to such spouse), who is required to furnish a report referred to in section 172.	30th November.
5.	Any other assessee.	31st July.

(*2*)(*a*) The Board may make rules providing for the prescribed form for furnishing return of income, manner of its verification and such other particulars including—

(*i*) the class or classes of persons who shall be required to furnish the return in electronic form or otherwise;

(*ii*) the form and the manner in which the return may be furnished, whether in electronic form or otherwise;

(*iii*) the documents, statements, receipts, certificates, audited reports or any other documents which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(*iv*) the computer resource or the electronic record to which the return in electronic form may be transmitted;

(*b*) the particulars prescribed under clause (*a*) may also include—

(*i*) income exempt from tax;

(*ii*) assets of the prescribed nature and value held by the assessee as a beneficial owner or otherwise or in which he is a beneficiary;

(*iii*) bank account and credit card held by the assessee;

(*iv*) expenditure exceeding the prescribed limit incurred by the assessee under prescribed heads;

(*v*) such other outgoings as prescribed;

(*vi*) the report of any audit referred to in section 63 or a copy thereof;

(*vii*) the particulars of the location and style of the principal place of the business or profession and all the branches thereof;

(*viii*) the names and addresses of the partners, if any, in the business or profession;

(*ix*) the names of the other members of the association of person or the body of individuals and the extent of the share of the assessee and the shares of all such members, in the profits of the business or profession and any branches thereof.

(*3*) The Central Government may, by notification, exempt any class or classes of persons, from the obligation to file a return of income under this section, subject to the conditions specified therein.

(*4*) Any person who has not furnished a return within the time allowed to him under sub-section (*1*), may furnish the return for any tax year at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(*5*) If any person, having furnished a return under sub-section (*1*) or sub-section (*4*), discovers any omission or any wrong statement therein, he may furnish a revised return at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(*6*)(*a*) Any person, whether or not he has furnished a return under sub-section (*1*) or (*4*) or (*5*) for a tax year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, at any time within forty-eight months from the end of the financial year succeeding the relevant tax year;

(*b*) the provisions of clause (*a*) shall continue to apply for a tax year if any person has sustained a loss in the said tax year and has furnished a return of loss within the due date specified under sub-section (*1*) and the updated return is a return of income;

(*c*) the provisions of clause (*a*) shall not apply for a tax year for any person, if—

(*i*) the updated return is a return of loss;

(*ii*) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (*1*) or(*4*) or (*5*) for the said tax year;

(*iii*) the updated return results in refund where no refund was due or increases the refund due on the basis of return furnished under sub-section (*1*) or (*4*) or (*5*) for the said tax year;

(*iv*) an updated return has already been furnished;

(*v*) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the said tax year;

(*vi*) the Assessing Officer is in the possession of information in respect of such person for the said tax year regarding violation of specified laws and the same has been communicated to him prior to the date of furnishing of updated return;

(*vii*) information for the said tax year has been received under an agreement referred to in section 159 in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return;

(*viii*) any prosecution proceedings under the Chapter XXII have been initiated for the said tax year in respect of such person, prior to the date of furnishing of updated return; or

(*ix*) thirty-six months have expired from the end of the financial year succeeding the relevant tax year, and any notice to show-cause under section 281has been issued in his case, except where an order has been passed under section 281(*3*) determining that it is not a fit case to issue notice under section 280; or

(*x*) he is such person or belongs to such class of persons, as notified by the Board in this regard;

(*d*) a person shall also not be eligible to furnish an updated return of income, where—

(*i*) a search has been initiated under section 247 or books of account or other documents or any assets are requisitioned under section 248 in the case of that person;

(*ii*) a survey has been conducted under section 253, other than sub-section (*4*) of the said section, in the case of that person; or

(*iii*) a notice has been issued to the effect that any money, bullion, jewellery, virtual digital asset or valuable article or thing, seized or requisitioned under section 247 or 248 in the case of any other person, belongs to that person; or

(*iv*) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 247 or 248 in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, that person,

for the tax year in which such search is initiated or survey is conducted or requisition is made and any tax year preceding such tax year.

(*7*) A return of income furnished under this section, shall be treated as defective if it is not in conformity with all the conditions as prescribed and shall be dealt with in the following manner:—

(*a*) where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within fifteen days from the date of such intimation or within a further period as may be allowed on an application made by the assessee in this behalf;

(*b*) if the defect is not rectified within the period allowed underclause (*a*), then the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return;

(*c*) where the assessee rectifies the defect after the expiry of the period allowed under clause (*a*), but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

(*8*)(*a*) The provisions of this section shall also apply to a return of income which is furnishedin pursuance of an order passed under section 239(*4*)(*3*)(*b*);

(*b*) the provisions of this section shall not apply to a specified senior citizen, as referred to in section 402(*39*), for the relevant tax year in which tax has been deducted at source under section 393(*1*) [Table: Sl. No. 8 (*iii*)].

(*9*) In this section,—

(*a*) “beneficial owner”, in respect of an asset means an individual who has

provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person;

(*b*) “beneficiary”, in respect of an asset means an individual who derives benefit from the asset during the tax year and the consideration for such asset has been provided by any person other than such beneficiary;

(*c*) “specified entity” means—

(*i*) research association referred to in Schedule III (Table: Sl. No. 23);

(*ii*) association or institution referred to in Schedule III (Table: Sl. No. 24);

(*iii*) person referred to in Schedule VII (Table: Sl. No. 2);

(*iv*) institution referred to in Schedule III (Table: Sl. No. 25);

(*v*) any University or other educational institution or any hospital or other medical institution referred to in Schedule VII (Table: Sl. Nos. 17, 18 and 19);

(*vi*) Mutual Fund referred to in Schedule VII (Table: Sl. No. 20 and 21);

(*vii*) securitisation trust referred to in Schedule III (Table: Sl. No. 26);

(*viii*) Investor Protection Fund referred to in Schedule III (Table: Sl. No. 28 and 29);

(*ix*) Core Settlement Guarantee Fund referred to in Schedule III (Table: Sl. No. 30);

(*x*) venture capital company or venture capital fund referred to in Schedule V (Table: Sl. No. 6);

(*xi*) trade union or association referred to in Schedule III (Table: Sl. No. 31);

(*xii*) Board or Authority referred to in Schedule VII (Table: Sl. No. 33 and 40);

(*xiii*) Body or Authority or Board or Trust or Commission (by whatever name called) referred to in Schedule III (Table: Sl. No. 36);

(*xiv*) infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46);

(*d*)"specified laws" shall refer to the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, or the Prohibition of *Benami* Property Transactions Act, 1988, or the Prevention of Money-laundering Act, 2002, or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

263.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Return of income.

139. (1) Every person,—

(*a*) being a company or a firm; or

(*b*) being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax,

shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided that a person referred to in clause (*b*), who is not required to furnish a return under this sub-section and residing in such area as may be specified by the Board in this behalf by notification in the Official Gazette, and who during the previous year incurs an expenditure of fifty thousand rupees or more towards consumption of electricity or at any time during the previous year fulfils any one of the following conditions, namely :—

(*i*) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or

(*ii*) is the owner or the lessee of a motor vehicle other than a two wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not; or

(*iii*) [***]

(*iv*) has incurred expenditure for himself or any other person on travel to any foreign country; or

(*v*) is the holder of a credit card, not being an "add-on" card, issued by any bank or institution; or

(*vi*) is a member of a club where entrance fee charged is twenty-five thousand rupees or more,

shall furnish a return, of his income during any previous year ending before the 1st day of April, 2005, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply :

Provided also that every company or a firm shall furnish on or before the due date the return in respect of its income or loss in every previous year :

Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(*a*) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(*b*) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed:

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in clause (*a*) of that proviso in accordance with the provisions of this Act:

Provided also that every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the provisions of clause (*38*) of section 10 or section 10A or section 10B or section 10BA or section 54 or section 54B or section 54D or section 54EC or section 54F or section 54G or section 54GA or section 54GB or Chapter VI-A exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided also that a person referred to in clause (*b*), who is not required to furnish a return under this sub-section, and who during the previous year—

(*i*) has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current accounts maintained with a banking company or a co-operative bank; or

(*ii*) has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or

(*iii*) has incurred expenditure of an amount or aggregate of the amounts exceeding

one lakh rupees towards consumption of electricity; or

(*iv*) fulfils such other conditions as may be prescribed,

shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

Explanation 1.—For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (*28*) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Explanation 2.—In this sub-section, "due date" means,—

(*a*) where the assessee other than an assessee referred to in clause (*aa*) is—

(*i*) a company; or

(*ii*) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or

(*iii*) a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force or the spouse of such partner if the provisions of section 5A applies to such spouse,

the 31st day of October of the assessment year;

(*aa*) in the case of an assessee, including the partners of the firm or the spouse of such partner (if the provisions of section 5A applies to such spouse), being such assessee, who is required to furnish a report referred to in section 92E, the 30th day of November of the assessment year;

(*b*) in the case of a person other than a company, referred to in the first proviso to this sub-section, the 31st day of October of the assessment year;

(*c*) in the case of any other assessee, the 31st day of July of the assessment year.

Explanation 3.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.

Explanation 4.—For the purposes of this section "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the

asset for the immediate or future benefit, direct or indirect, of himself or any other person.

Explanation 5.—For the purposes of this section "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

Explanation 6.—For the purposes of this sub-section,—

(*a*) "banking company" shall have the meaning assigned to it in clause (*i*) of the *Explanation* to section 269SS;

(*b*) "co-operative bank" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to section 269SS.

(1A) Without prejudice to the provisions of sub-section (1), any person, being an individual who is in receipt of income chargeable under the head "Salaries" may, at his option, furnish a return of his income for any previous year to his employer, in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, and such employer shall furnish all returns of income received by him on or before the due date, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme, and in such case, any employee who has filed a return of his income to his employer shall be deemed to have furnished a return of income under sub-section (1), and the provisions of this Act shall apply accordingly.

(1B) Without prejudice to the provisions of sub-section (1), any person, being a company or being a person other than a company, required to furnish a return of income under sub-section (1), may, at his option, on or before the due date, furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (1), and the provisions of this Act shall apply accordingly.

(1C) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, exempt any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.

(3) If any person who has sustained a loss in any previous year under the head "Profits and gains of business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (2) of section 73A or sub-section (1) or sub-section (3) of section 74, or sub-section (3) of section 74A, he may furnish, within the time allowed under sub-section (1), a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (1).

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before three months prior to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (*iia*) of clause (*24*) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

(4B) The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

(4C) Every—

(*a*) research association referred to in clause (*21*) of section 10;

(*b*) news agency referred to in clause (*22B*) of section 10;

(*c*) association or institution referred to in clause (*23A*) of section 10;

(*ca*) person referred to in clause (*23AAA*) of section 10;

(*d*) institution referred to in clause (*23B*) of section 10;

(*e*) fund or institution referred to in sub-clause (*iv*) or trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*iiiab*) or sub-clause (*iiiad*) or sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*iiiac*) or sub-clause (*iiiae*) or sub-clause (*via*) of clause (*23C*) of section 10;

(*ea*) Mutual Fund referred to in clause (*23D*) of section 10;

(*eb*) securitisation trust referred to in clause (*23DA*) of section 10;

(*eba*) Investor Protection Fund referred to in clause (*23EC*) or clause (*23ED*) of section 10;

(*ebb*) Core Settlement Guarantee Fund referred to in clause (*23EE*) of section 10;

(*ec*) venture capital company or venture capital fund referred to in clause (*23FB*) of section 10;

(*f*) trade union referred to in sub-clause (*a*) or association referred to in sub-clause (*b*) of clause (*24*) of section 10;

(*fa*) Board or Authority referred to in clause (*29A*) of section 10;

(*g*) body or authority or Board or Trust or Commission (by whatever name called) referred to in clause (*46*) of section 10;

(*h*) infrastructure debt fund referred to in clause (*47*) of section 10,

shall, if the total income in respect of which such research association, news agency, association or institution, person or fund or trust or university or other educational institution or any hospital or other medical institution or trade union or body or authority or Board or Trust or Commission or infrastructure debt fund or Mutual Fund or securitisation trust or venture capital company or venture capital fund is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

(4D) Every university, college or other institution referred to in clause (*ii*) and clause (*iii*) of sub-section (1) of section 35, which is not required to furnish return of income or loss under any other provision of this section, shall furnish the return in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

(4E) Every business trust, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply if it were a return required to be furnished under sub-section (1).

(4F) Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

(5) If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before three months prior to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(6) The prescribed form of the returns referred to in sub-sections (1) and (3) of this section, and in clause (*i*) of sub-section (1) of section 142 shall, in such cases as may be prescribed, require the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary , his bank account and credit card held by him, expenditure exceeding the prescribed limits incurred by him under prescribed heads and such other outgoings as may be prescribed.

(6A) Without prejudice to the provisions of sub-section (6), the prescribed form of the returns referred to in this section, and in clause (*i*) of sub-section (1) of section 142 shall, in the case of an assessee engaged in any business or profession, also require him to furnish the report of any audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, a copy of such report together with proof of furnishing the report, the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.

(7) [***]

(8)(*a*) Where the return under sub-section (1) or sub-section (2) or sub-section (4) for an assessment year is furnished after the specified date, or is not furnished, then [whether or not the Assessing Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)] the assessee shall be liable to pay simple interest at fifteen per cent per annum, reckoned from the day immediately following the specified date to the date of the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source :

Provided that the Assessing Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any assessee under this sub-section.

Explanation 1.—For the purposes of this sub-section, "specified date", in relation to a return for an assessment year, means,—

(*a*) in the case of every assessee whose total income, or the total income of any person in respect of which he is assessable under this Act, includes any income from business or profession, the date of the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year or the 30th day of June of the assessment year, whichever is later;

(*b*) in the case of every other assessee, the 30th day of June of the assessment year.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section.

(*b*) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under this sub-section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(*i*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(*ii*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(*c*) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.

(8A) Any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form, verified in such manner and setting forth such particulars as may be prescribed, at any time within [85]**[***forty-eight***]** months from the end of the relevant assessment year:

Provided that the provision of this sub-section shall not apply, if the updated return,—

(*a*) is a return of a loss; or

(*b*) has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5); or

(*c*) results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5),

of such person under this Act for the relevant assessment year:

Provided further that a person shall not be eligible to furnish an updated return under this sub-section, where—

(*a*) a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of such person; or

(*b*) a survey has been conducted under section 133A, other than sub-section (2A) of that section, in the case of such person; or

(*c*) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person; or

(*d*) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any

other person, pertain or pertains to, or any other information contained therein, relate to, such person,

for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and any assessment year preceding such assessment year:

Provided also that no updated return shall be furnished by any person for the relevant assessment year, where—

(*a*) an updated return has been furnished by him under this sub-section for the relevant assessment year; or

(*b*) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the relevant assessment year in his case; or

(*c*) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976) or the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988) or the Prevention of Money-laundering Act, 2002 (15 of 2003) or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or

(*d*) information for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or

(*e*) any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return under this sub-section; or

(*f*) he is such person or belongs to such class of persons, as may be notified by the Board in this regard:

[86]**[Provided also***that no updated return shall be furnished by any person where any notice to show-cause under section 148A has been issued in his case after thirty-six months from the end of the relevant assessment year:*

Provided also*that the fourth proviso shall not apply where an order is passed under sub-section (3) of section 148A determining that it is not a fit case to issue notice under section 148:***]**

Provided also that if any person has sustained a loss in any previous year and has furnished a return of loss in the prescribed form within the time allowed under sub-section (1) and verified in the prescribed manner and containing such other particulars as may be prescribed, he shall be allowed to furnish an updated return where such updated return is a return of income:

Provided also that if the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under sub-section (2) of section 32 or tax credit carried forward under section 115JAA or under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of return of income under this sub-section for a previous year, an updated return shall be furnished for each such subsequent previous year.

(9) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return :

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

Explanation.—For the purposes of this sub-section, a return of income shall be regarded as defective unless all the following conditions are fulfilled, namely :—

(*a*) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;

(*aa*) [***]

(*b*) the return is accompanied by a statement showing the computation of the tax payable on the basis of the return;

(*bb*) the return is accompanied by the report of the audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a

copy of such report together with proof of furnishing the report;

(*c*) the return is accompanied by proof of—

(*i*) the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid :

Provided that where the return is not accompanied by proof of the tax, if any, claimed to have been deducted or collected at source, the return of income shall not be regarded as defective if—

(*a*) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income;

(*b*) such certificate is produced within a period of two years specified under sub-section (14) of section 155;

(*ii*) the amount of compulsory deposit, if any, claimed to have been made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974);

(*ca*) the return is accompanied by the proof of payment of tax as required under section 140B, if the return of income is a return furnished under sub-section (8A);

(*d*) where regular books of account are maintained by the assessee, the return is accompanied by copies of—

(*i*) manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet;

(*ii*) in the case of a proprietary business or profession, the personal account of the proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members; and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals;

(*e*) where the accounts of the assessee have been audited, the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report and, where an audit of cost accounts of the assessee has been conducted, under section 233B of the Companies Act, 1956 (1 of 1956), also the report under that section;

(*f*) where regular books of account are not maintained by the assessee, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year:

Provided that the Board may, by notification in the Official Gazette, specify that any of the conditions specified in clauses (*a*) to (*f*) to the *Explanation* shall not apply to such class of assessees or shall apply with such modifications, as may be specified in such notification.

[87][(9A) Where any return of income is furnished in pursuance of an order under clause (*b*) of sub-section (2) of section 119, the provisions of this section shall apply.]

(10) [*Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.*]

263.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 263 of the Bill provides for return of income. The clause corresponds to section 139 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Further, various due dates prescribed in the existing provisions of section 139 has been tabulated for simple reading and easy to understand.

263.4 Important Views/Suggestions given by Experts/Stakeholders:

263.4.1 Some of the important suggestions given by stakeholders on Clause 262 are as follows:

i. It is recommended to extend the time limit to file a revised return up to 21 months from the end of the tax year or issuance of scrutiny notice, whichever is earlier, to rectify inadvertent errors or omissions in the original return.
ii. The time limit for furnishing a revised return is at any time before three months prior to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

iii. No refund in case of belated return. Allow exceptions for genuine cases (e.g., medical emergency, natural calamity, death in family). Ensures fairness and protects the rights of taxpayers with valid reasons for delay.

iv. The Bill should provide flexibility by allowing refund claims in cases where the return is not filed, subject to safeguards The mandatory requirement to file a return merely to claim a refund may lead to unintended prosecution, especially for small taxpayers, under penal provisions for non-filing In such cases, where tax has been deducted and the income is below threshold, the law should not compel a return merely to avoid prosecution.

v. Insert an additional provision (c) in clause 263(1) as given below: "(c) A non-resident under section 6 of this Act shall be required to furnish a return of income as per the provisions of this section only if such non resident: (i) has any income chargeable to tax in India; or (ii) is claiming any tax benefit as defined in Section 184(11) of this Act. Provided that no return of income shall be required to be filed under this provision if tax has been fully deducted or collected at source under the provisions of Chapter XIX of this Act, on the concerned income of such non-resident." The conditions under which non-residents are required to file tax returns in India should be expressly clarified There has been significant litigation around the issue of whether and in what circumstances non-residents need to file returns in India, if for example they have no India-sourced income due to a DTAA or otherwise Filing of an ITR needs other potential compliances such as obtaining a PAN, getting an audit, filing of audit reports etc and taxpayers should have certainty as to when these requirements apply to them.

vi. Updated return under Clause 263(6)(a) –'updated return of his income or the income of any other person in respect of which he is assessable under this Act or Income-tax Act, 1961' .TDS return (correction statement) under Clause 397(3)(f) – 'from the end of the tax year or financial year under Income-tax Act, 1961 in which such statement is required to be delivered' Alternatively, Savings and Repeal clause may enable taxpayers to file such returns as per provisions of new Bill New Bill allows taxpayers to file returns subsequently, if. Updated return – Income is assessable under new Bill only. TDS correction statement – can only be filed in relation to tax year Further, no specific provisions has been made in savings Clause of new Bill to enable taxpayers file returns under new Bill if transactions were done prior to 01.04.2026.

vii. The provisions of this section shall also apply to a return of income which is furnished in pursuance of an order passed under section 239 (4) (3)(b); In section 263(8)(a) there is an error in making reference to section 239 – The correct reference should be to section 239(3)(b) It is required to omit '(4)'.

viii. The provisions are required to be relaxed and refund needs to be allowed even if the return is filed belatedly Once refund is due, denial thereof would tantamount

to unauthorized collection of tax It would also cause serious concerns for the cases where return could not be filed for genuine hardships. Such a provision would create a hardship for individual taxpayers who miss the due dates due to genuine reasons It is recommended to clarify that the taxpayers can claim refunds by filing ITR under Clause 263(4) as well as under Clause 263(5).

ix. A clarificatory provision can be provided after section 263(6): “It is further clarified that the updated return of income can be filed if it has an effect of reducing the refunds claimed basis of return furnished under sub-section (1) or (4) or (5) for the said tax year” • Utility of income tax returns to align with the provisions of the law and should not debar taxpayer for filing updated return in case of reduced refunds.

x. Under clause 263, every person other than a company or a firm is required to furnish his ITR if his total income exceeds the basic exemption limit, without giving effect to the deductions allowable inter-alia under Chapter IV-E (Capital gains) AND To avoid further litigations and ambiguity amongst the taxpayers, it is recommended that the specific deductions relating to the capital gains are to be provided in Clause 263 of the new Bill in lines with the old Act The corresponding provision in the New Bill does not specify the deductions under Chapter IV-E relating to Capital Gains for computing total income for the purpose of determination of the obligation to file ITR in case of a person other than company or firm This change may suggest that all deductions under the head capital gains can be considered, which could possibly also include deduction of other items such as cost of acquisition, exempt transfers, etc., which is not an intent of the law.

xi. Extend it to 31st August Reduce pressure on small taxpayers and professionals.

xii. A clause be introduced for Mandatory filing of an Annual Revelation Return by all individual IT-PAN holders without affecting any of the existing tax benefits or rebates.

xiii. section 263(1)(a) making reference to a person who intends to claim refund under Chapter XX be omitted. The clause (ix) as proposed as of now has the effect of denying refund to a person in a case where the Return of Income is delayed beyond the due date as specified As against this, clause 433 provides that every claim of refund under this part shall be made by filing Return as per section 263 Clause 433 includes entire section 263 and is not confined to section 263(1)(a) This reflects the clear intention that the legislature do not want to deny the refund to an assessee merely because the return of income has been delayed beyond due date However, the presence of clause (ix) in section 263(1)(a) leads to an unintended interpretation that the assessee will need to file the Return of Income within the due date if he intends to claim a refund The clause (ix) dose not serve any purpose since it is certainly permissible for a

person to furnish a belated return Accordingly, the omission of the same would avoid unnecessary confusion and unintended hardship to the assessee.

xiv. time available for filing revised return be extended to eighteen months from the end of the tax year instead of nine months as provided as of now This is suggested with a view that any claim can be made in the revised return As such filing of revised return within 2-3 months of filing original return has no material meaning. Though the provisions under both the Income-tax Act 1961 and the Income-tax Bill 2025 are similar, we believe that there is a genuine need to extend the time as explained hereunder : The time limits for filing the Revised Returns have reduced considerably in recent past Further following the ratio of the judgment of the Hon'ble Supreme Court in the case of Goetze (India) Ltd v CIT (2006) 284 ITR 323 (SC), any claim missed out by an assessee has to be made only by way of filing a Return At times, it is seen that a genuine claim by the assessee is missed out and the same is noticed while filing return for next year much beyond the date upto which the Return can be revised by the assessee Due to this difficulty, an assessee is deprived of the right to make genuine claim/rectify bonafide error.

xv. Though the provisions under the Income-tax Bill 2025 and the Income-tax Act 1961 are similar, we believe that there is an anomaly which deserves to be addressed while enacting a new Act We recommend that the updated return should be permissible in cases where the effect is reduction of loss as compared to the original return but still the final amount is a loss.

xvi. We also recommend that in a case where the assessee has missed out to furnish the return of income, an updated return be permitted even though the same is resulting in a refund to the assessee. Under the present scheme, updated return is not permissible at all where it results in refund to the assessee Reduced refunds as per percentage prescribed amounts to indirect cost to the assessee and savings to the revenue and therefore there is no reason to doubt that the assessee will adopt a complacent approach In absence of the provisions to file the return at present, the assesses are compelled to file condonation request to the CBDT for claiming refunds which adds to the administrative burden of the CBDT This can be avoided if the reduced refunds are possible by way of updated return It will reduce cost for both the assessee and the CBDT and therefore needs to be considered As regards the cases of reduction of loss in the updated Return, we feel that there should not be any objection against the same since it ultimately serves the purpose for which the provisions of updated Return have been introduced Say for Example the loss as per the original return is Rs 10 Crores and the assessee wants to file updated return showing loss of Rs 8 Crores The assessee is in a way offering higher income as compared to the original return by way of forgoing carry forward of loss to the extent of Rs 2

Crores But since the final amount is still loss, the present provision do not permit the assessee to file the updated return This is clearly an unintended anomaly and needs to be corrected while enacting new code.

xvii. It is suggested that sub-clause (ix) may be removed from section 263(1)(a).Clause 263 (1)(a)(ix) requires a person who intends to make a claim of refund under Chapter XX to file return of income for the tax year on or before the due date i.e., 31st July/ 31st October/ 30th November, as the case may be, of the financial year succeeding the relevant tax year. This implies that refund cannot be claimed by filing a belated return on or before 31st December of the financial year succeeding the relevant tax year. This is a stringent condition imposed vide the new bill. However, clause 270(1), provides for the manner of processing a return which is made under section 263 or in response to a notice under section 268(1). The clause provides that the sum payable by, or amount of refund due to the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed on the basis of total income by TDS/TCS/advance tax paid etc. The amount of refund due on the basis of such determination shall be granted to the assessee. It may be noted that clause 270 provides for the manner of processing a return made under section 263, which includes a return filed on or before the due date under sub-section (1) and a return filed belatedly under sub-section (4) thereof, within 9 months from the end of the relevant tax year, or before the completion of assessment, whichever is earlier. Thus, while section 270 permits granting of refund due on processing of a return filed on time and a return filed belatedly, section 263(1)(a) contains the requirement to file a return on or before due date where a person intends to make a claim for refund.

xviii. It is suggested that in Table at Sl. No. 4 (due date for filling of ITR) may be suitably amended as under: Assessee, including the partners of the firm or the spouse of such partner (if section 10 applies to such spouse), who is required to furnish a report referred to in section 172-30th November Company (other than covered in 1 above) 31st October Person (other than a company) whose accounts are required to be audited under this Act or under any other law in force (other than covered in 1 above) 31st October Partner of a firm whose accounts are required to be audited under this Act or under any other law in force; or the spouse of such partner (if section 10 applies to such spouse) (other than covered in 1 above) -31st October Any other assessee 31st July The current table requires clarity. For example, in case of a company which is required to furnish Transfer Pricing Audit report, whether due date would be as per Sl. No. 1 or Sl. No. 4. Therefore, the order of presentation may be modified and suitable exclusions be added in 2, 3 and 4 for greater clarity. The entry at Table: Sl.No. 4 may be placed at Sl. No.1 for clarity. Thereafter, Sl. No.2 to 4 to exclude the assessee covered in Sl. No.1

263.5 Examination by the Committee:

263.5.1 The Ministry furnished their replies as follows for the aforementioned suggestions:

i. The proposed provision is the simplified version of the corresponding provision of Income-Tax Act, 1961 and no amendment has been introduced in this simplified version from the policy perspective. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

ii. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

iii. This is a drafting correction and clause 263(1)(xi) should be deleted to enable taxpayers to claim refund even if they file belated or revised return. Therefore, suggestion is acceptable.

iv. The suggestion seeks to provide flexibility by allowing refund claims in cases where the return is not filed in due time, subject to safeguards. This is drafting correction and clause 263(1)(ix) shall be deleted.

v. The suggestion seeks to insert additional provision (c) in clause 263(1) as given below: "(c) A non-resident under section 6 of this Act shall be required to furnish a return of income as per the provisions of this section only if such non-resident: (i) has any income chargeable to tax in India; or (ii) is claiming any tax benefit as defined in Section 184(11) of this Act. Provided that no return of income shall be required to be filed under this provision if tax has been fully deducted or collected at source under the provisions of Chapter XIX of this Act, on the concerned income of such non-resident." It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. It may be mentioned that a facility has been provided to non-residents in Clause 207(8), 209(4) of the Bill, to not file return of income if income is of the nature specified therein and the due taxes have been deducted on such income. Number of passive incomes are listed in the said clause. Further, there is no change in the proposed provisions of ITB 2025 vis-a-vis the provisions of ITA 1961. The provisions of the Bill have to read harmoniously and not create situations where unintended compliances are being imposed. Thus, the suggestion is already addressed.

vi. The suggestion seeks to introduce a new provision in savings Clause of Bill to enable taxpayers file returns under new Bill if transactions were done prior to 01.04.2026. There is no change in the provisions of the Bill viz-a-viz Act. Clause 536(2)(c) of the Bill would apply in such scenarios. The taxpayer is required to update the earlier filed return. The earlier returns are as per old provisions. Earlier returns cannot be made as per provisions of the Bill. Therefore, the suggestion is not feasible.

vii. The issue points out a cross-referencing error in clause 263(8)(a) and '(4)' shall be omitted from referred section '239(4)(3)(b)'.

viii. The suggestion seeks to provide flexibility by allowing refund claims in cases where the return is not filed, subject to safeguards. This is drafting correction and clause 263(1)(ix) shall be deleted.

ix. The suggestion seeks to provide for clarification that the updated return of income can be filed if it has an effect of reducing the refunds claimed on the basis of earlier return furnished under sub-section (1) or (4) or (5) for the said tax year. There is no bar on filing updated return in above mentioned cases. This utility already exists in the Updated Return. Thus, updated return may be filed in system for such cases where refund is reduced.

x. The suggestion seeks to retain the original specific section of capital gains in clause 263 for calculating basic exemption limit, without giving effect to the deductions allowable inter-alia under those specific section of Capital gains. Under the Act, for the purposes of filing ITR the income amount is to be taken without taking into consideration deductions allowed under specific sections of Capital Gains. In the Bill, reference has been made to the Chapter of capital gains, rather than referring to individual sections. There is no change in the Bill except for the fact that the provision has been made simpler to understand and implement for the taxpayer. In order to align the provisions of the Bill viz a-viz Act, clause 263(1) shall be amended to mention only specific deductions under chapter IV-E.

xi. The suggestion seeks to amend clause 263(1)(b) to Extend the due date of furnishing return of income to 31st August from 31st July. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. For small taxpayers, there is scheme of presumptive tax. Such taxpayers are not even required to maintain books of account if the turnover does not exceed specified limit. Small taxpayers and professionals are required to file their return on basis of their turnover. Also, with the facility of 26AS and pre-population of ITRs, return filing has become

much easier. in the new tax regime, the provisions of law have become simple enabling easier filing. Therefore, four-month time for filing tax returns that is upto 31st July is more than adequate. Thus, the suggestion is not feasible.

xii. The suggestion seeks to introduce Mandatory filing of an Annual Revelation Return by all individual IT-PAN holders. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The government's focus is on reducing the compliance burden and taxes only such income which is chargeable to income tax. The exemption from tax filing is available only to such persons whose income fall below the minimum amount not chargeable to tax i.e. 2.5 lacs in old regime and 4 lacs in new regime. This translates into a monthly income ranging from Rs 20,000/- to Rs. 33,000/-. Placing burden on large number of citizens which would be in the range of 70 Cr who are barely making both ends meet is not desirable. Thus, the suggestion is not feasible.

xiii. The suggestion seeks to omit clause 263(1)(ix) making reference to a person who intends to claim refund under Chapter XX. The clause 263(1)(ix) shall be deleted.

xiv. The suggestion seeks to extend the time available for filing revised return be extended to 18 months from the end of the tax year instead of 9 months. Both the Act and the Bill provides for filing of an updated return up to four years, in case assessee requires to file return if not filed earlier or if he desires to offer additional income. Thus, the suggestion is not feasible.

xv. The suggestion seeks to provide for allowing updated return in cases where the effect is reduction of loss as compared to the original return but still the final amount is a loss. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Losses such as Profits and gains of business and profession and capitals gains can only be claimed if the return is filed within the due date. Therefore, allowing for losses to be adjusted or reduced in an updated return has no rationale. These are anti-abuse measures in the tax law. Thus, the suggestion is not feasible.

xvi. The suggestion seeks to allow filing of updated return where the assessee has missed out to furnish the return of income, and an updated return if permitted results in a refund to the assessee. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. When some person has missed to file the

return within the due date, he has the option of furnishing belated and revised return upto the end of calendar year and there is also an option of filing an application u/s 119(2)(b) for condonation of delay. Moreover, refund out of updated return is not provided as these are essential guardrails so that the discipline in filing returns is maintained and provisions are not misused. Thus, the suggestion is not feasible.

xvii. The suggestion seeks to delete the clause 263(1)(ix) to enable refund to person filing belated return also. The suggestion is acceptable.

xviii. The suggestion seeks to redraft the Table in clause 263 to provide better clarity of due date of filing returns. For ex. for company with TP transactions, the due date should be 30th November. However, this exclusion is not provided. The suggestion is in nature of drafting correction and is acceptable.

263.5.2 Further, with regard to implications, if timeline for revised return is increased from 9 months to 21 months, the Ministry stated as follows:

(i) The facility for revision of return is available till 31st December of the year in which return is filed. From thereon, the updated return facility starts which extends upto 4 years from the end of the assessment year upon payment of additional income-tax. Therefore, where income is sought to be revised, updated return facility is available. The updated return scheme will be adversely affected on extension of limit for revised returns.

(ii) Scrutiny assessment is to be completed within one year from the end of assessment year i.e. within 24 months of the completion of previous year. Therefore, the limit of revised return cannot be extended to 21 months.

(iii) The period of 9 months is sufficient to rectify "inadvertent errors or omissions" in the returns.

(iv) The time limits of sending reopening notice u/s 148 of IT Act 1961 has also changed and the reopening notice u/s 148 cannot be sent beyond 3 years and 3 months from the end of the relevant assessment year (without threshold limits of income escaping assessment). Therefore, limit of 21 months will upset the scheme of re-assessments.

(v) The extension in time limit of revision will upset the discipline in processing, refunds, assessments etc. and would also lead to multiplicity of proceedings leading to inconvenience to large number of taxpayers.

(vi) The assessee may file rectification application to the Assessing Officer to rectify any such mistake apparent from record. Therefore, the revision of return, in a way (other than for modifying the income) is available with the taxpayer.

263.6 Observations/Recommendations of the Committee:

263.6.1 The Committee observe that Clause 263(1) of the Bill states that for persons other than companies or firms, the ITR filing obligation is there if their total income exceeds the basic exemption limit without giving effect to deductions allowable under "Chapter IV-E (Capital Gains)." However, the Committee note that referring to the entire "Chapter IV-E" is too broad as this Chapter covers not only specific exemptions but also fundamental elements of capital gains computation such as the cost of acquisition, indexed cost, and exempt transfers. Also, the broad phrasing might be misinterpreted to mean that all these computational elements (cost, exempt transfers, etc.) are to be ignored when calculating total income for the ITR filing threshold. Therefore, the Committee recommend that in order to prevent potential litigation, avoid ambiguity and ensure clarity, the provisions of the Bill may be amended to align with the existing Act by explicitly specifying only those particular deductions within Chapter IV-E that are to be disregarded when determining the ITR filing threshold, rather than the entire chapter.

262.6.2 The Committee observe that the current mandatory requirement to file a return solely for the purpose of claiming a refund could inadvertently lead to prosecution, particularly for small taxpayers whose income falls below the taxable threshold but from whom tax has been deducted at source. In such scenarios, the law should not compel a return merely to avoid penal provisions for non-filing. The Committee, therefore, recommend to remove sub-clause (1)(ix) to Clause 263 to provide flexibility for allowing refund claims in cases where the return is not filed in due time.

262.6.3 The Committee further note that there is an error in cross-referencing in sub-clause 8(a). Therefore, the Committee recommend to remove '(4)' from referred Section '239(4)(3)(b)' in sub-clause (8)(a) to Clause 263.

262.6.4 The Committee recommend that to provide better clarity regarding due date of filing returns, in the Table in Clause 263 for company with Transfer Pricing transactions, the due date 30th November may be added.

The Committee other than recommending the Ministry to carry out the necessary changes find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 264– Scheme for submission of returns through tax return preparers

264.1 Provision proposed in the Income-Tax Bill, 2025:

264. (*1*) The Board may make a Scheme for furnishing returns of income through a tax return preparer and such Scheme shall be notified, which—

(*a*) may enable any specified class or classes of persons in preparing and furnishing returns of income through a tax return preparer authorised to act as such under the Scheme;

(*b*) may be made irrespective of provisions of section 263.

(*2*) In this section,—

(*a*) “tax return preparer” means any individual, not being a person referred to in section 515(*3*)(*a*)(*ii*) or an employee of the “specified class or classes of persons”, who has been authorised to act as a tax return preparer under the Scheme made under this section;

(*b*) “specified class or classes of persons” means any person, other than a company or a person, whose accounts are required to be audited under section 63 or under any other law, who is required to furnish a return of income under this Act.

(*3*) Every notification for the Scheme referred to in sub-section (*1*) shall be issued as per section 534 of this Act.

264.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Scheme for submission of returns through Tax Return Preparers.

139B. (1) For the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the Board may, without prejudice to the provisions of section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.

(2) Every Tax Return Preparer shall assist the persons furnishing the return of income in such manner as may be specified in the Scheme framed under this section and affix his signature on such return.

(3) For the purposes of this section,—

(*a*) "Tax Return Preparer" means any individual, [not being a person referred to in clause (*ii*) or clause (*iii*) or clause (*iv*) of sub-section (2) of section 288 or an employee of the "specified class or classes of persons"], who has been authorised to act as a Tax Return Preparer under the Scheme framed under this

section;

(*b*) "specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other law for the time being in force, who is required to furnish a return of income under this Act.

(4) The Scheme framed by the Board under this section may provide for the following, namely:—

(*a*) the manner in which and the period for which the Tax Return Preparers shall be authorised under sub-section (3);

(*b*) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer;

(*c*) the code of conduct for the Tax Return Preparers;

(*d*) the duties and obligations of the Tax Return Preparers;

(*e*) the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn;

(*f*) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.

(5) The Scheme framed by the Board under this section shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be framed, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

264.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 264 of the Bill provides for scheme for submission of returns through Tax Return Preparers The clause corresponds to section 139B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

264.4 Important Views/Suggestions given by Experts/Stakeholders:

i. It is required to rename "Tax return preparers" in clause 264 as ``Income Tax Practitioners``.
ii. Avoid overlap of this Clause with Clause 288(2)(vi) and unify the definition.

264.5 Examination by the Committee:

264.5.1 For the above suggestions, the Ministry provided the following replies:

i. The suggestion seeks to rename "Tax return preparers" in clause 264 as ``Income Tax Practitioners``. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. There are separate qualifications for a Tax return preparer under clause 264 and for an authorised representative under clause 515. This is so because the functions thereof are different.

ii. There is no overlap between the two. If at all there is an overlap, that is in Favor of the TRP as well as the AR. Thus, the suggestion is not feasible.

264.5.2 In a further written clarification regarding the extent of liability of a TRP for errors, omissions, or misstatements in returns prepared by them under this scheme and the recourse assessees will have against TRPs for such issues, the Ministry provided as under:

As per Tax Return Preparer Scheme, 2006 Certificate given to the Tax Return Preparer may be withdrawn on the following grounds.

(i) if he fails to enter any information made available to him by the assessee, correctly in the return prepared by him;

(ii) if he makes a wrong or fraudulent claim for disbursement;

(iii) if he is engaged in any financial irregularity, forgery or fraud;

(iv) if he wilfully attempts to understate the income in the return or tax liability thereon;

Further, as per section 278 of the existing Act, TRP can be prosecuted for abetment of false return. Therefore, TRP's certificate can be cancelled or he can be prosecuted for filing the wrong Income Tax Return.

264.6 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 264 in line with the existing provisions with retention of the same intent and therefore accept the Clause as proposed.

Clause 265– Return by whom to be verified

265.1 Provision proposed in the Income-Tax Bill, 2025:

265. The return of income under section 263 required to be furnished by the person specified in column B of the Table below shall be verified by the person specified in corresponding entry in column C of the said Table:

Table

Sl. No	Person furnishing return of income	To be verified
A	B	C
1.	An individual.	(*i*) By the individual himself; (*ii*) where the individual is mentally incapacitated from attending to his affairs,by his guardian or any other person competent to act on his behalf; (*iii*) where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him through a valid power of attorney.
2.	A Hindu undivided family.	(*i*) By the *karta*; (*ii*) where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family.
3.	A company [in cases other than those mentioned at serial numbers 4, 5,6 and 7].	(*i*) By the managing director of the company; (*ii*) where there is no managing director, or the managing director is not able to verify the return due to any unavoidable reason, by any director of the company or any other person as prescribed for verifying the return.

A	B	C
4.	A company not being resident in India.	By any person holding a valid power of attorney from the company to do so.
5.	A company which is being wound up by the Court or otherwise, or where any person has been appointed as receiver of any assets of the company.	By the liquidator as referred to in section 322(*1*).
6.	A company whose management has been taken over by the Central Government or any State Government under any law.	By the principal officer of the company.
7.	A company, for which application seeking corporate insolvency resolution process has been admitted by the Adjudicating Authority under sections 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).	By the insolvency professional appointed by such Adjudicating Authority, where— Note.— "Insolvencyprofessional" and "Adjudicating Authority" shall have the same meanings as assigned to them respectively in sections 3(*19*) and 5(*1*) of the Insolvency and Bankruptcy Code, 2016(31 of 2016).
8.	A firm.	(*i*) By the managing partner of the firm; (*ii*) where the managing partner is not able to verify the return due to

		any unavoidable reason, or there is no managing partner as such, by any partner of the firm, not being a minor.
9.	A limited liability partnership.	(*i*) By the designated partner of the limited liability partnership; (*ii*) where the designated partner of the limited liability partnership is not able to verify the return due to any unavoidable reason, or where there is no designated partner, by any partner of the limited liability partnership or any other person as prescribed for verifying the return.
10.	A local authority.	By the principal officer of the local authority.
11.	A political party as referred to in section 263(*1*)(*a*)(*iii*).	By the chief executive officer of such political party (whether the chief executive officer is known as secretary or by any other designation).
12.	Any other association.	(*i*) By any member of the association; or (*ii*) by the principal officer of the association.
13.	Any other person.	(*i*) By the person himself; or (*ii*) by any person competent to act on his behalf.

265.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Return by whom to be verified.

140. The return under section 115WD or section 139 shall be verified—

(*a*) in the case of an individual,—

(*i*) by the individual himself;

(*ii*) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(*iii*) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(*iv*) where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (*ii*) or sub-clause (*iv*), the person verifying the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;

(*b*) in the case of a Hindu undivided family, by the karta, and, where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(*c*) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to verify the return, or where there is no managing director, by any director thereof or any other person, as may be prescribed for this purpose:

Provided that where the company is not resident in India, the return may be verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return :

Provided further that,—

(*a*) where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be verified by the liquidator referred to in sub-section (1) of section 178;

(*b*) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be verified by the principal officer thereof; or

(*c*) where in respect of a company, an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the return shall be verified by the insolvency professional appointed by such Adjudicating Authority.

Explanation.—For the purposes of this clause the expressions "insolvency professional" and "Adjudicating Authority" shall have the respective meanings assigned to them in clause (*18*) of section 3 and clause (*1*) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(*cc*) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(*cd*) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such, by any partner thereof or any other person, as may be prescribed for this purpose;

(*d*) in the case of a local authority, by the principal officer thereof;

(*dd*) in the case of a political party referred to in sub-section (4B) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);

(*e*) in the case of any other association, by any member of the association or the principal officer thereof; and

(*f*) in the case of any other person, by that person or by some person competent to act on his behalf.

265.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 265 of the Bill provides for return by whom to be verified.The clause corresponds to section 140 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

265.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 265 to be textual simplification of the existing provisions of the 1961 Act with no change in policy and intent and therefore the Committee accept the Clause as it stands.

Clause 266– Self-assessment.

266.1 Provision proposed in the Income-Tax Bill, 2025:

266. (*1*) Where, after taking into account the amounts referred to in sub-section (*2*), any tax is payable on the basis of any return required to be furnished under section 263 or 268 or 280 or 294, then—

(*a*) the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return; and

(*b*) the return shall be accompanied by proof of payment of tax, interest and fee.

(*2*) The amounts referred to in sub-section (*1*) shall be,—

(*a*) the amount of tax, if any, already paid under any provision of this Act;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section;

(*f*) any tax credit claimed to be set off as per section 206(*13*); and

(*g*) any tax or interest payable according to the provisions of section 391(*2*).

(*3*) Where the amount paid by the assessee under sub-section (*1*) falls short of the aggregate of the tax, interest and fee as payable under the said sub-section, the amount so paid shall be adjusted towards the fee payable and thereafter towards the interest payable and the balance, if any, shall be adjusted towards the tax payable.

(*4*) For the purposes of sub-section (*1*), interest payable under section 423 shall be computed on the tax on the total income as declared in the return as reduced by the amount of,—

(*a*) advance tax, if any, paid;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and

(*f*) any tax credit claimed to be set off as per the provisions of section 206(*13*);

(*5*) For the purposes of sub-section (*1*), interest payable under section 424 shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

(*6*) In sub-section (*5*), "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of,—

(*a*) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*b*) any relief of tax claimed under section 157;

(*c*) any relief of tax or deduction of tax claimed under section 159(*1*) or section 160 on account of tax paid in a country outside India;

(*d*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and.

(*e*) any tax credit claimed to be set off as per the provisions of section 206(*13*).

(*7*) After a regular assessment under section 270 or 271 or an assessment under section 294 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such regular assessment or assessment.

(*8*) If any assessee fails to pay the whole or any part of such tax, interest or fee as per the provisions of sub-section (*1*), he shall be deemed to be an assessee in default in respect of the tax, interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

(*9*) The provisions of sub-section (*8*) shall apply without prejudice to any other consequences which the assessee may incur.

266.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Self-assessment.

140A. (1) Where any tax is payable on the basis of any return required to be furnished under section 115WD or section 115WH or section 139 or section 142 or section

148 or section 153A or, as the case may be, section 158BC, after taking into account,—

(*i*) the amount of tax, if any, already paid under any provision of this Act;

(*ii*) any tax deducted or collected at source;

(*iia*) any relief of tax claimed under section 89;

(*iii*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;

(*iv*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section;

(*v*) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD; and

(*vi*) any tax or interest payable according to the provisions of sub-section (2) of section 191,

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax, interest and fee.

Explanation.—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax , interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(1A) For the purposes of sub-section (1), interest payable,—

(*i*) under section 234A shall be computed on the amount of the tax on the total income as declared in the return as reduced by the amount of,—

(*a*) advance tax, if any, paid;

(*b*) any tax deducted or collected at source;

(*ba*) any relief of tax claimed under section 89;

(*c*) any relief of tax or deduction of tax claimed under section 90 or section

91 on account of tax paid in a country outside India;

(*d*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

(*e*) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD;

(*ii*) under section 115WK shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid, if any.

(1B) For the purposes of sub-section (1), interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

Explanation.—For the purposes of this sub-section, "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of,—

(*i*) tax deducted or collected at source, in accordance with the provisions of Chapter XVII, on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*ia*) any relief of tax claimed under section 89;

(*ii*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;

(*iii*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

(*iv*) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

(2) After a regular assessment under section 115WE or section 115WF or section 143 or section 144 or an assessment under section 153A or section 158BC has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment or assessment, as the case may be.

(3) If any assessee fails to pay the whole or any part of such tax, interest or fee in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax, interest or fee remaining unpaid, and all the provisions of this Act shall apply accordingly.

(4) The provisions of this section as they stood immediately before their amend-ment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.

266.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 266 of the Bill provides for self-assessment. The clause corresponds to section 140A of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

266.4 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification provided by the Ministry and find the provisions of the Clause 266 corresponding to the existing provisions and therefore accept the Clause as proposed.

Clause 267– Tax on updated return

267.1 Provision proposed in the Income-Tax Bill, 2025:

267. (*1*) Where no return of income under section 263(*1*) or (*4*) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (*2*), tax is payable on the basis of return to be furnished by such assessee under section 263(*6*), then—

(*a*) the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax;

(*b*) such tax, interest and fee shall be payable along with the payment of additional income-tax computed as per sub-section (*5*), before furnishing the return; and

(*c*) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(*2*) The amounts referred to in sub-section (*1*) shall be,—

(*a*) the amount of tax, if any, already paid as advance tax;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(*1*)or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and

(*f*) any tax credit claimed to be set off as per the provisions of section 206(*13*).

(*3*) Where, return of income under section 263(*1*) or (*4*) or (*5*) (referred to as earlier return) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (*4*) [as increased by the amount of refund, if any, issued in respect of such earlier return], tax is payable on the basis of return to be furnished by such assessee under section 263(*6*) then—

(*a*) the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax;

(*b*) such tax, interest and fee shall be payable along with the payment of additional income-tax, as computed as per sub-section (*5*), as reduced by the amount of interest

paid under the provisions of this Act in the earlier return, before furnishing the return; and

(*c*) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(*4*) The sums referred to in sub-section (*3*) shall be the following,—

(*a*) the amount of relief or tax referred to in section 266(*1*), the credit for which has been taken in the earlier return;

(*b*) tax deducted or collected at source, as per the provisions of ChapterXIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;

(*c*) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*d*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return; and

(*e*) any tax credit claimed, to be set off as per the provisions of section 206(*13*), which has not been claimed in the earlier return.

(*5*) For the purposes of sub-sections (*1*) and (*3*), the additional income-tax payable at the time of furnishing the return under section 263(*6*) shall be equal to,—

(*a*) 25% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after expiry of the time available under section 263(*4*) or (*5*) and before completion of twelve months from the end of the financial year succeeding the relevant tax year; or

(*b*) 50% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of twelve months but before completion of twenty-four months from the end of the financial year succeeding the relevant tax year;

(*c*) 60% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of twenty-four months, but before completion of thirty-six months, from the end of the financial year succeeding the relevant tax year; or

(*d*) 70% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of thirty-six months, but before completion of forty-eight months, from the end of the financial year succeeding the relevant tax year.

(*6*) For the purposes of computation of "additional income-tax" under this section, tax shall include surcharge and cess, by whatever name called, on such tax.

(*7*) Irrespective of anything contained in section 424(*2*), for the purposes of sub-section (*3*), interest payable under section 424 shall be computed on an amount equal to the assessed tax where, "assessed tax" means the tax on the total income as declared in the return to be furnished under section 263(*6*),—

(*a*) after taking into account,—

(*i*) the amount of relief or tax referred to in section 266(*1*), the credit for which has been claimed in the earlier return, if any;

(*ii*) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

(*iii*) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*iv*) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(*v*) any tax credit claimed, to be set off as per section 206(*13*), which has not been claimed in the earlier return; and

(*b*) as increased by refund, if any, issued in respect of such earlier return.

(*8*) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, by notification, issue guidelines removing the difficulty.

(*9*) No guidelines under sub-section (*8*) shall be issued after the expiration of two years from the 1st April, 2026.

(*10*) Every guideline issued by the Board under sub-section (*8*) shall be laid before each House of Parliamentwhile it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter

have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(*11*) For the purposes of this section,—

(*a*) interest payable under section 423, for the purposes of sub-section (*1*), shall be computed on the amount of tax on the total income as declared in the return, under section 263(*6*), as per section 266(*4*);

(*b*) interest payable under section 425, for the purposes of sub-section (*3*), shall be computed after taking into account the total income furnished in the return under section 263(*6*) as the returned income;

(*c*) interest payable, for the purposes of sub-section (*5*), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under section 263(*6*), as reduced by interest paid, as per the earlier return, if any.

(*12*) For the purposes of sub-section (*11*)(*c*), the interest paid in the earlier return shall be *nil* if such return is an updated return referred to in sub-section (*1*).

267.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Tax on updated return.

140B. (1) Where no return of income under sub-section (1) or sub-section (4) of section 139 has been furnished by an assessee and tax is payable, on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, after taking into account,—

(*i*) the amount of tax, if any, already paid as advance tax;

(*ii*) any tax deducted or collected at source;

(*iii*) any relief of tax claimed under section 89;

(*iv*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;

(*v*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

(*vi*) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD,

the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any

default or delay in payment of advance tax, along with the payment of additional income-tax computed in accordance with sub-section (3), before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(2) Where, return of income under sub-section (1) or sub-section (4) or sub-section (5) of section 139 (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of return to be furnished by such assessee under sub-section (8A) of section 139,—

(*a*) after taking into account,—

(*i*) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been taken in the earlier return;

(*ii*) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;

(*iii*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*iv*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(*v*) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and

(*b*) as increased by the amount of refund, if any, issued in respect of such earlier return,

the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax along with the payment of additional income-tax, as computed in accordance with sub-section (3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(3) For the purposes of sub-sections (1) and (2), the additional income-tax payable at the time of furnishing the return under sub-section (8A) of section 139 shall be equal to,—

(*i*) twenty-five per cent of aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of the period of twelve months from the end of the relevant assessment year; or

(*ii*) fifty per cent of aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of twenty-four months from the end of the relevant assessment year.

[90]**[***(*iii*)* *sixty per cent of aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after the expiry of twenty-four months from the end of the relevant assessment year but before completion of the period of thirty-six months from the end of the relevant assessment year; or*

*(*iv*)* *seventy per cent of aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after the expiry of thirty-six months from the end of the relevant assessment year but before completion of the period of forty-eight months from the end of the relevant assessment year.***]**

Explanation.—For the purposes of computation of "additional income-tax", tax shall include surcharge and cess, by whatever name called, on such tax.

(4) Notwithstanding anything contained in *Explanation 1* to section 234B, for the purposes of sub-section (2), interest payable under section 234B shall be computed on an amount equal to the assessed tax [91][***] where, "assessed tax" means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139,—

(*a*) after taking into account,—

(*i*) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been claimed in the earlier return [92][, if any];

(*ii*) tax deducted or collected at source, in accordance with the provisions

of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

(*iii*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*iv*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(*v*) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and

(*b*) as increased by the amount of refund, if any, issued in respect of such earlier return.

(5) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the approval of the Central Government, by notification in the Official Gazette, issue guidelines for the purpose of removing the difficulty.

(6) Every guideline issued under sub-section (5) shall be laid before each House of Parliament.

Explanation.—For the purposes of this section,—

(*i*) interest payable under section 234A, for the purposes of sub-section (1), shall be computed on the amount of tax on the total income as declared in the return, under sub-section (8A) of section 139, in accordance with the provisions of sub-section (1A) of section 140A;

(*ii*) interest payable under section 234C, for the purposes of sub-section (2), shall be computed after taking into account the total income furnished in the return under sub-section (8A) of section 139 as the returned income;

(*iii*) interest payable, for the purposes of sub-section (3), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid, in accordance with the earlier return, if any:

Provided that for the purposes of this clause, the interest paid in the earlier return shall be *nil* if such return is an updated return referred to in sub-section (1).

267.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 267 of the Bill provides for tax on updated return. The clause corresponds to section 140B of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

267.4 Important Views/Suggestions given by Experts/Stakeholders:

It is suggested that section 267(12) may be omitted. As per Clause 263(6)(c)(iv), no person can furnish an updated return if an updated return has already been furnished and as such Clause 267(12) cannot be acted upon and is infructuous.

267.5 Examination by the Committee:

267.5.1 The Ministry provided following reply to the above suggestion:

The suggestion seeks to delete clause 267(12) on the presumption that no person can furnish an updated return if an updated return has already been furnished and as such section 267(12) cannot be acted upon and is infructuous. Cl. 267(12) is not infructuous as it provides for situation where normal return was not filed and updated return is the first return. In such a case, interest for earlier return is deemed as nil. However, the reference to earlier return is required to be corrected. Appropriate drafting correction shall be carried out. The suggestion is acceptable.

267.6 Observations/Recommendations of the Committee:

The Committee, upon examination of the provisions of the Clause, note a drafting error in sub-clause 267(12) and therefore recommend to re-draft the said sub-clause so as to improve its clarity and precision, aligning it with the overall scheme of updated returns, especially when it is the first return filed. The Committee, other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

CHAPTER-XVI

PROCEDURE FOR ASSESSMENT

A- Procedure for assessment

Clause 268– Inquiry before assessment

268.1 Provision proposed in the Income-Tax Bill, 2025:

268. (*1*) For the purpose of making an assessment under this Act, the Assessing Officer may serve on any person who has made a return under section 263 or in whose case the time allowed under section 263(*1*) for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(*a*) where such person has not made a return within the time allowed under section 263(*1*) or before the end of the financial year succeeding the relevant tax year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in such form and verified in such manner and setting forth such other particulars as prescribed;

(*b*) to produce, or cause to be produced, such accounts or documents as the Assessing Officer may require;

(*c*) to furnish in writing and verified in the manner as prescribed information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the Assessing Officer may require.

(*2*) For the purposes of sub-section (*1*),—

(*a*) the previous approval of the Joint Commissioner shall be obtained by the Assessing Officer before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(*b*) the Assessing Officer shall not require the production of any accounts relating to a period more than three years prior to therelavant tax year.

(*3*) A notice under sub-section (*1*)(*a*) may also be served by the prescribed income-tax authority.

(*4*) For the purposes of obtaining full information in respect of the income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

(*5*) If, at any stage of the proceedings before him, the Assessing Officer, having regard to—

(*a*) the nature and complexity of the accounts;

(*b*) volume of the accounts;

(*c*) doubts about the correctness of the accounts;

(*d*) multiplicity of transactions in the accounts; or

(*e*) specialised nature of business activity of the assessee,

and interests of the revenue,is of the opinion that it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, after giving the assessee a reasonable opportunity of being heard, direct him to get either or both of the following—

(*i*) to get the accounts audited by an accountant, and to furnish a report of such audit in the such form duly signed and verified by such accountant and setting forth such particulars, as prescribed, and such other particulars as the Assessing Officer may require;

(*ii*) to get the inventory valued by a cost accountant, and to furnish a report of such inventory valuation in the prescribed as duly signed and verified by such cost accountant and setting forth such particulars, as prescribed, and such other particulars as the Assessing Officer may require.

(*6*) The accountant or the cost accountant as referred to in sub-section (*5*) shall be nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner for the purposes of the said sub-section.

(*7*) The provisions of sub-section (*5*) shall have effect irrespective of whether or not accounts of the assessee have been audited under any other law in force or otherwise.

(*8*) Every report under sub-section (*5*) shall be furnished by the assessee to the Assessing Officer within such period as specified by the Assessing Officer.

(*9*) The Assessing Officer may, on his own motion, or on an application made in this behalf by the assessee and for any good and sufficient reason, subject to the provisions of sub-section (*10*), extend the period referred to in sub-section (*8*) by such further period or periods as he thinks fit.

(*10*) The aggregate of the period originally fixed under sub-section (*8*) and the period or periods so extended,as referred to in sub-section (*9*), shall not, in any case, exceed six months from the end of the month in which the direction under sub-section (*5*) is received by the assessee.

(*11*) The expenses ofany audit or inventory valuation under sub-section (*5*) (including incidental expenses and remuneration of the accountant or the cost accountant) shall be—

(*a*) determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as per such guidelines as prescribed; and

(*b*) paid by the Central Government.

(*12*) The assessee shall, except where the assessment is made under section 271, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (*4*), or any audit or inventory valuation under sub-section (*5*) and proposed to be utilised for the purposes of the assessment.

(*13*) In this section,"cost accountant" means a cost accountant as defined in section 2(*1*)(*b*) of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under section 6(*1*) of the said Act.

268.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Inquiry before assessment.

142. (1) For the purpose of making an assessment under this Act, the Assessing Officer may serve on any person who has made a return under section 115WD or section 139 or in whose case the time allowed under sub-section (1) of section 139 for furnishing the return has expired a notice requiring him, on a date to be therein specified,—

(*i*) where such person has not made a return within the time allowed under sub-section (1) of section 139 or before the end of the relevant assessment year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or :

Provided that where any notice has been served under this sub-section for the purposes of this clause after the end of the relevant assessment year commencing on or after the 1st day of April, 1990 to a person who has not made a return within the time allowed under sub-section (1) of section 139 or before the end of the relevant assessment year, any such notice issued to him shall be deemed to have been served in accordance with the provisions of this sub-section:

Provided further that a notice under this sub-section for the purposes of this clause may also be served by the prescribed income-tax authority,

(*ii*) to produce, or cause to be produced, such accounts or documents as the Assessing Officer may require, or

(*iii*) to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the

Assessing Officer may require :

Provided that—

(*a*) the previous approval of the Joint Commissioner shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(*b*) the Assessing Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(2) For the purpose of obtaining full information in respect of the income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

[93][(2A) If, at any stage of the proceedings before him, the Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, direct the assessee to get either or both of the following, namely:—

(*i*) to get the accounts audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed, and such other particulars as the Assessing Officer may require;

(*ii*) to get the inventory valued by a cost accountant, nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf and to furnish a report of such inventory valuation in the prescribed form duly signed and verified by such cost accountant and setting forth such particulars, as may be prescribed, and such other particulars as the Assessing Officer may require:

Provided that the Assessing Officer shall not direct the assessee to get the accounts so audited or inventory so valued unless the assessee has been given a reasonable opportunity of being heard.]

(2B) The provisions of sub-section (2A) shall have effect notwithstanding that the accounts of the assessee have been audited under any other law for the time being in force or otherwise.

(2C) Every report under sub-section (2A) shall be furnished by the assessee to the Assessing Officer within such period as may be specified by the Assessing Officer:

Provided that the Assessing Officer may, *suo motu,* or on an application made in this behalf by the assessee and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (2A) is received by the assessee.

(2D) The expenses of, and incidental to, any [94][audit or inventory valuation under sub-section (2A) (including the remuneration of the accountant or the cost accountant, as the case may be)] shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner (which determination shall be final) and paid by the assessee and in default of such payment, shall be recoverable from the assessee in the manner provided in Chapter XVII-D for the recovery of arrears of tax :

Provided that where any direction for audit [95-96][or inventory valuation] under sub-section (2A) is issued by the Assessing Officer on or after the 1st day of June, 2007, the expenses of, and incidental to, [97][such audit or inventory valuation (including the remuneration of the accountant or the cost accountant, as the case may be)] shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.

(3) The assessee shall, except where the assessment is made under section 144, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (2) or any audit [95-96][or inventory valuation] under sub-section (2A) and proposed to be utilised for the purposes of the assessment.

(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.

[95-96][*Explanation*.--For the purposes of this section, "cost accountant" means a cost accountant as defined in clause (*b*) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under sub-section (1) of section 6 of the said Act.]

268.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 268 of the Bill provides for inquiry before assessment. The clause corresponds to section 142 of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

268.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The phrase "---in such form---" may need to be revised to "---in the prescribed form---" in line with the terminology used under the Income-tax Act, 1961. As the Act presently prescribes the filing of specific Form No. 6B – Audit Report under Section 142(2A)(i).

ii. 'Cost Accountant' also needs to be added in the Clause 268(5).

268.5 Examination by the Committee:

268.5.1 The Ministry has replied as follows on the above suggestions:

i. There is a drafting correction. The phrase "---in such form---" should be revised to "---in the prescribed form---" The suggestion is acceptable.

ii. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

268.5.2 The Committee further sought written clarification from the Ministry stating that sub-clause (1) says, the Assessing Officer 'may' serve a notice and the rationale for 'may' instead of 'shall'. The Ministry replied as "There is no change in policy. Existing section of Income-tax Act, 1961 also uses the word "may"."

268.6 Observations/Recommendations of the Committee:

268.6.1 The Committee, upon examination of the Clause, note a drafting correction and therfore recommend to replace the phrase 'in the such form' with 'in the prescribed form' in sub-clause (5)(i) so as to bring more clarity in meaning and intent.

268.6.2 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification of the provisions in the existing Act and therefore accept the Clause as proposed.

Clause 269– Estimation of value of assets by Valuation Officer

269.1 Provision proposed in the Income-Tax Bill, 2025:

269. (*1*) The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including the fair market value, of any asset, property or investment and submit a copy of report to him.

(*2*) The Assessing Officer may make a reference to the Valuation Officer under sub-section (*1*) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

(*3*)(*a*) For estimating the value, including the fair market value, of the asset, property, or investment, the Valuation Officer or any engineer, overseer, surveyor, or assessor authorized by him, may, subject to any rules made in this regard and at such reasonable times, as prescribed,—

(*i*) enter any land within the limits of the area assigned to the Valuation Officer; or

(*ii*) enter any land, building, or other place belonging to or occupied by any person in connection with whose assessment a reference has been made to the Valuation Officer; or

(*iii*) inspect any asset, property, or investment in respect of which a reference has been made to the Valuation Officer.

(*b*) The Valuation Officer or any engineer, overseer, surveyor, or assessor, may require any person in charge of, or in occupation or possession of, such land, building, or other place or such asset, property, or investment to afford the necessary facility to:

(*i*) survey or inspect such land, building, or other place or such asset, property, or investment;

(*ii*) estimate its value; or

(*iii*) inspect any books of account, document, or record relevant for the valuation of such asset, property, or investment and gather other particulars relating to it.

(*c*) No Valuation Officer, engineer, overseer, surveyor, or assessor shall enter any land, building or place referred to in clause (*a*)(*ii*), or inspect any asset, property, or investment referred to in clause (*a*)(*iii*), except with the consent of the person in charge of, or in occupation or possession of, such land, building, place, or asset, property, or investment, without providing such person at least two days' notice in writing of their intention to do so.

(*d*) If a person who, under this sub-section, is required to afford any facility to the Valuation Officer or the engineer, overseer, surveyor, or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters,—

(*i*) discovery and inspection;

(*ii*) enforcing the attendance of any person, including any officer of a banking company, and examining him on oath;

(*iii*) compelling the production of books of account and other documents; and

(*iv*) issuing commissions.

(*4*) The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(*5*) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(*6*) The Valuation Officer shall send the report of the estimate made under sub-section (*4*) or (*5*), to the Assessing Officer and the assessee.

(*7*) With a view to rectifying any mistake apparent from the record, the Valuation Officer may amend any report made by him, as per section 287.

(*8*) The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

(*9*) The Valuation officer shall send the report referred to in sub-section (*6*) within six months from the end of the month in which the reference is made under sub-section (*1*).

(*10*) For the purposes of this Act,—

(*a*) the Central Government may appoint as many Valuation Officers, as necessary; and

(*b*) subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a Principal Chief Commissioner, or a Chief Commissioner, or a Principal Commissioner or a Commissioner may appoint as many engineers, overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.

269.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Estimation of value of assets by Valuation Officer.

142A. (1) The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit a copy of report to him.

(2) The Assessing Officer may make a reference to the Valuation Officer under sub-section (1) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

(3) The Valuation Officer, on a reference made under sub-section (1), shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (27 of 1957).

(4) The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(5) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(6) The Valuation Officer shall send a copy of the report of the estimate made under sub-section (4) or sub-section (5), as the case may be, to the Assessing Officer and the assessee, within a period of six months from the end of the month in which a reference is made under sub-section (1).

(7) The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

269.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 269 of the Bill provides for estimation of value of assets by Valuation Officer. The clause corresponds to section 142A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

269.4 Important Views/Suggestions given by Experts/Stakeholders:

i. It is suggested that the terms “asset”, “property” and “investment” be defined in the Bill. As the terms 'asset,' 'property,' and 'investment' are not defined in the

Bill, their usage may give rise to interpretational challenges. Defining 'asset' or adopting a more specific, comprehensive term would provide greater clarity and help mitigate potential litigation. The provisions of this section pertain to the estimation of the value of assets by the Valuation Officer, who has been authorised to determine the value, including the fair market value, of any asset, property, or investment. The term 'asset' is not defined in the Bill, although 'block of asset' is defined under Clause 2(17). Additionally, the terms 'property' and 'investment' are also not defined. As a result, references to 'asset,' 'property,' or 'investment' may give rise to litigation regarding the interpretation of these terms. Therefore, it is recommended that instead of referring to 'asset,' 'property,' or 'investment,' a specific term encompassing all types of assets be used, along with a clear definition of 'asset' to ensure legal clarity and prevent ambiguity.

ii. It is suggested that Clause 269(3) (a) be amended removing the phrase 'authorized by him' and refer to persons appointed by the Central Government, or by the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, or Commissioner under Clause 269(10), to ensure consistency in language and remove any ambiguity regarding the authority for such appointments. Clause 269(10), the Central Government is empowered to appoint Valuation Officers and the Principal Chief Commissioner, or a Chief Commissioner, or a Principal Commissioner or a Commissioner is empowered to appoint any engineer, overseer, surveyor or assessor. Therefore, it is appropriate that the Valuation Officer appointed by the Central Government and the other persons specified under Clause 269(3)(a) appointed by the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, or Commissioner under Clause 269(10) be referenced, to eliminate any potential inconsistency.

iii. The existing requirement of giving two days' prior notice under section 269(3)(c) before a Valuation Officer, engineer, overseer, surveyor, or assessor may enter any land, building, or place be reconsidered, as it is not a reasonable time. A minimum notice period of fifteen days may be prescribed to ensure adequate opportunity and procedural fairness to the assessee.

269.5 Examination by the Committee:

269.5.1 The Ministry furnished replies to the above suggestions as under:

i. The suggestion seeks to define the term that the terms "asset", "property" and "investment" in the Bill. As these phrases are used in different sections of the Bill, no single definition can provide the intended meaning applicable to all sections. Thus, suggestion is not feasible.

ii. The suggestion seeks to amend clause 269(3)(a) [registration of valuers]to clarify that engineer, overseer, surveyor, or assessor are appointed by Principal Chief Commissioner, or a Chief Commissioner, or a Principal

Commissioner or a Commissioner and not by the valuation officer. It is not accepted as existing clause 269(3)(a) of the Bill has been drafted in alignment with Rule 3C of Wealth tax Rules, 1957. The said rule has been reproduced below for ready reference.

"3C. The Valuation Officer or any overseer, surveyor or assessor authorised by him by order in writing in this behalf may enter any land referred to in clause (a), or any land, building or other place referred to in clause (b), of sub-section (1) of section 38A, or inspect any asset referred to in clause (c), of that sub-section, on any day, excluding Sundays and holidays under the Negotiable Instruments Act, 1881 (26 of 1881) at any time between 6 a.m. and 6p.m."

Clause 269(3)(a) deals with estimation of value of assets by Valuation Officer for which any engineer, overseer, surveyor, or assessor are authoised by the Valuation Officer.The suggestion seeks to amend the said clause for clarifying the appointment of such engineer, overseer, surveyor, or assessor.However, it is pertinent to mention that their appointment is done by Principal Chief Commissioner, or a Chief Commissioner, or a Principal Commissioner or a Commissioner, as mentioned in clause 269(10)(b).Thus, the amendment suggestion is already taken care of.

iii. The suggestion seeks to amend clause 269(3)(c) so as to provide at least 15 days' notice instead of 2 days' notice to the assessee before entering land, building or place. It is in nature of policy. This may have to be required to be examined in consultation with the valuation authorities.

269.5.2 Further, the Committee after referring to Clause 269(3)(a) mentioning about actions taken by "the Valuation Officer or any engineer, overseer, surveyor, or assessor authorized by him" and Clause 269(10) which specifies who appoints these persons i.e. Central Government may appoint Valuation Officers and a Principal Chief Commissioner or a Chief Commissioner or a Principal Commissioner or a Commissioner may appoint as many engineers, overseers, surveyors, and assessors as necessary to assist Valuation Officers, sought clarification from the Ministry regarding the requirement of explicitly referring to these appointing authorities in Clause 269(3)(a) and removing the phrase 'authorized by him'(Valuation Officer) from the sub-clause. The Ministry, during oral evidence, clarified as follows:

There is a Valuation Officer, namely, Departmental Valuation Officer (DVO). There has been a power given to him. When valuation is being referred to him, he can send engineers or assessors to value the property. Those engineer or assessors are from his staff. They are not the staff of the Income Tax

Department. The proposition was that they should also be appointed by the Income Tax Department. Sir, the DVOs themselves are of the level of Executive Engineers from Central Public Works Department. They have got their own setup, like we have our own Inspectors and TAs to work for us. That is why the power was given to DVOs to send their assessors or engineers or overseers for survey. .. The Department cannot go on this. We appoint DVOs. But we cannot go on appointing engineers, overseers and assessors.

269.5.3 Further, the Committee sought clarifications from the Ministry regarding tax on shares and on circle rate and the Ministry apprised the Committee as follows:

इमुवेबल प्रॉपर्टी ट्रांजैक्शंस में कैश कम्पोनेंट बहुत ज्यादा हुआ करता था। कोई लिमिट नहीं थी। स्टॉम्प ड्यूटी ऑफिसर कहता है कि यह प्रॉपर्टी 100 रुपए की है। उसने उस पर स्टाम्प ड्यूटी ले ली और आपस में 10 रुपए का एग्रीमेंट हो गया। वे कहते थे कि कैपीटल गेन या बिजनेस इनकम 10 रुपए पर लीजिए। एक एंटी-एब्यूज प्रोविजन लाया गया, जिसमें कहा गया कि स्टाम्प ड्यूटी वैल्यू जो होगी, वह कंसिड्रेशन होगा। अगर उससे नीचे कंसिड्रेशन है तो हम स्टाम्प ड्यूटी वैल्यू को कंसिड्रेशन पर लेंगे, लेकिन उसके साथ दो-तीन सेफ गाईस भी रखे गए। यह एब्सोल्यूट नहीं रखा गया।

सर, पहला सेफ गार्ड है कि अगर असेसी ने जो राज्य सरकार रजिस्ट्री का जो इवैल्यूएशन ऑफिसर है, उसके ही इवैल्यूएशन को चैलेंज किया हुआ है और वह माननीय कोर्ट में सक्सीड कर जाता है तो वह जब भी सक्सीड करे, हम अपना रिवाइज कर देंगे। मान लीजिए कि माननीय कोर्ट कहती है कि इसका स्टाम्प ड्यूटी वैल्यू 50 रुपए ही होना चाहिए तो हम 50 रुपए ही ले लेंगे। हमने रेक्टिफाई करने का पावर असेसिंग ऑफिसर को दे रखा है।

दूसरा, हमने कहा है कि अगर उसने स्टॉम्प ड्यूटी ऑफिसर को चैलेंज नहीं किया है, केवल हमारे यहां चैलेंज कर रहा है कि हमने जो 10 रुपए लिए हैं, यही 10 रुपए सही रेट है, 100 रुपए रेट नहीं है। उस केस में असेसिंग ऑफिसर बाउंड है कि वह उसको डिपार्टमेंट इवैल्यूएशन ऑफिसर को भेजेगा। फिर डिपार्टमेंट इवैल्यूएशन ऑफिसर कई तरह की इंक्वायरी करता है। वह पिछली कई रजिस्ट्रीज को देखता है, उस एरिया का अदर पैरामीटर्स देखता है, provides them sufficient opportunity to be heard. पुराने बिल में जो रिव्यू के पावर्स थे या उसके जो प्रोविजंस थे, वे हम वेल्थ टैक्स को रेफर करते थे। हम नए बिल में 269 क्लॉज लाए हैं, हम वेल्थ टैक्स के सारे प्रोविजंस को उठा कर यहां पर लाएं। इसको एक सेल्फ कंटेंट प्रोविजन बनाया है। इसमें पहले भी डीवीओ अपने इंजीनियर्स, असेसर्स, उसके कई सारे स्टाफ हैं, उनको भेजा करते थे। वे उनके बिहाफ पर काम करते थे। हम वही प्रोविजन यहां लेकर आए हैं। अगर डीवीओ भी डिसाइड करता है कि यह रेट कम है। मान लीजिए कि वह 10 रुपए रेट को 20 रुपए मानता है या 10 रुपए ही सही है, तो उसकी रिपोर्ट एओ पर बाइंडिंग होती है। फिर उसको मान लेता है, उसी हिसाब से असेसमेंट हो जाता है।

…..

सर, जब रजिस्ट्री होती है तो स्टाम्प ड्यूटी पे करना होता है। उसके लिए रजिस्ट्रार है, जो उसका प्राइस डिटरमीन करता है कि इसका इतना प्राइस होगा। सर, वह दोनों तरफ का प्राइस डिफरेंटली करेगा। वह एक तरफ का 50 हजार स्क्वायर फीट के हिसाब से लेगा और दूसरी तरफ का 15 हजार स्क्वायर फीट के हिसाब से लेगा।

सर, वह जो रेट लेगा, हम वही मान लेंगे। अगर उससे नीचे का ट्रांजैक्शन होता है, उसमें भी हमने 10 प्रतिशत का मार्जिन दिया हुआ है।"

……

सर, जहां तक शेयर में लॉस की बात है। अगर आपका वह स्टॉक इन ट्रेड है, तो आप उसकी साल के अंत में वैलुएशन करेंगे, market or cost price, which ever is lower. सर, अगर वह लोअर होगा तो आप लोअर ले लेंगे। हम आपके प्रॉफिट लॉस के एकाउंट को एक्सेप्ट करेंगे। एक ही डिफरेंस है कि अगर वह अनलिस्टेड शेयर है, तो उस केस में आईसीडीएस कहता है कि जो कॉस्ट है, वही माना जाएगा। आपको उसमें यह लॉस नहीं दिया जाएगा।

269.6 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 269 in line with the existing provisions therefore accept the Clause as proposed.

Clause 270– Assessment

270.1 Provision proposed in the Income-Tax Bill, 2025:

270. (*1*) Where a return has been made under section 263, or in response to a notice under section 268(*1*) such return shall be processed in the following manner:—

(*a*) the total income or loss shall be computed after making the adjustments towards the following:—

(*i*) any arithmetical error in the return;

(*ii*) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(*iii*) disallowance of loss claimed, if return of the tax year for which set off of loss is claimed was furnished beyond the due date specified under section 263(*1*);

(*iv*) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return; or

(*v*) disallowance of deduction claimed under section 144 or under any of the provisions of Chapter VIII if the return is furnished beyond the due date specified under section 263(*1*);

(*b*) the tax, interest and fee, if any, shall be computed on the basis of the total income computed under clause (*a*);

(*c*) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (*b*) by—

(*i*) any tax deducted at source;

(*ii*) any tax collected at source;

(*iii*) any advance tax paid;

(*iv*) any rebate or relief allowable under Chapter IX;

(*v*) any tax paid on self-assessment; and

(*vi*) any amount paid otherwise by way of tax, interest or fee;

(*d*) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or refund due to, the assessee under clause (*c*); and

(*e*) the amount of refund due to the assessee in pursuance of the determination under clause (*c*) shall be granted to the assessee.

(*2*) Before making any adjustment under sub-section (*1*)(*a*),—

(*a*) an intimation is to be given to the assessee of such adjustments either in writing or in electronic mode;

(*b*) the response received from the assessee in this regard, if any, shall be considered; and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

(*3*) For the purposes of sub-section (*1*), an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him.

(*4*) No intimation under sub-section (*1*) shall be sent after the expiry of nine months from the end of the financial year in which the return is made.

(*5*) For the purposes of sub-sections (*1*) to (*4*),—

(*a*) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such return;

(*ii*) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(*iii*) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(*b*) "the acknowledgement of the return" shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under sub-section(*1*)(*c*), and where no adjustment has been made under sub-section(*1*)(*a*).

(*6*) For the purposes of processing of returns under sub-section (*1*), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(*7*) The scheme made under sub-section (*6*) shall, as soon as may be laid before each House of Parliament.

(*8*) Where a return has been furnished under section 263 or in response to a notice under section 268(*1*), the Assessing Officer or the prescribed income-tax authority, if, considers it necessary or expedient to ensure that the assessee—

(*a*) has not understated the income;

(*b*) has not computed excessive loss;

(*c*) has not under-paid the tax in any manner,

shall serve on the assessee a notice requiring him, on a date to be specified therein,—

(*i*) either to attend the office of the Assessing Officer; or

(ii) to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

(*9*) No notice under sub-section (*8*) shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

(*10*) On the day specified in the notice issued under sub-section (*8*), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer, subject to the provisions of sub-sections (*11*) and (*13*), shall—

(*a*) by an order in writing, make an assessment of the total income or loss of the assessee; and

(*b*) determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(*11*) In the case of entities referred to in sub-section (*12*), which are required to furnish the return of income under section 263(*1*)(*a*)(*iv*), no order under sub-section (*10*) making an assessment of the total income or loss of any such entity shall be made by the Assessing Officer, without giving effect to the provisions of section 11, unless—

(*i*) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions mentioned in Schedule III (Table: Sl. No. 23, 24 or 25),by such entity, where in his view such contravention has taken place; and

(*ii*) the approval granted to such entity has been withdrawn or notification issued in respect of such entity has been rescinded.

(*12*) For the purposes of sub-section (*11*), the entities shall be—

(*a*) a research association referred to in Schedule III (Table: Sl. No. 23);

(*b*) an association or institution referred to in Schedule III (Table: Sl. No. 24);

(*c*) an institution referred to in Schedule III (Table: Sl. No. 25).

(*13*) In the case of a registered non-profit organisation, where the Assessing Officer is satisfied that any such entity has committed any specified violation as mentioned in section 351(*1*), he shall—

(*a*) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration; and

(*b*) no order making an assessment of the total income or loss of such registered non-profit organisation shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under section 351(*2*)(*ii*)(*A*) or (*B*).

(*14*) For the purposes of sub-section (*10*), where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in section 45(*3*)(*a*) (hereinafter referred to as "entity") are not being carried out in accordance with all or any of the conditions subject to which such entity was approved, then—

(*a*) he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned entity, recommend to the Central Government to withdraw the approval; and

(*b*)that Government may by order, withdraw the approval and forward a copy of the order to the concerned entity and the Assessing Officer.

(*15*) Where a regular assessment under sub-section (*10*) or section 271 is made,—

(*a*)any tax or interest paid by the assessee under sub-section (*1*) shall be considered to have been paid towards such regular assessment;

(*b*) if no refund is due on regular assessment or the amount refunded under sub-section (*1*) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be considered to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

270.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment.

143. (1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

(*a*) the total income or loss shall be computed after making the following adjustments, namely:—

(*i*) any arithmetical error in the return;

(*ii*) an incorrect claim, if such incorrect claim is apparent from any information in the return;

[98]**[***(*iia*) any such inconsistency in the return, with respect to the information in the return of any preceding previous year, as may be prescribed;***]**

(*iii*) disallowance of loss claimed, if return of the previous year for which set

off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;

(*iv*) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return;

(*v*) disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VI-A under the heading *"C.—Deductions in respect of certain incomes"*, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

(*vi*) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made:

Provided also that no adjustment shall be made under sub-clause (*vi*) in relation to a return furnished for the assessment year commencing on or after the 1st day of April, 2018;

(*b*) the tax , interest and fee, if any, shall be computed on the basis of the total income computed under clause (*a*);

(*c*) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (*b*) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under section 89, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;

(*d*) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due

to, the assessee under clause (*c*); and

(*e*) the amount of refund due to the assessee in pursuance of the determination under clause (*c*) shall be granted to the assessee:

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him:

Provided further that no intimation under this sub-section shall be sent after the expiry of nine months from the end of the financial year in which the return is made.

Explanation.—For the purposes of this sub-section,—

(*a*) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such return;

(*ii*) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(*iii*) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(*b*) the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (*c*), and where no adjustment has been made under clause (*a*).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2012.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(1D) Notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2):

Provided that the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017.

(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment:

Provided that in the case of a—

(*a*) research association referred to in clause (*21*) of section 10;

(*b*) news agency referred to in clause (*22B*) of section 10;

(*c*) association or institution referred to in clause (*23A*) of section 10;

(*d*) institution referred to in clause (*23B*) of section 10,

which is required to furnish the return of income under sub-section (4C) of section 139, no order making an assessment of the total income or loss of such research association, news agency, association or institution, shall be made by the Assessing Officer, without giving effect to the provisions of section 10, unless—

(*i*) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions of clause (*21*) or clause (*22B*) or clause (*23A*) or clause (*23B*), as the case may be, by such research association, news agency, association or institution, where in his view such contravention has taken place; and

(*ii*) the approval granted to such research association or other association or institution has been withdrawn or notification issued in respect of such news agency or association or institution has been rescinded:

Provided further that where the Assessing Officer is satisfied that any fund or institution referred to in sub-clause (*iv*) or trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*), of clause (*23C*) of section 10, or any trust or institution referred to in section 11, has committed any specified violation as defined in *Explanation 2* to the fifteenth proviso to clause (*23C*) of section 10 or the *Explanation* to sub-section (4) of section 12AB, as the case may be, he shall—

(*a*) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be; and

(*b*) no order making an assessment of the total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under clause (*ii*) or clause (*iii*) of the fifteenth proviso to clause (*23C*) of section 10 or clause (*ii*) or clause (*iii*) of sub-section (4) of section 12AB:

Provided also that where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in clause (*ii*) and clause (*iii*) of sub-section (1) of section 35 are not being carried out in accordance with all or any of the conditions subject to which such university, college or other institution was approved, he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned university, college or other institution, recommend to the Central Government to withdraw the approval and that Government may by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and the Assessing Officer.

(3A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the

assessee under sub-section (3) or section 144 so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based assessment with dynamic jurisdiction.

(3B) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2021.

(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(3D) Nothing contained in sub-section (3A) and sub-section (3B) shall apply to the assessment made under sub-section (3) or under section 144, as the case may be, on or after the 1st day of April, 2021.

(4) Where a regular assessment under sub-section (3) of this section or section 144 is made,—

(*a*) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment ;

(*b*) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(5) [*Omitted by the Finance Act, 1999, w.e.f. 1-6-1999.*]

270.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 270 of the Bill provides for assessment. The clause corresponds to section 143 of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Certain references which were redundant have been removed. The provisions of the section 143(1)(a) have been amended vide

Government Amendments to Finance Bill, 2025. The same has not been incorporated in the Income-tax Bill, 2025. Accordingly, amendment is to be made in clause 270 of the Bill to incorporate the changes of Government Amendments to Finance Bill.

270.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The responsibility of CPC should be restricted to processing of the return under Clause 270(1) only. Actions after the return processing, that includes rectification, processing of refund etc., should rests with Jurisdictional Assessing Officer (JAO). Government's larger thought process of Common identifier, Unified filing process, Single window IT system would be further strengthened with clarity in the process of handling Income tax file management for tax payers with JAO. Currently, there is no clarity on which activity will be performed by CPC vs JAO. The same is resulting in delayed addressing of grievance and taxpayers having to handle reply filing with CPC as well as with JAO.

ii. It is suggested to leverage technology to simplify the tax return filing and assessment process. The suggestion is that a “pre-filled return” containing the computation of total income and tax liability be provided to taxpayers. Specifically, the Income-tax Department’s e-filing portal could have a utility which, using the information available in the taxpayer’s Form 26AS (Annual Tax Credit Statement) and the Annual Information Statement (AIS), computes the total income and the corresponding tax liability of the assessee. This computed information would be pre-populated in the tax return form. In other words, based on the data already with the department (such as TDS, TCS, income and financial transaction information from various sources), a draft calculation of the taxpayer’s income and tax would be generated. The suggestion posits that such a pre-filled return, reflecting the computed income and tax, could be treated as the intimation under Clause 270 (analogous to Section 143(1)), thereby obviating the need for a separate intimation when there is no discrepancy. The goal of this recommendation is to simplify compliance: taxpayers could review the pre-filled computations, make any necessary corrections or additions (for data not available to the department), and file the return, after which the system’s computation would match the return, resulting in a seamless assessment with minimal manual intervention.

iii. The Clause 378 of the Bill (which provides for revision of orders by the higher tax authorities, analogous to Sections 264 of the present Act) does not clearly cover an intimation under Clause 270(1) within its scope. In other words, the Bill does not state whether the intimation resulting from the automated processing of a return can be treated as an order that the Competent Authority (Commissioner)

may revise on his own motion or on application by the assessee. This is essentially the continuation of the current ambiguity under the 1961 Act in the new Bill. The suggestion is that Clause 378 be amended to explicitly include the intimation under Clause 270(1) (equivalent to an intimation under Section 143(1)(a) of the existing Act) as an order eligible for revision. So that any errors or issues arising from the processing of the return (and the consequent intimation) that are not otherwise rectified could be corrected through the Commissioner's revisional jurisdiction. This suggestion aims to give taxpayers an additional layer of recourse: for instance, if an inadmissible adjustment is made in the intimation and not fixed via rectification, the assessee could seek revision under Clause 378. Conversely, if revenue finds that an intimation resulted in a tax calculation omission (to the detriment of revenue), the Commissioner could also invoke revision.

iv. Clause 270(1)(a) be specifically limited to addressing only arithmetical errors and prima facie incorrect claims. By restricting the scope of adjustments to clear mathematical inconsistencies and manifest errors, the possibility of disallowing legitimate exemptions and deductions can be significantly reduced.

v. Intimation under section 270(1)(a) to be issued after providing for an opportunity of being heard to the assessee.

vi. Existing disputes relating to Clause 143(1)(a) of the Income-tax Act, 1961 be permitted to be settled through arbitration. The adjustments listed out in sub clauses (i) to (v) of section 270(1)(a) are prima facie adjustments which are to be made in the course of computerized processing without any human interface. In other words, the software is designed to detect arithmetical inaccuracies and incorrect claims apparent from any information in the return and make appropriate adjustments in the computation of the total income. However, currently, in many cases, the adjustments made u/s 143(1)(a) of the Income-tax Act, 1961 go beyond the sub-clauses (i) to (v) listed therein. For example, in many cases, claim of foreign tax credit (FTC) for taxes paid in a country with which India has a DTAA is denied while processing returns under this section, even if the assessee has duly uploaded Form No.67 verified by him. This defeats the purpose of allowing double taxation relief. The automatic disallowance of genuine claims during the initial processing stage, often without proper verification, leads to unintended consequences, including increased litigation and taxpayer grievances. Also, there are cases where the response filed by the assessee in relation to the adjustment is not considered nor any response is provided for not accepting the assessee's stand.

vii. In proposed Clause 270(1)(a)(v), it is provided not to allow deduction under chapter VIII, if return is filed after the due date. It is neither the present law nor the intention of the revision. Presently, it is restricted to heading C-Deductions in

respect of certain incomes. Hence, the proposed section be modified to restrict the same only to heading C of Chapter VIII. The modified section should read as under:(v) disallowance of deduction claimed under Clause 144 or under any of the provisions of Chapter VIII under the heading C – Deductions in respect of certain income if the return is furnished beyond the due date specified under Clause 263(1).

viii. Introduce a system of prior intimation and offer virtual hearings before making any adjustments to returns.

ix. Assign qualified experts to evaluate taxpayer responses to CPC communications.

x. Address and rectify software-related issues in the Income Tax Return (ITR) utility and CPC processing systems.

xi. Restrict CPC adjustments strictly to errors that are apparent from the record, in line with the mandate of section 143(1).

xii. Establish clear accountability within the Central Board of Direct Taxes (CBDT), specifically the Directorates of Taxpayer Services and Systems, as well as the Directorate General of Income Tax (Systems).

xiii. Conduct targeted outreach programmes to identify and resolve issues faced in e-processing of returns.

270.5 Examination by the Committee:

270.5.1 To the above suggestions, the Ministry has responded as follows:

i. The suggestion seeks to provide that CPC should be restricted to processing of the return under Clause 270(1) only and actions after the return processing, that includes rectification, processing of refund etc., should rests with JAO. The suggestion is of administrative nature and outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The CPC makes adjustments as per clause 270(1) only.

The CPC has been mandated to transfer the rectification rights to the JAO on request. Issue of refunds out of the processing made by CPC is required to be the responsibility of CPC. Less than 1% of refunds are not released due to various issues such as PAN-Aadhar linking, withholding in certain cases, non availability of validated bank accounts of the assessee with the CPC. In the rare instances where it is not possible for CPC to issue the refund, Department has already issued necessary Instructions to the JAO to consider issuing refund cheques, after taking appropriate approvals of the CCIT/ DGIT concerned.

There is absolute clarity about the functions of CPC and JAO. Having all the rectifications at the end of AOs can make the AOs workload unmanageable. The Department has embraced the computerisation and automation, bringing in excellent tax payer services. Since the Department has taken these initiatives of computerisation, the number of tax payers filing the returns of income has grown from 3.10 crores in the FY 2013-14 to 9.19 crore in the FY 2024-25. The number of returns processed, and the refunds issued by the CPC is thus hugely disproportionate to what was being handled by the Department in the pre computerisation era. Thus, any shift from the CPC to AO has the effect of increasing the workload of the AOs also disproportionately, and thus cannot be done now.

CPC is taking up the rectifications, where ever sought for in a time bound manner, as per tax payer charter. A separate system is also put in place for the assessees on the Efiling portal, to reach out to the AOs seeking rectification, in appropriate cases. The AOs themselves have the freedom of taking the return and the processed results from CPC to carry out rectifications, on a case-to-case basis.

ii. There is no change in the policy or the intent and the suggestion does not require any changes to the bill. The pre-filled data in ITR forms (like TDS amounts, interest and dividend incomes, etc.) is being provided to the taxpayers. However, not all information necessary for a full computation of taxable income can be populated from centralized databases like Form 26AS or AIS. However, to the extent possible pre-filling is done for assistance in filing of their ITRs. Thus, suggestion has already been provided for.

iii. Intimation under clause 270(1) is already appealable before JC(Appeals) as well as CIT(Appeals). There is no bar on CIT exercising his jurisdiction under clause 378 for revision of intimation under clause 270(1). The same would be clarified by administrative instructions. The suggestion is acceptable. [The Explanation to section 143 prior to 1.6.1999 provided that an intimation sent to the assessee under sub-section (1) or sub section (1B) shall be deemed to be an order for the purposes of section 246 and 264 of IT Act 1961 and w.e.f 1.6.1999 the said explanation has been omitted from IT Act 1961. After the removal of said explanation to section 143 w.e.f 16.1999, there is an ambiguity whether an intimation under sub section (1) of section 143 of IT Act 1961 can be revised under section 264 of IT Act 1961.] Thus, suggestion is acceptable.

iv. The suggestion seeks to restrict the scope of clause 270(1)(a) corresponding to section 143(1)(a) of the Act by limiting scope of adjustments to mathematical

inconsistencies and manifest errors only. It is in the nature of policy change. Last year MAT c/f and loss c/f has to be the same as this year MAT/ loss B/f. This is a recent change by FA 2025. Also, there are certain disallowances which are based on obvious errors or violations (loss return not filed in time for earlier year). These have to be provided for. These are anti-abuse provisions and are required to be retained. Thus, suggestion is not feasible.

v. The suggestion seeks to provide that Intimation under section 270(1)(a) to be issued after providing for an opportunity of being heard to the assessee. As per clause 270(1)(a) an intimation is provided to the assessee before any adjustment. Thus, the suggestion is already addressed.

vi. The suggestion seeks that existing disputes relating to section 143(1)(a) of the Income-Tax Act, 1961 be permitted to be settled through arbitration. It is in the nature of policy change. The present Bill and Act provides for facility of rectification, appellate proceedings before JC(Appeals)/CIT(Appeals) and revision power by PCIT. Even DRC is for dispute resolution upto 10 lacs. Thus, there is no need to introduce arbitration for such cases. Thus, it is not feasible.

vii. The suggestion seeks to amend the clause 270(1)(a)(v) to provide correct reference of chapter VIII-C. The suggestion is in nature of drafting correction and is acceptable.

viii. Prior intimation and virtual hearings before making adjustments This concern is already addressed under clause 270(2) of the Income-tax Bill, which mandates that before making any adjustment under sub-clause (1)(a): An inma on is required to be given to the assessee, either in writing or electronically; The assessee's response, if any, must be duly considered; In cases where no response is received within thirty days, the adjustment may be carried out. Thus, the mechanism for prior intimation and consideration of taxpayer response is already in place. In relation to request for virtual hearings, it may be noted that CPC operates under a fully automated and rule-based framework designed to carry out prima facie adjustments under section 143(1) [or clause 270 of the Income-tax Bill]. These adjustments are strictly limited to apparent and objective errors such as arithmetical mistakes, incorrect claims, or mismatches with information available in the return or third party databases (e.g., Form 26AS, AIS). Since the CPC does not undertake subjective assessments or legal interpretation, but only makes rule-based, prima facie adjustments, virtual hearings are not required. Moreover, given the high volume of cases and the typically low quantum of adjustments, introducing virtual hearings would be impractical and cause significant delays.

ix. Assignment of qualified experts to evaluate taxpayer responses Trained officers are designated to examine and process responses received from taxpayers. Thus, such a system is already in place.

x. Rectification of software-related issues in ITR utility and CPC processing Issues related to the ITR utility and CPC processing systems are addressed as and when they arise. There is no legislative intervention required for it.

xi. Limiting CPC adjustments to errors apparent from the record This is aligned with the current framework. The scope of adjustments is already confined to what is apparent from the record, as reflected in clause 270 of the Income-tax Bill (corresponding to existing section 143(1)).

xii. Fixing accountability within CBDT and related Directorates Accountability structures are already established within the CPC operations and oversight.

xiii. Conducting outreach programmes to address e-processing issues Outreach and awareness initiatives are being actively undertaken to gather feedback and address challenges faced by taxpayers in the e-processing of returns. Thus, no changes are required to the bill owing to the suggestions given. The suggestions are administrative in nature.

270.5.2 While deliberating on the matter of pre-filled returns, the Ministry apprised the Committee as follows:

प्री-फील्ड रिटर्न्स टू दि एक्सटेंट फिजिबल दे भी रहे हैं/ But that also depends on the type of information that we have and whether from that information we can derive the probable income from the person. So, the information that we get is either from the TDS or basically from the third parties.

टीडीएस की जहां तक बात है, उसके अलग-अलग कम्पोनेंट्स हैं जैसे सैलरी को लें/ The entire salary that is being reported gets pre-populated because in that income element there is a serious salary. But suppose it is contract. It is contract TDS. Then, it would depend on whether the person is maintaining the books of accounts, what is the profit being derived out of it. Their attributing income and pre-filling it would become a challenge and it will create more confusion.

So, our submission is that to the extent feasible, we are pre-filling the returns based on the information we have. Then we are providing that flexibility to the taxpayer to fill up the other columns in the returns.

270.5.3 When the Committee with the intention of reconciliation of the data and in solving of the problems, sought clarification regarding merging of two centres in Vaishali and Bengaluru and having them at one location, the Ministry stated as follows:

Sir, it is not a question of these two centres because ultimately data is not residing in these centres. The data centre is at a separate location, which is a state-of-the-art data centre. Two teams are actually sitting at different places. But the data is residing somewhere else. Both of them are under the same directorate of system.

…….

Sir, one appreciates the pain that the taxpayer goes through once reconciliation does not happen in a particular case. But if I may say, the percentage of cases where this thing is there, where intervention is required, that is as a percentage.

270.5.4 Further, during the deliberations, the Committee sought information regarding time limit to rectify CPC order, percentage of returns requiring rectification, etc. The Ministry furnished replies as under:

i. *As per the provisions of Sec. 154 of the Income-Tax Act 1961, the tax payer has an option to file a rectification application within 4 years from the end of the financial year in which the order sought to be rectified is passed and the order on the rectification application has to be passed within six months from the end of the month in which the application for rectification is filed.*

ii. *0.5% of returns processed by CPC needs rectification.*

iii. *CPC-TDS returns filing and rectification is driven by deductor. Data in respect of the aforementioned query is as follows:*

Financial Year	***Original Statement Filed (in lakh)***	***Correction Statement Filed (in lakh)***	***% Correction in respect of original statemen***
2022-2023	*82.14*	*44.7*	*54.42%*
2023-2024	*86.38*	*47.15*	*54.58%*
2024-2025	*92.42*	*55.7*	*60.27%*

iv. *Approx. 6% of cases require reconciliation of the data between CPC Bengaluru and CPC TDS.*

270.6 Observations/Recommendations of the Committee:

270.6.1 The Committee observe that the proposed Clause 270(1)(a)(v) stipulates a broad disallowance of deduction under Chapter VIII if the return is furnished beyond the due date. However, the existing Income-Tax Act, 1961, does not have such a blanket disallowance for the entire Chapter VIII instead such a restriction was limited to deductions claimed under under Heading C – "Deductions in respect of certain incomes" within Chapter VIII. Therefore, to align the provision with the current law, the Committee recommend that Clause 270(1)(a)(v) be modified to restrict the disallowance only to deductions under Heading C of Chapter VIII.

270.6.2 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification with retention of the intent and accept the Clause as proposed.

Clause 271– Best judgment assessment

271.1 Provision proposed in the Income-Tax Bill, 2025:

271.(*1*) If any person—

(*a*)fails to make the return required under sub-section 263(1) and has not made a return or a revised return under section 263(4) or (5) or an updated return under section 263(*6*);

(*b*) fails to comply with all the terms of a notice issued under section 268(*1*) or fails to comply with a direction issued under section 268(*5*);

(*c*)having made a return, fails to comply with all the terms of a notice issued under sub-section 270(*8*),

the Assessing Officer, after taking into account all relevant materials which he has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

(*2*) The Assessing Officer before making an assessment under sub-section (*1*) shall, subject to the provisions of sub-section (*3*), serve a notice on the assessee to show cause, on a date and time to be specified in the notice, as to why assessment should not be completed to the best of his judgment.

(*3*) It shall not be necessary to give the opportunity referred to in sub-section (*2*) in a case where a notice under section 268(*1*) has been issued prior to the making of an assessment under this section.

271.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Best judgment assessment.

144. (1) If any person—

(*a*) fails to make the return required under sub-section (1) of section 139 and has not made a return or a revised return under sub-section (4) or sub-section (5) or an updated return under sub-section (8A) of that section, or

(*b*) fails to comply with all the terms of a notice issued under sub-section (1) of section 142 or fails to comply with a direction issued under sub-section (2A) of that section, or

(*c*) having made a return, fails to comply with all the terms of a notice issued under

sub-section (2) of section 143,

the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment :

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment :

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section.

(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.

271.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 271 of the Bill provides for best judgement assessment. The clause corresponds to section 144 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

271.4 Observations/Recommendations of the Committee:

The Committee, upon examination of the justification provided by the Ministry, find the provisions of the Clause 271 to be in line with the existing provisions of the 1961 Act. The Committee note that the Clause is mere textual simplification with retention of the same intent and therefore accept the Clause as it stands.

Clause 272– Power of Joint Commissioner to issue directions in certain cases

272.1 Provision proposed in the Income-Tax Bill, 2025:

272. (*1*) A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may—

(*a*) issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment; and

(*b*)such directions shall be binding on the Assessing Officer.

(*2*) No directions which are prejudicial to the assessee shall be issued under sub-section (*1*) without giving an opportunity of being heard to the assessee.

(*3*) For the purposes of this section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

272.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Power of Joint Commissioner to issue directions in certain cases.

144A. A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment and such directions shall be binding on the Assessing Officer :

Provided that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this section no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

272.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 272 of the Bill provides for power of Joint Commissioner to issue directions in certain cases. The clause corresponds to section 144A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

272.4 Important Views/Suggestions given by Experts/Stakeholders:

A time limit of 45 days be provided to issue of directions. If the directions are not issued within 45 days, the assessment proceedings be suspended. No extension of time for completion of assessment proceedings be provided. If such reference is made by the assesse within 45 days of the due date for completion of assessment, then the due date will be extended accordingly. However, extension shall not exceed 45 days. However, if such reference is made by the assessing Officer or is taken up by the Joint Commissioner on his own motion, no extension of time for completion of assessment be allowable There is a tendency of delaying the issue of directions to the assessing officer, particularly if directions will go in favor of the assesse. This tendency needs to be curbed in interest of reducing litigation and in larger public interest.

272.5 Examination by the Committee:

272.5.1 To the above suggestion by the stakeholder, the Ministry submitted as under:

> *The suggestion seeks to provide for a time limit of 45 days be provided to issue of directions under clause 272 by JCIT. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Revenue has suffered considerable litigation where internal timelines were specified for separate parts of a process. A consolidated timeline for disposal works best for decreasing litigation and administrative efficiency. Thus, the suggestion is not feasible.*

272.5.2 Further, during oral evidence, the Ministry added as under:

> *During 2021 to 2024, the revenue was stuck in courts on account of litigation for providing internal timelines within a broad timeline.*
>
> *…The Additional Commissioner is required to either reject the application of the assessee or pass on some relevant directions to the assessing officer. So, he is duty-bound to act on it.*
>
> *Sir, overall assessment period is fixed. It has to be completed within that time. There are two options. If the Joint Commissioner is agreeing with the demand of the assessee, he will pass the order himself. But, if he wants to reject it or pass the order against him then he is also bound to provide him opportunity. Then, he gives a direction to the assessing officer which is binding on the assessing officer.*
>
> *Sir, I would just slightly add on that. After the faceless regime came into picture, usage of Section 144 (a) has drastically reduced. It is because only in the non-faceless regime, this is somewhat applicable. Otherwise, it is not applicable. There we have assessment units only.*

272.5.3 In a post-evidence reply, on a specific question of the Committee about the details of how much revenue raised but not realized, the Ministry in their written reply submitted as follows:

Assessment proceedings are conducted to assess the income of the assessee which has not been disclosed in the ITR or which has been suppressed through claim of ineligible claim of expenses/deductions. It is important to underline here that income may not necessarily manifest in asset. For instance, additions made due to unexplained expenditure, accommodation entries / hawala transactions, cash credits, disallowances of incorrect deductions or expenditure, are not necessarily reflected in assets.

In many cases, assessment proceedings are also required to be completed in the case of pass through/shell entities with respect to the transactions entered through it. The credits in the books of these entities are not explained. The income might be diverted or passed on through complex arrangement to beneficiaries who may not be readily traceable. Thus, the income assessed in the hands of such entities may not necessarily mean possession of assets. Therefore, assessment is made based on the deeming provisions of the Act and demand is raised. As these entities do not have substantial assets, the demand raised becomes difficult to recover.

Similarly, demand raised in the case of entities which are under the process of liquidation/insolvency also remain un-recovered due to lack of assets or moratoriums imposed under IBC 2016.

Assessment orders raising the demand can be appealed against before the prescribed appellate authorities and substantial demand remains unrecovered during the pendency of such appeals.

The total demand in FY 2023-24 which has been identified as difficult to recover as per latest data is Rs. 28.95 lac crores. This could be broadly categorised under the following heads:-

•Company in Liquidation/ under IBC-2016 (Rs. 2.49 lac crores)
•No Assets or inadequate assets for recovery (Rs. 9.07 lac crores)
•Assessee not traceable (Rs. 6.05 lac crores):
•Demand Stayed by Courts/ITAT or IT Authorities (Rs. 4.67 lac crores)
•Assets jointly attached along with other enforcement agencies (Rs. 4.13 lac crores)

272.6 Observations/Recommendations of the Committee:

The Committee, upon detailed deliberations of the provisions of the Clause along with justifications provided by the Ministry, find the provisions of the Clause 272 to be mere textual simplification and corresponding to the existing provisions of the 1961 Act. The Committee, therefore, accept the Clause in entirety.

Clause 273– Faceless Assessment

273.1 Provision proposed in the Income-Tax Bill, 2025:

273.(*1*) Irrespective of anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under section 270(*10*) or 271 or 279, as the case may be, with respect to the cases referred to in sub-section (*2*), shall be made in a faceless manner as per such procedure, as prescribed in this behalf.

(*2*) The faceless assessment under sub-section (*1*) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as specified by the Board.

(*3*) The Board may, for the purposes of faceless assessment, set up the following Centre and Units and specify their functions and jurisdiction:—

(*a*) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner including assigning the case selected for the purposes of faceless assessment under this section to a specific assessment unit, intimating the assessee that assessment in his case shall be completed in faceless manner, serving a notice to the assessee under section 268(*1*) or 270(*8*), and forwarding any response of the assessee to the assessment unit;

(*b*) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes analysis of the material furnished by the assessee or any other person, identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, determination of any variation prejudicial to the assessee, and such other functions as may be required for the purposes of making faceless assessment;

(*c*) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification;

(*d*) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 159, which may be required in a particular case or a class of cases, under this section;

(*e*) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of any variation proposed by the assessment unit (wherever it is so considered necessary by the National Faceless Assessment Centre), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review.

(*4*) In accordance with the procedure as prescribed under sub-section (*1*),—

(*a*) the verification unit, the technical unit and the review unit shall facilitate the conduct of faceless assessment; and

(*b*) the assessment unit shall—

(*i*) make the assessment of the total income or loss, by an order in writing after taking into account all relevant material which it has gathered and after giving the assessee an opportunity of being heard; and

(*ii*)determine the sum payable by the assessee or refund of any amount due to him on the basis of such assessment.

(*5*) For the purposes of this section, the terms “assessment unit”, “verification unit”, “technical unit” and “review unit” shall refer to an Assessing Officer having powers so assigned by the Board.

(*6*) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities:—

(*a*) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(*b*) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(*c*) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

(*7*) All communications, save as otherwise provided in sub-section (*8*),—

(*a*)among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;

(*b*)between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

(*c*)between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode.

(*8*)The provisions of sub-section (*7*) shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as specified by the Board in this behalf.

(*9*) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, as per the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of section 268(*5*) may be invoked in the case,—

(*a*) forward any reference received from an assessment unit in this regard to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly;

(*b*)transfer the case to the Assessing Officer having jurisdiction over such case as per sub-section (*12*).

(*10*) Where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-section (*9*)(*a*), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of section 268(*5*).

(*11*) Where a reference has not been forwarded as per sub-section (*9*)(*a*) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, the assessment unit shall proceed to complete the assessment as per the procedure laid down in this section.

(*12*) Irrespective of anything contained in sub-section (*1*) or (*2*), the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(*13*) In this section,—

(*a*) “designated portal” means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;

(*b*) “faceless assessment” means the assessment proceedings conducted electronically in 'e-Proceeding' facility through registered account of the assessee in designated portal; and.

(*c*) “registered account” of the assessee means the electronic filing account registered by the assessee in designated portal.

273.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Faceless Assessment.

144B. (1) Notwithstanding anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under sub-section (3) of section 143 or under section 144 or under section 147, as the case may be, with respect to the cases referred to in sub-section (2), shall be made in a faceless manner as per the following procedure, namely:—

(*i*) the National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit through an automated allocation system;

(*ii*) the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section;

(*iii*) a notice shall be served on the assessee, through the National Faceless Assessment Centre, under sub-section (2) of section 143 or under sub-section (1) of section 142 and the assessee may file his response to such notice within the date specified therein, to the National Faceless Assessment Centre which shall forward the same to the assessment unit;

(*iv*) where a case is assigned to the assessment unit, under clause (*i*), it may make a request through the National Faceless Assessment Centre for—

(*a*) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;

(*b*) conducting of enquiry or verification by verification unit;

(*c*) seeking technical assistance in respect of determination of arm's length price, valuation of property, withdrawal of registration, approval, exemption or any other technical matter by referring to the technical unit;

(*v*) where a request under sub-clause (*a*) of clause (*iv*) has been initiated by the assessment unit, the National Faceless Assessment Centre shall serve appropriate notice or requisition on the assessee or any other person for obtaining the information, documents or evidence requisitioned by the

assessment unit and the assessee or any other person, as the case may be, shall file his response to such notice within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National Faceless Assessment Centre which shall forward the reply to the assessment unit;

(*vi*) where a request,—

(*a*) for conducting of enquiry or verification by the verification unit has been made by the assessment unit under sub-clause (*b*) of clause (*iv*), the request shall be assigned by the National Faceless Assessment Centre to a verification unit through an automated allocation system; or

(*b*) for reference to the technical unit has been made by the assessment unit under sub-clause (*c*) of clause (*iv*), the request shall be assigned by the National Faceless Assessment Centre to a technical unit through an automated allocation system;

(*vii*) the National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, as the case may be, based on the request referred to in clause (*vi*) to the concerned assessment unit;

(*viii*) where the assessee fails to comply with the notice served under clause (*v*) or notice issued under sub-section (1) of section 142 or the terms of notice issued under sub-section (2) of section 143, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(*ix*) the assessment unit shall serve upon such assessee, as referred to in clause (*viii*), a notice, through the National Faceless Assessment Centre, under section 144, giving him an opportunity to show-cause on a date and time as specified in such notice as to why the assessment in his case should not be completed to the best of its judgment;

(*x*) the assessee shall, within the time specified in the notice referred to in clause (*ix*) or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre which shall forward the same to the assessment unit;

(*xi*) where the assessee fails to file response to the notice served under clause (*ix*) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(*xii*) the assessment unit shall, after taking into account all the relevant material available on the record, prepare, in writing,—

(*a*) an income or loss determination proposal, where no variation prejudicial to assessee is proposed and send a copy of such income or loss determination proposal to the National Faceless Assessment Centre; or

(*b*) in any other case, a show cause notice stating the variations prejudicial to the interest of assessee proposed to be made to the income of the assessee and calling upon him to submit as to why the proposed variation should not be made and serve such show cause notice, on the assessee, through the National Faceless Assessment Centre;

(*xiii*) the assessee shall file his reply to the show cause notice served under sub-clause (*b*) of clause (*xii*) on a date and time as specified therein or such time as may be extended on the basis of an application made in this regard, to the National Faceless Assessment Centre, which shall forward the reply to the assessment unit;

(*xiv*) where the assessee fails to file response to the notice served under sub-clause (*b*) of clause (*xii*) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(*xv*) the assessment unit shall, after considering the response received under clause (*xiii*) or after receipt of intimation under clause (*xiv*), as the case may be, and taking into account all relevant material available on record, prepare an income or loss determination proposal and send the same to the National Faceless Assessment Centre;

(*xvi*) upon receipt of the income or loss determination proposal, as referred to in sub-clause (*a*) of clause (*xii*) or clause (*xv*), as the case may be, the National Faceless Assessment Centre may, on the basis of guidelines issued by the Board,—

(*a*) convey to the assessment unit to prepare draft order in accordance with the income or loss determination proposal, which shall thereafter prepare a draft order; or

(*b*) assign the income or loss determination proposal to a review unit through an automated allocation system, for conducting review of such proposal;

(*xvii*) the review unit shall conduct review of the income or loss determination proposal assigned to it by the National Faceless Assessment Centre, under sub-clause (*b*) of clause (*xvi*), whereupon it shall prepare a review report and send the same to the National Faceless Assessment Centre;

(*xviii*) the National Faceless Assessment Centre shall, upon receiving the review report under clause (*xvii*), forward the same to the assessment unit which had proposed the income or loss determination proposal;

(*xix*) the assessment unit shall, after considering such review report, accept or reject some or all of the modifications proposed therein and after recording reasons in

case of rejection of such modifications, prepare a draft order;

(*xx*) the assessment unit shall send such draft order prepared under sub-clause (*a*) of clause (*xvi*) or under clause (*xix*) to the National Faceless Assessment Centre;

(*xxi*) in case of an eligible assessee, where there is a proposal to make any variation which is prejudicial to the interest of such assessee, as mentioned in sub-section (1) under section 144C, the National Faceless Assessment Centre shall serve the draft order referred to in clause (*xx*) on the assessee;

(*xxii*) in any case other than that referred to in clause (*xxi*), the National Faceless Assessment Centre shall convey to the assessment unit to pass the final assessment order in accordance with such draft order, which shall thereafter pass the final assessment order and initiate penalty proceedings, if any, and send it to the National Faceless Assessment Centre;

(*xxiii*) upon receiving the final assessment order as per clause (*xxii*), the National Faceless Assessment Centre shall serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(*xxiv*) where a draft order is served on the assessee as referred to in clause (*xxi*), such assessee shall,—

(*a*) file his acceptance of the variations proposed in such draft order to the National Faceless Assessment Centre; or

(*b*) file his objections, if any, to such variations, with—

(*I*) the Dispute Resolution Panel, and

(*II*) the National Faceless Assessment Centre,

within the period specified in sub-section (2) of section 144C;

(*xxv*) the National Faceless Assessment Centre shall,—

(*a*) upon receipt of acceptance from the eligible assessee; or

(*b*) if no objections are received from the eligible assessee, within the period specified in sub-section (2) of section 144C,

intimate the assessment unit to complete the assessment on the basis of the draft order;

(*xxvi*) the assessment unit shall, upon receipt of intimation under clause (*xxv*), pass the assessment order, in accordance with the relevant draft order, within the time allowed under sub-section (4) of section 144C and initiate penalty proceedings, if any, and send the order to the National Faceless Assessment Centre;

(*xxvii*) where the eligible assessee files objections with the Dispute Resolution Panel, under sub-clause (*b*) of clause (*xxiv*), the National Faceless Assessment Centre shall send such intimation along with a copy of objections filed to the assessment unit;

(*xxviii*) the National Faceless Assessment Centre shall, in a case referred to in clause (*xxvii*), upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, forward such directions to the assessment unit;

(*xxix*) the assessment unit shall, in conformity with the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, complete the assessment within the time allowed in sub-section (13) of section 144C and initiate penalty proceedings, if any, and send a copy of the assessment order to the National Faceless Assessment Centre;

(*xxx*) the National Faceless Assessment Centre shall, upon receipt of the assessment order referred to in clause (*xxvi*) or clause (*xxix*), as the case may be, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or the amount of refund due to, the assessee on the basis of such assessment;

(*xxxi*) the National Faceless Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the provisions of this Act;

(*xxxii*) if at any stage of the proceedings before it, the assessment unit having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary to do so, it may, upon recording its reasons in writing, refer the case to the National Faceless Assessment Centre stating that the provisions of sub-section (2A) of section 142 may be invoked and such case shall be dealt with in accordance with the provisions of sub-section (7).

(2) The faceless assessment under sub-section (1) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

(3) The Board may, for the purposes of faceless assessment, set up the following Centre and units and specify their functions and jurisdiction, namely:—

(*i*) a National Faceless Assessment Centre to facilitate the conduct of faceless

assessment proceedings in a centralised manner;

(*ii*) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment, and the term "assessment unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;

(*iii*) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification and the term "verification unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board:

Provided that the function of verification unit under this section may also be performed by a verification unit located in any other faceless centre set up under the provisions of this Act or under any scheme notified under the provisions of this Act; and the request for verification may also be assigned through the National Faceless Assessment Centre to such verification unit;

(*iv*) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 90 or 90A, which may be required in a particular case or a class of cases, under this section and the term "technical unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;

(*v*) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the income determination proposal assigned under sub-clause (*b*) of clause (*xvi*) of sub-section (1), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review and the term "review unit", wherever used in this section, shall refer to an Assessing Officer having

powers so assigned by the Board.

(4) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities, namely:—

(*i*) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(*ii*) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(*iii*) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

(5) All communications,—

(*i*) among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;

(*ii*) between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

(*iii*) between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode:

Provided that the provisions of this sub-section shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as may be specified by the Board in this behalf.

(6) For the purposes of faceless assessment—

(*i*) an electronic record shall be authenticated by—

(*a*) the National Faceless Assessment Centre by way of an electronic communication;

(*b*) the assessment unit or verification unit or technical unit or review unit, as the case may be, by affixing digital signature;

(*c*) assessee or any other person, by affixing his digital signature or under electronic verification code, or by logging into his registered account in the designated portal;

(*ii*) every notice or order or any other electronic communication shall be delivered to the addressee, being the assessee, by way of—

(*a*) placing an authenticated copy thereof in the registered account of the assessee; or

(*b*) sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or

(*c*) uploading an authenticated copy on the Mobile App of the assessee,

and followed by a real time alert;

(*iii*) every notice or order or any other electronic communication shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert;

(*iv*) the assessee shall file his response to any notice or order or any other electronic communication, through his registered account, and once an acknowledgement is sent by the National Faceless Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;

(*v*) the time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000);

(*vi*) a person shall not be required to appear either personally or through authorised representative in connection with any proceedings before any unit set up under this section;

(*vii*) in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per such income or loss determination proposal, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit;

(*viii*) where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Assessment Centre, which shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;

(*ix*) subject to the proviso to sub-section (5), any examination or recording of the statement of the assessee or any other person (other than the statement recorded in the course of survey under section 133A) shall be conducted by an income-tax authority in the relevant unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software

which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;

(*x*) the Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end;

(*xi*) the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Assessment Centre and the units set up, in an automated and mechanised environment.

(7) (*a*) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, in accordance with the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of sub-section (2A) of section 142 may be invoked in the case,—

(*i*) forward the reference received from an assessment unit under clause (*xxxii*) of sub-section (1) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accor-dingly;

(*ii*) transfer the case to the Assessing Officer having jurisdiction over such case in accordance with sub-section (8);

(*b*) where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-clause (*i*) of clause (*a*), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of sub-section (2A) of section 142;

(*c*) where a reference has not been forwarded to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, in a case referred to in sub-clause (*i*) of clause (*a*), the assessment unit shall proceed to complete the assessment in accordance with the procedure laid down in this section.

(8) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of National Faceless Assessment Centre may, at any stage of the

assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(9) [*Omitted by the Finance Act, 2022, w.r.e.f. 1-4-2021.*]

(10) *Omitted by the Finance Act, 2022, w.e.f. 1-4-2022.*]

Explanation.—In this section, unless the context otherwise requires—

(*a*) "addressee" shall have the same meaning as assigned to it in clause (*b*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*b*) "authorised representative" shall have the same meaning as assigned to it in sub-section (2) of section 288;

(*c*) "automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;

(*d*) "automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion;

(*e*) "computer resource" shall have the same meaning as assigned to it in clause (*k*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*f*) "computer system" shall have the same meaning as assigned to it in clause (*l*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*g*) "computer resource of assessee" shall include assessee's registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered email address of the assessee with his email service provider;

(*h*) "digital signature" shall have the same meaning as assigned to it in clause (*p*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*i*) "designated portal" means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;

(*j*) "Dispute Resolution Panel" shall have the same meaning as assigned to it in clause (*a*) of sub-section (15) of section 144C;

(*k*) "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal;

(*l*) "electronic record" shall have the same meaning as assigned to it in clause (*t*) of

sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(*la*) "electronic verification code" means a code generated for the purpose of electronic verification as per the data structure and standards specified by the Principal Director General or Director General, as the case may be, in-charge of information technology;

(*m*) "eligible assessee" shall have the same meaning as assigned to in clause (*b*) of sub-section (15) of section 144C;

(*n*) "email" or "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;

(*o*) "hash function" and "hash result" shall have the same meaning as assigned to them in the *Explanation* to sub-section (2) of section 3 of the Information Technology Act, 2000 (21 of 2000);

(*p*) "Mobile app" shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee;

(*q*) [***]

(*r*) "real time alert" means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication;

(*s*) "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal;

(*t*) "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including—

(*i*) the e-mail address available in the electronic filing account of the addressee registered in designated portal; or

(*ii*) the e-mail address available in the last income-tax return furnished by the addressee; or

(*iii*) the e-mail address available in the Permanent Account Number database relating to the addressee; or

(*iv*) in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or

(*v*) in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or

(*vi*) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority;

(*u*) "registered mobile number" of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal;

(*v*) "video conferencing or video telephony" means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.

273.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 273 of the Bill provides for faceless assessment. The clause corresponds to section 144B of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The clause has been simplified by removing some steps of the detailed procedure for assessment and taking them in the Rules to be prescribed for this purpose.

273.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The procedure may be codified in section itself instead of conferring the power on the Board by way of subordinated legislation This will ensure clarity in the procedure and transparency.

ii. Section 273(1) has an overriding effect over all other provisions of the Act Delegation of the power to lay down the procedure to the Board under the said provision which has such wide overriding effect would result in excessive delegation and is open to challenge on constitutionality. It would amount to abdication of essential legislative functions which is impermissible under the Constitution.

iii. Delegation to the Board would enable them to make rules as per their whims and fancies The same may also be amended without any legislative intervention However, where the law is codified, the same cannot be amended easily unless the Parliament intervenes It would also require due procedure to be followed.

iv. It is well settled that a rule being a piece of subordinate legislation cannot override the Act .It is also well settled that what cannot be directly done should also not be permitted to be done indirectly However, by permitting the Board to lay down the procedure by way of rules which have the effect of overriding the

Act, would result in rule overriding the Act, which should not be permitted. The avowed object behind faceless assessment is to ensure ease of compliance and to ensure transparency .This can be achieved by a well codified procedure in place which is not subject to constant amendments and changes Enabling Board to make rules would result in frequent amendments in the procedure, which would result in lack of transparency and clarity, thus putting the very scheme and object of faceless assessment to peril.

v. Clause 273(1) of the IT Bill, 2025 enables procedure to be prescribed. The clause permits only the power to prescribe the procedure of faceless assessment and not other things Provision similar to section 144B(6) of the IT Act, 1961 has not been carried into the IT Bill, 2025 Hence, a provision which deals with similar aspects as contained in section 144B(6) of the IT Act, 1961 may be provided for in section 273 of the IT Bill, 2025 Here, we have not suggested the language of the provision as the same would depend on the procedure under section 273(1) which has not yet been codified.

273.5 Examination by the Committee:

273.5.1 On the above suggestions, the Ministry replied as follows:

i. The suggestion seeks to amend clause 273 by codifying the procedure of faceless assessment in section itself instead of conferring the power on the Board by way of subordinated legislation.

ii. The law can be made simple only when substantive provisions are given in the main law and procedural provisions are made part of sub-ordinate legislation.

iii. Even making of rules has the legislative oversight as they are made with approval of the Minister in charge, as well as the law ministry. The rules are also laid before the Parliament so as to maintain checks and balances on sub-ordinate legislation.

iv. The apprehension expressed in this regard is unfounded. Thus, the suggestion is not feasible.

v. The suggestion seeks to amend clause 273 to provide for codifying clause corresponding to section 144B (6) of IT Act [with communication with the assessee in faceless assessment and its authentication] in the clause 273 itself. Conscious call policy decision All essential and substantive features of

faceless assessment find mention in clause 273. The procedure is largely internal which does not fasten any liability on the taxpayer and is only meant to facilitate the process in a seamless manner. The suggestion is not feasible."

273.5.2 The Committee, further sought clarification from the Department of Revenue about defined conditions in which an assessee have the explicit right to request or be granted a physical hearing during a faceless assessment, digital divide, potential technical difficulties, grievance redressal mechanism ensuring that no assessee is disadvantaged due to technological limitations.

273.5.3 The Ministry, in their written reply, submitted as follows:

Assessee can ask for the virtual hearing in the case of any adverse order being passed by the Assessing Officer. As per faceless scheme, provision of virtual hearing has been enabled to the assessee if he desires so. In order to move away from the concept of physical hearing, provision of virtual hearing has been enabled.

Further, following measures are being taken to ensure the compliance in the case of faceless regime.

• To educate the taxpayers in the rural and digitally underserved areas the department is conducting mass-media campaigns and outreach programmes. Through these initiatives, the taxpayers are facilitated to comply with faceless systems.

• The Department has introduced Tax Return Preparer Scheme that offers tax filing services at the taxpayer's doorstep. The service employs certified professionals trained by the Income Tax Department to help small and marginal taxpayers with preparing & filing their tax returns and help them in the faceless procedures, free of cost or for a small fee.

• In addition to electronic notices, physical service of notices through Speed Post (Centralised Communication) is also provided. Also, in addition, a real time SMS alert is also sent. To address the issue of non-service on electronic notices of hearings in Appeals, it is proposed to issue physical letters through centralized communication monthly and notices will be served through the Verification Unit in non-compliant cases.

• Videoconferencing facilities have been introduced for appellate hearings. The department is also doing outreach with taxpayers, representatives to resolve technical issues as well as to improve the processes.

• The Department is also considering strengthening the operationalisation of e-kiosks (ASK centres) within the tax offices. These will provide digital

infrastructure to taxpayers who lack the means or familiarity to engage with the faceless system independently.

273.5.4 The Committee further sought written clarification on improvements in implementation of faceless assessment to prevent delays and to address the issues of digital divide. The Ministry, accordingly, furnished as under:

The introduction of faceless proceedings has led to significant advancements in efficiency, transparency, and the overall taxpayer experience. Department has also taken certain steps for improvement in the faceless system – assessment and appeals. An overview is as below-

(i) By eliminating physical interactions and introducing a structured digital framework, the process has become more streamlined, reducing unnecessary delays and ensuring faster case resolution. The automated allocation of cases has minimized subjective discretion, enabling a fairer and more uniform assessment process.

(ii) Additionally, transparency has been strengthened through the elimination of direct taxpayer-officer interactions, reducing the scope for bias and ensuring assessments/appeals are based strictly on documented evidence. Independent review mechanisms further enhance the credibility of assessments by verifying their accuracy before finalization.

(iii) From a taxpayer's perspective, the transition to faceless procedures has improved accessibility, as submissions, responses, and clarifications can now be handled entirely online.

(iv) These collective measures contribute to a more efficient, impartial, and user-friendly tax administration system, reinforcing the principles of accountability and fairness.

(v) From the inception to F.Y. 2024-25: Total number of assessments completed in faceless manner: 732135; Total number of penalty proceedings completed in faceless manner: 822388; Total Number of Appeals completed in faceless manner: 298153.

(vi) To address stakeholder concerns regarding potential delays, several measures have been undertaken. Disposal targets have been set for CIT(A) to ensure timely resolution of cases. The faceless system has eliminated this imbalance allowing for more rational allocation and facilitating faster reduction of pendency.

(vii) The faceless appellate mechanism has also enabled the identification and consolidation of appeals involving similar issues. "Bunching" facilitates consistency in appellate decisions and expedites disposal. An example is appeals relating to charitable trusts, which often involve complex and specialized issues.

(viii) To further strengthen the appeal mechanism, a semi-faceless structure has been introduced through the creation of the JCIT(A) post. And from the

F.Y. 2025-26 more cases are being assigned to them for speedy disposal of appeals.

(ix) Further, to address situations where digital access or literacy presents a significant barrier to participation, there are provisions for the centralized issuance of physical communication to taxpayers who fail to comply with digital notices issued by faceless officers due to lack of digital access. Such communication is sent many times during the assessment proceedings to improve the compliance. Beginning in FY 2025-26, centralized communication will be sent monthly.

Details of Centralised Communications issued:
FY 22-23: 46035
FY 23-24: 94450
FY 24-25: 214531

(x) Additionally, under the current framework, cases where taxpayers lack any digital footprint (either not registered on e-filing portal or no email is available on e-filing portal) are being transferred to Jurisdictional Assessing Officer who physically reaches out to the taxpayers for completion of the assessment proceedings, ensuring that all taxpayers—irrespective of their access to digital infrastructure—receive fair and efficient tax processing.

Details of No Digital Footprint cases:
FY 22-23: 42579
FY 23-24: 40418
FY 24-25: 20746

(xi) To educate the taxpayers in the rural and digitally underserved areas the department is conducting mass-media campaigns and outreach programmes. Through these initiatives, the taxpayers are facilitated to comply with faceless systems.

(xii) The Department has introduced Tax Return Preparer Scheme that offers tax filing services at the taxpayer's doorstep. The service employs certified professionals trained by the Income Tax Department to help small and marginal taxpayers with preparing & filing their tax returns and help them in the faceless procedures, free of cost or for a small fee.In addition to electronic notices, physical service of notices through Speed Post (Centralised Communication) is also provided. Also, in addition, a real-time SMS alert is also sent. To address the issue of non-service on electronic notices of hearings in Appeals, it is proposed to issue physical letters through centralized communication monthly and notices will be served through the Verification Unit in non-compliant cases.

(xiii) As regards enabling wider access, videoconferencing facilities have been introduced for appellate hearings. The department is also doing outreach with taxpayers, representatives to resolve technical issues as well as to improve the processes. The Department is also considering strengthening the operationalisation of e-kiosks (ASK centres) within the tax offices. These will provide digital infrastructure to taxpayers who lack the means or familiarity to engage with the faceless system independently.

(xiv) The Central Action Plan for the FY 2025–26 outlines targeted measures to address instances where appellants are unresponsive, particularly in legacy cases. The National Faceless Appeal Centre has been entrusted with the task of formulating SOPs for handling such cases.

Through these cumulative measures, the Department remains committed to ensuring an efficient and equitable tax administration under the faceless jurisdiction modality.

273.5.5 Further, the Ministry added as follows:

The section contains substantive provisions and then also procedural provisions. What we have done in the Bill, the substantive provisions are kept in the Bill itself. The procedural provisions are not mentioned in the Bill because it will come by the way of rule. It is done so to keep the Bill simple. So, substantive provisions continue to be a part of the bill only the procedural provisions are not a part that internally how will an order go from assessment unit to review unit and then from review unit back to the assessment unit. So, those procedures will be made part of the rules.

273.5.6 When the Committee asked whether the Ministry has a system available to assessees to discuss issues and to explain his point of view, the Ministry stated as follows:

There is no such facility in faceless system where the taxpayer can sit across and explain his point of view. However, for faceless assessment and appeal proceedings, videoconferencing facilities have been introduced for appellate hearings. The department is also doing outreach with taxpayers, representatives to resolve technical issues as well as to improve the processes. The Department is also considering strengthening the operationalisation of e-kiosks (ASK centres) within the tax offices. These will provide digital infrastructure to taxpayers who lack the means or familiarity to engage with the faceless system independently.

273.5.7 Further, on a specific query about the accountability of AO for passing a wrong assessment order and whether there will be interest paid on the 20% amount when finally returned, the Ministry, in a oral deposition, stated as follows:

In the faceless setup, the assessment orders are being handled by the faceless unit headed by Joint/ Addl. Commissioner. It is only upon approval by the Jt./Addl. Commissioner that an order can be passed.

Secondly, the order is seen and vetted by the review unit and technical unit prior to its issuance. therefore, it is not a case where the responsibility of any order can be completely appropriated to one officer.

Also, for high pitched assessments, separate committees have been formed in all the Pr. CCIT regions which maintain oversight on high pitched assessments.

On receipt of the report of Local committee, Pr.CCIT concerned make take suitable administrative action in respect of cases where assessment was found to be High -Pitched by the local committee, which include-

(a)Calling for explanation of the AO/Assessment Unit and any other administrative action as deemed fit.
(b)Administratively advise to the Pr. CIT concerned to prevent any coercive recovery in such cases.

In addition, following administrative measures are also in place –

(a) Internal audit of Assessment orders is done by the Internal Revenue Committee;
(b) Revenue audit is done by CAG.
(c) PCIT have the power to review the orders of the AO which are prejudicial to the interest of assessee or revenue.

If any order or judgement is overturned by a higher appellate authority on facts or law, it cannot always be said that the order or decision was wrong. Any such inference will be against the established jurisprudence. It may kindly be noted that where a higher court overturns a lower court judgment, it is not said that the lower court is accountable for passing a wrong order. There are differences in judgment, appreciation of facts, interpretation of law and other factors which result in same facts and law being interpreted differently by different forums.

Regarding the payment of interest, yes, the 20% amount or any other amount which becomes due to the taxpayer is paid along with interest.

273.6 Observations/Recommendations of the Committee:

The Committee, upon detailed deliberaton on the various provisions of the Clause along with justification provided by the Ministry, find the provisions of the Clause 273 to be corresponding and in line with the existing provisions of the 1961 Act. The Committee, therefore, accept the Clause as proposed.

Clause 274– Reference to Principal Commissioner or Commissioner in certain cases

274.1 Provision proposed in the Income-Tax Bill, 2025:

274. (*1*) The Assessing Officer may make a reference to the Principal Commissioner or Commissioner at any stage of the assessment or reassessment proceedings before him, if, having regard to the material and evidence available with him, he considers that it is necessary to—

(*a*) declare an arrangement as an impermissible avoidance arrangement; and

(*b*) determine the consequence of such an arrangement within the meaning of Chapter XI.

(*2*) The Principal Commissioner or Commissioner shall, on receipt of a reference under sub-section (*1*), if he is of the opinion that the provisions of Chapter XI are required to be invoked,—

(*a*) issue a notice to the assessee, setting out the reasons and basis of such opinion, for submitting objections, if any; and

(*b*) provide an opportunity of being heard to the assessee within such period, not exceeding sixty days, as specified in the said notice.

(*3*) If the assessee fails to furnish any objection to the notice within the time specified in the notice issued under sub-section (*2*), the Principal Commissioner or Commissioner shall issue such directions as he deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(*4*) In case the assessee objects to the proposed action, and the Principal Commissioner or Commissioner, after hearing the assessee in the matter, is not satisfied by the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(*5*) If the Principal Commissioner or Commissioner is satisfied, after having heard the assessee that the provisions of Chapter XI are not to be invoked, he shall by an order in writing, communicate the same to the Assessing Officer with a copy to the assessee.

(*6*) The Approving Panel, on receipt of a reference from the Principal Commissioner or Commissioner under sub-section (*4*), shall—

(*a*) issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement as per the provisions of Chapter XI; and

(*b*) specify the tax year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(*7*) No direction under sub-section (*6*) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interests of the revenue, as the case may be.

(*8*) The Approving Panel may, before issuing any direction under sub-section (*6*),—

(*a*) if it is of the opinion that any further inquiry in the matter is necessary, direct the Principal Commissioner or Commissioner to make such inquiry or cause the inquiry to be made by any other income-tax authority and furnish a report containing the result of such inquiry to it; or

(*b*) call for and examine such records relating to the matter as it deems fit; or

(*c*) require the assessee to furnish such documents and evidence as it may direct.

(*9*)If the members of the Approving Panel differ in opinion on any point, such point shall be decided according to the opinion of the majority of the members.

(*10*) The Assessing Officer, on receipt of directions of the Principal Commissioner or Commissioner under sub-section (*3*) or of the Approving Panel under sub-section (*6*), shall proceed to complete the proceedings referred to in sub-section (*1*) as per such directions and the provisions of Chapter XI.

(*11*) If any direction issued under sub-section (*6*) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any tax year other than the tax year to which the proceedings referred to in sub-section (*1*) pertains, then,—

(*a*) the Assessing Officer while completing any assessment or reassessment proceedings relevant to such other tax year shall do so as per such directions and the provisions of Chapter XI; and

(*b*) it shall not be necessary for him to seek fresh direction on the issue for the relevant tax year.

(*12*) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Principal Commissioner or Commissioner, if any

tax consequences have been determined in the order under the provisions of Chapter XI.

(*13*) The Approving Panel shall, subject to sub-sections (*14*) and (*15*), issue directions under sub-section (*6*) within six months from the end of the month in which the reference under sub-section (*4*) was received.

(*14*) In computing the period referred to in sub-section (*13*), the following shall be excluded:—

(*a*) the period commencing from the date on which the first direction is issued by the Approving Panel to the Principal Commissioner or Commissioner for getting the inquiries conducted through the authority competent under an agreement referred to in section 159 and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less;

(*b*) the period commencing on the date on which the proceeding of the Approving Panel is stayed by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the Approving Panel.

(*15*) If immediately after the exclusion of the period as per sub-section(*14*), the remaining period available to the Approving Panel for issue of directions is less than sixty days, such remaining period shall be extended to sixty days and the period of six months mentioned in sub-section (*13*) shall be deemed to have been extended accordingly.

(*16*) The directions issued by the Approving Panel under sub-section (*6*) shall be binding on—

(*a*) the assessee; and

(*b*) the Principal Commissioner or Commissioner and the income-tax authorities subordinate to him.

(*17*) No appeal under the Act shall lie against directions issued by the Approving Panel under sub-section (*6*), irrespective of anything contained in any other provision of the Act.

(*18*) The Central Government shall, for the purposes of this section, constitute one or more Approving Panels as may be necessary and each panel shall consist of three members including a Chairperson.

(*19*) The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court, and—

(*a*) one member shall be a member of Indian Revenue Service not below the rank of Principal Chief Commissioner or Chief Commissioner of Income-tax; and

(*b*) one member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.

(*20*) The term of the Approving Panel shall ordinarily be for one year and may be extended from time to time up to three years.

(*21*) The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the panel and shall be paid such remuneration as prescribed.

(*22*) In addition to the powers conferred on the Approving Panel under this section, the powers which are vested in the Board for Advance Rulings under section387 shall apply*mutatis mutandis* to the Approving Panel.

(*23*) The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under this Act.

(*24*) The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (*4*).

274.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Reference to Principal Commissioner or Commissioner in certain cases.

144BA. (1) If, the Assessing Officer, at any stage of the assessment or reassessment proceedings before him having regard to the material and evidence available, considers that it is necessary to declare an arrangement as an impermissible avoidance arrangement and to determine the consequence of such an arrangement within the meaning of Chapter X-A, then, he may make a reference to the Principal Commissioner or Commissioner in this regard.

(2) The Principal Commissioner or Commissioner shall, on receipt of a reference under sub-section (1), if he is of the opinion that the provisions of Chapter X-A are required to be invoked, issue a notice to the assessee, setting out the reasons and basis of such opinion, for submitting objections, if any, and providing an opportunity of being heard to the assessee within such period, not exceeding sixty days, as may be specified in the notice.

(3) If the assessee does not furnish any objection to the notice within the time specified in the notice issued under sub-section (2), the Principal Commissioner or

Commissioner shall issue such directions as he deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(4) In case the assessee objects to the proposed action, and the Principal Commissioner or Commissioner after hearing the assessee in the matter is not satisfied by the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(5) If the Principal Commissioner or Commissioner is satisfied, after having heard the assessee that the provisions of Chapter X-A are not to be invoked, he shall by an order in writing, communicate the same to the Assessing Officer with a copy to the assessee.

(6) The Approving Panel, on receipt of a reference from the Principal Commissioner or Commissioner under sub-section (4), shall issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement in accordance with the provisions of Chapter X-A including specifying of the previous year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(7) No direction under sub-section (6) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interests of the revenue, as the case may be.

(8) The Approving Panel may, before issuing any direction under sub-section (6),—

(*i*) if it is of the opinion that any further inquiry in the matter is necessary, direct the Principal Commissioner or Commissioner to make such inquiry or cause the inquiry to be made by any other income-tax authority and furnish a report containing the result of such inquiry to it; or

(*ii*) call for and examine such records relating to the matter as it deems fit; or

(*iii*) require the assessee to furnish such documents and evidence as it may direct.

(9) If the members of the Approving Panel differ in opinion on any point, such point shall be decided according to the opinion of the majority of the members.

(10) The Assessing Officer, on receipt of directions of the Principal Commissioner or Commissioner under sub-section (3) or of the Approving Panel under sub-section (6), shall proceed to complete the proceedings referred to in sub-section (1) in accordance with such directions and the provisions of Chapter X-A.

(11) If any direction issued under sub-section (6) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any previous year other than the previous year to which the proceedings referred to in sub-section (1) pertains, then, the Assessing Officer while completing any assessment or

reassessment proceedings of the assessment year relevant to such other previous year shall do so in accordance with such directions and the provisions of Chapter X-A and it shall not be necessary for him to seek fresh direction on the issue for the relevant assessment year.

(12) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Principal Commissioner or Commissioner, if any tax consequences have been determined in the order under the provisions of Chapter X-A.

(13) The Approving Panel shall issue directions under sub-section (6) within a period of six months from the end of the month in which the reference under sub-section (4) was received.

(14) The directions issued by the Approving Panel under sub-section (6) shall be binding on—

(*i*) the assessee; and

(*ii*) the Principal Commissioner or Commissioner and the income-tax authorities subordinate to him,

and notwithstanding anything contained in any other provision of the Act, no appeal under the Act shall lie against such directions.

(15) The Central Government shall, for the purposes of this section, constitute one or more Approving Panels as may be necessary and each panel shall consist of three members including a Chairperson.

(16) The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court, and—

(*i*) one member shall be a member of Indian Revenue Service not below the rank of Principal Chief Commissioner or Chief Commissioner of Income-tax; and

(*ii*) one member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.

(17) The term of the Approving Panel shall ordinarily be for one year and may be extended from time to time up to a period of three years.

(18) The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the panel and shall be paid such remuneration as may be prescribed.

(19) In addition to the powers conferred on the Approving Panel under this section, it shall have the powers which are vested in the Authority for Advance Rulings under section 245U.

(20) The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under the Act.

(21) The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (4).

Explanation.—In computing the period referred to in sub-section (13), the following shall be excluded—

(*i*) the period commencing from the date on which the first direction is issued by the Approving Panel to the Principal Commissioner or Commissioner for getting the inquiries conducted through the authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less;

[99]**[***(*ii*) the period commencing on the date on which stay on the proceeding of the Approving Panel was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the Approving Panel:***]**

Provided that where immediately after the exclusion of the aforesaid time or period, the period available to the Approving Panel for issue of directions is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of six months shall be deemed to have been extended accordingly.

274.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 274 of the Bill provides for reference to Principal Commissioner or Commissioner in certain cases. The clause corresponds to section 144BA of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

274.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Approving panel constitution to be aligned with Shome Committee report .The Approving Panel constitution may be revisited by including majority of the members to be officers who do not occupy any office in Income-tax Department. This will ensure that the GAAR regime is not used regularly or routinely but only when there is aggressive abuse.
ii. It is suggested to redraft the provision in respect of change made by the Finance Act 2025 in clause 274(14)(b).

274.5 Examination by the Committee:

274.5.1 The Ministry submitted the following replies to the above suggestions:

i. The suggestion seeks to change the constitution of Approving Panel. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The GAAR provisions have been invoked only in the rarest of rare cases. In any case, the Approving panel is headed by a person who is or has been a judge of the High Court. Another member is required to be an academic or scholar. Since, the impermissible avoidance arrangement sought to be captured in GAAR are complex maze of transactions having significant tax implications, the same are better understood when the panel has in house expert who could evaluate its various dimensions. Therefore, the GAAR panel has been rightly constituted.

ii. The suggestion seeks to redraft the provision in respect of change made by the Finance Act 2025 in clause 247(14)(b). It is in nature of drafting improvement. The suggestion is not feasible.

274.5.2 In this regard, the Ministry further apprised the Committee as follows:

सर, जो 154 (BA) है, उसको पुराना रेफर करते हैं। जनरल एंटी अवाइडेंस रूल्य में एसेसिंग अफसर को यदि लगता है कि कोई बड़ी स्कीम टैक्स रिवीजन की बनी है, तो वह अपने प्रधान आयुक्त को लिखता है। अगर वह संतुष्ट होता है कि हां, यहां पर टैक्स रिवीजन इनवॉल्ड है, तो वह अप्रूविंग पैनल को भेजता है। The approving panel consist of one Judge of High Court, one Income Tax personnel of the rank of Principal Chief Commissioner or Chief Commissioner, and one Member shall be an academic or scholar having a special knowledge of matters such as direct taxes, business, accounts and international tax practices…सर, गार पैनल काम कर रहा है।इसमें रिटायर्ड जज भी आ सकते हैं।

सर, डीआरपी में 3 आयुक्त स्तर के अधिकारी होते हैं। डीआरपी के निर्णय के विरूद्ध विभाग अपील में नहीं जाता है। विभाग ने उन पर काफी बड़ा विश्वास उन पर इम्पोज किया है कि they will be impartial.

274.6 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 274 to be textual simplification, retaining the intent of the existing provisions of the 1961 Act and therefore accept the Clause as proposed.

Clause 275– Reference to Dispute Resolution Panel

275.1 Provision proposed in the Income-Tax Bill, 2025:

275. (*1*) The Assessing Officer shall, irrespective of anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee, if he proposes to make any variation which is prejudicial to the interest of such assessee.

(*2*) On receipt of the draft order, the eligible assessee shall, within thirty days of its receipt,—

(*a*) file his acceptance of the variations to the Assessing Officer; or

(*b*) file his objections, if any, to such variation with,—

(*i*) the Dispute Resolution Panel; and

(*ii*) the Assessing Officer.

(*3*)The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(*a*) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(*b*) no objection is received within the period specified in sub-section (*2*).

(*4*)The Assessing Officer shall, irrespective of anything contained in section 286, pass the assessment order under sub-section (*3*) within one month from the end of the month in which,—

(*a*) the acceptance is received; or

(*b*) the period of filing of objections under sub-section (*2*) expires.

(*5*)The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (*2*), issue such directions, as it thinks fit, for guidance of the Assessing Officer to enable him to complete the assessment.

(*6*) The Dispute Resolution Panel shall issue the directions as referred to in sub-section (*5*), in writing, stating the points of determination, the decision thereon and the reason for such decision.

(*7*)The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (*5*),—

(*a*) make such further enquiry, as it thinks fit; or

(*b*) cause any further enquiry to be made by any income-tax authority, and report the result of the same to it.

(*8*) The Dispute Resolution Panel may, confirm, reduce or enhance the variations proposed in the draft order, so however, that it shall not set aside any proposed variation, or issue any direction under sub-section (*5*) for further enquiry and passing of the assessment order.

(*9*) For the purposes of sub-section (*8*), the power of the Dispute Resolution Panel to enhance the variation shall include the power to consider any matter arising out of the assessment proceedings relating to the draft order, irrespective of the fact that such matter was not raised by the eligible assessee.

(*10*) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided as per the opinion of the majority of the members.

(*11*) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(*12*) No direction under sub-section (*5*) shall be issued unless an opportunity of being heard is given to the assessee, and the Assessing Officer, on such directions which are prejudicial to the interest of the assessee, or the interest of the revenue, respectively.

(*13*) No direction under sub-section (*5*) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(*14*) Upon receipt of the directions issued under sub-section (*5*), the Assessing Officer shall, in conformity with the directions, complete, irrespective of anything to the contrary contained in section 286, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(*15*) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (*2*) by the eligible assessee.

(*16*) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in section 274(*12*).

(*17*) In this section, subject to the provisions of sub-section (*18*),—

(*a*) "Dispute Resolution Panel" means a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the Board for this purpose;

(*b*) "eligible assessee" means,—

(*i*) any person in whose case the variation referred to in sub-section (*1*) arises as a consequence of the order of the Transfer Pricing Officer passed under section 166(*6*);

(*ii*) any non-resident (not being a company), or any foreign company.

(*18*) The eligible assessee referred to in sub-section (*17*) shall not include person referred to in section 292(*1*) or other person referred to in section 295.

(*19*) The provisions of this section shall not apply to any proceedings under Chapter XVI-B.

275.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Reference to dispute resolution panel.

144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(*a*) file his acceptance of the variations to the Assessing Officer; or

(*b*) file his objections, if any, to such variation with,—

(*i*) the Dispute Resolution Panel; and

(*ii*) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(*a*) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(*b*) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153 or section 153B, pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(*a*) the acceptance is received; or

(*b*) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—

(*a*) draft order;

(*b*) objections filed by the assessee;

(*c*) evidence furnished by the assessee;

(*d*) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(*e*) records relating to the draft order;

(*f*) evidence collected by, or caused to be collected by, it; and

(*g*) result of any enquiry made by, or caused to be made by, it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—

(*a*) make such further enquiry, as it thinks fit; or

(*b*) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

Explanation.—For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in sub-section (12) of section 144BA.

(14B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.

(14C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

[1]**[****]**

(14D) Every notification issued under sub-section (14B) and sub-section (14C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(15) For the purposes of this section,—

(*a*) "Dispute Resolution Panel" means a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the Board for this purpose;

(*b*) "eligible assessee" means,—

(*i*) any person in whose case the variation referred to in sub-section (1)

arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and

(*ii*) any non-resident not being a company, or any foreign company:

[2][**Provided** that such eligible assessee shall not include person referred to in sub-section (1) of section 158BA or other person referred to in section 158BD.]

[2][(16) The provisions of this section shall not apply to any proceedings under Chapter XIV-B.]

275.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 275 of the Bill provides for reference to Dispute Resolution Panel. The clause corresponds to section 144C of the Income-tax Act, 1961 (the Act).The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

275.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Clause 275(1) may be amended to insert limitation for passing the “draft order”. Interplay between limitation for passing the final order under section 144C read with section 153 of the Income-tax Act, 1961 as to whether they are mutually inclusive or exclusive is sub-judice before the Hon’ble Supreme Court in the case of ACIT v Shelf Drilling Ron Tappmeyer Limited SLP No 20569-20572/2023 (judgement reserved on 16.04.2025) - Similarly, limitation for passing a draft order in a remand back proceedings, the interplay between the said sections is still pending in the case of Roca bathroom Commissioner of Income-tax vs Roca Bathroom Products (P.) Ltd [2023] 147 taxmann.com 224 (SC) .

ii. The constitution of DRP may be aligned to Approving Panel under section 144BA, thereby ensuring the majority members to be "non departmental" officers or authorities. In order to make DRP a more effective dispute resolution forum, the constitution of the Panel may be revisited by including majority members with academic or scholares having special knowledge of matters 2 The present 'non-functional' status of DRP is apparent from the critical observations provided by the CBDT's Central Action Plan in its recent report.

iii. Similar to the provision of advance rulings, resident taxpayers, having high pitched assessments/ high value transactions, and whose assessments are not referred to the TPO, should also be provided with an option to file objections with DRP under Clause 275 of the new Bill. As per the existing provisions of the Act, only resident assesses with TP adjustments can file objections with DRP.

iv. Although the Dispute Resolution Panel (DRP) was introduced through the Finance (No. 2) Act, 2009 as an additional and expedited mechanism for resolving transfer pricing and international taxation disputes, mandated to issue directions within a strict timeline of nine months, the forum is composed entirely of Revenue officials. As a result, decisions are perceived to be largely in favour of the Department. Consequently, the DRP is viewed not as an effective dispute resolution forum but merely as a procedural step to access the Income Tax Appellate Tribunal (ITAT), with the added disadvantage of interest continuing to accrue for an additional twelve months from the date of the final assessment order.

v. It is suggested that Clause 275 be appropriately amended so that there is no conflict with jurisdictional provisions and constitutional principles under Article 265. Clause 275 empowers the DRP to issue binding directions to the Assessing Officer, which contradicts Clause 239(2) that restricts even the CBDT from directing assessments. As DRP members are not defined as Assessing Officers, such powers may conflict with jurisdictional provisions and constitutional principles under Article 265, necessitating reconsideration. Clause 275, *inter alia*, deals with transfer pricing assessment and as per Clause 275(5), the Dispute Resolution Panel is the appropriate authority where objections against a draft assessment order can be challenged. A DRP consisting of three Commissioners which has been constituted by the Board is empowered to give binding direction to the Assessing Officer. This is directly in contradiction to the provisions of Clause 239(2) dealing with instructions to sub-ordinate authorities as per which the Central Board of Direct Taxes also is not empowered to give any order, instruction or direction so as to require any income tax authority to make a particular assessment or dispose of a particular case in a particular manner. Thus, when the CBDT itself is not empowered to give any direction to any income tax authority, it is surprising that Clause 275 postulates that the DRP which is constituted by the Board and which consists of three Principal Commissioners can be allowed to give binding direction to the Assessing Officer. It virtually means that what Board cannot do is allowed to be done by an income tax authority lower in rank to the Board and thus, the entire scheme of the Act in so far as the power of the DRP to give binding direction to the Assessing Officer for enhancement is ultra vires. It is also appropriate to note that the “Assessing Officer” is defined in Clause 2(12) as Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or Income Tax Officer. The definition of “Assessing Officer” does not include Principal Commissioner or Commissioner and therefore, in so far as the act of assessment is concerned it can only be done by an Assessing Officer and not otherwise and if any income tax authority is allowed to do an act which results into an assessment it will be

apparently in violation of the jurisdiction of the Assessing Officer as well as the provisions regarding the power of the Board to give directions and thus, against Article 265 of the Constitution of India as per which no taxes can be levied except as per the authority of law. Even though this provision is present in the Income-tax Act, 1961 also, this is an issue which requires examination.

275.5. Examination by the Committee:

275.5.1 To the suggestions given above, the Ministry submitted as follows:

i. The suggestion seeks to amend clause 275(1) to insert limitation for passing the "draft order". It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The Act provides for time limit to complete assessment as per section 153 of IT Act 1961. In addition, section 144C (4) and section 144C(13) provides for situations where a draft order is passed . Even though there is clarity that additional time is available where matter goes to DRP, the judiciary has taken diverse views on the issue. The matter is before the Apex Court and after its decision a view would be taken in the matter. Thus, the suggestion is not feasible.

ii. The suggestion seeks to change the constitution of DRP in clause 275(17). It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The mechanism of DRP is to provide faster resolution of cases involving international taxation and TP matters. Considering that orders of DRP are binding upon the revenue and the appeal against the assessment order lies directly with ITAT, the DRP has been successful in bringing quick finality to the disputes before it. Also DRP is an additional option before the taxpayer and is not mandatory. Aligning the constitution with GAAR panel will significantly delay the whole process and the purpose will be defeated. Thus, the suggestion is not feasible.

iii. The suggestion seeks to provide for transfer of non TP cases to DRP in case of high pitched assessments/ high value transactions. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The mechanism of DRP is to provide faster resolution of cases involving International taxation and TP matters. For high pitched assessments, the department has a separate oversight mechanism. Also for such assessments, the taxpayers have an additional option of approaching the commissioners for revision under clause 378. Thus, the suggestion is not feasible.

iv. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

v. The suggestion seeks to delete the clause 275(11)-directions of DRP binding on AO as it is in conflict with clause 265-instruction to sub-ordinate authorities by CBDT. There has to be discipline in appeal functions as in administrative functions. AOs are bound to follow directions of PCIT where review has been done, directions of Addl. CIT u/s 144C etc. There is no inconsistency. The suggestion is not feasible.

275.5.2 In this regard, during the deliberations the Ministry stated as follows:

There is a three-member approving panel – one High Court judge, one independent academia, and one departmental officer. They are saying Dispute Resolution Panel (DRP)should also be aligned with the constitution of approving panel. These are absolutely two different systems. The approving panel comes into being when there is a question of invoking of General Anti-Avoidance Rule (GAAR). And there are hardly any cases. The DRP is a departmental body which is an alternative appeal channel. DRPs are there in Delhi and Mumbai, all across India. These DRPs are there. It is a three-member panel for disposing regular appeals.

Sir, the concept of DRC was introduced in 2022. Therefore, the systems had to be put in place because the concept is that we onboard retired officers also in this Committee. As we had submitted in the last meeting also, the concept of DRC is still to stabilize. This was introduced to actually take care of small cases where the variation is small. Basically, it was just an introduction, but it is still to stabilize. And once it stabilizes, then we can actually expand the scope of the DRC.

डीआरपी, डिस्प्यूट रिजॉल्यूशन पैनल में अफसर डेडिकेटेड रहते हैं, उनकी रैगुलर पोस्टिंग होती है। अगर तीन कमिश्नर्स हैं तो उनकी रैगुलर पोस्टिंग डीआरपी में होती है। रैगुलर का मतलब है हर रोज है। डीआरपी टाइमबाउंड है। इसके डिसीजन्स नौ महीने में आते हैं।

275.5.3 When asked about the experience with DRP and why it cannot be expanded to deal with huge number of cases, the Ministry, in a post evidence written reply, submitted as follows:

The Dispute Resolution Panel (DRP) is a mechanism under section 144C of the Income-tax Act, 1961, designed as an alternative dispute resolution mechanism to the normal appellate process, allowing for faster resolution of disputes. It aims to provide a swift and effective resolution of disputes between taxpayers and the

income tax authorities. The Dispute Resolution Panel (DRP) currently handles a significant volume of cases. These cases involve complex factual and legal issues pertaining to Transfer Pricing, International Taxation and cases involving specified domestic transactions. There are 7 DRPs currently, 3 at Mumbai, 2 at Bangalore and 2 at Delhi, each comprising of 3 Commissioners of Income-tax. There is no change in policy in the Bill viz-a-viz Act. Data regarding number of cases handled by the DRPs for the past three financial years is as follows:

Period F.Y.	*(A)No.of cases in which Objections u/s144C have been filed before DRP*	*(B)No.of cases in which directions u/s 144C have been issued by DRP*
2022-23	*1918*	*1918*
2023-24	*2129*	*2129*
2024-25	*2498*	*1824*

The alternate appellate channel has been provided only in specific cases. It may be difficult to expand it to other cases considering the manpower requirements and the fact that there is already 33% shortage of manpower at the level of Commissioner (Appeals).

275.5.4 Further, when asked about the number of cases which have been settled through DRP and the number of cases which have gone to Tribunal after DRP, the Ministry in its post evidence reply submitted as under:

(*i) Data for the last 3 financial years w.r.t no. of cases in which appeal has been filed by assessee in the ITAT against the assessment orders of AOs of International Taxation Charge in accordance with the DRP directions is as below:*

F. Y.	*A) No. of cases of assessment in which draft order u/s 144C has been passed*	*(B) No. of cases filed before DRP [out of (A)]*	*(C)No. of cases in which NO appeal has been filed before ITAT after DRP directions [out of (B)]*	*(D)No. of cases in which appeal has been filed before ITAT after DRP directions [out of (B)]**
2022-23	*2977*	*770*	*243*	*527*
2023-24	*5533*	*1079*	*466*	*613*
2024-25	*4342*	*926*	*113*	*375*

** In some cases, the time for filing of appeal before the ITAT by the assessee has not yet passed.*

(ii) The DRP has to issue directions in a time bound manner (9 months). Therefore, resolution at the first appellate level is reached earlier. Moreover, the Revenue does not file any objections to ITAT. therefore, pendency at ITAT level is also reduced.

As per analysis of the data provided above, it is to be stated that 31% cases in F. Y. 2022-23 and 43% in F.Y. 2023-24 have been settled through DRP where no further appeal has been filed in ITAT. Further, where appeal has been filed in ITAT by the taxpayer, there may be multiple directions of DRP, whereas assessee would have challenged only limited number of directions of the DRP.

Thus, DRP is serving multiple purposes in reducing litigation and resolving issues in a time bound manner.

275.6 Observations/Recommendations of the Committee:

The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 275 in line with the existing provisions therefore accept the Clause as proposed.

Clause 276– Method of accounting

276.1 Provision proposed in the Income-Tax Bill, 2025:

276. (*1*) Income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall, subject to the provisions of sub-section (*2*), be computed as per either cash or mercantile system of accounting regularly employed by the assessee.

(*2*) The Central Government may notify income computation and disclosure standards to be followed by any class of assessees or in respect of any class of income.

(*3*) The Assessing Officer may make an assessment in the manner provided in section 271, where—

(*a*) he is not satisfied about the correctness or completeness of the accounts of the assessee;

(*b*) the method of accounting provided in sub-section (*1*) has not been regularly followed by the assessee; or

(*c*) income has not been computed as per the standards notified under sub-section (*2*).

276.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Method of accounting.

145. (1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify in the Official Gazette from time to time income computation and disclosure standards to be followed by any class of assessees or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), the Assessing Officer may make an assessment in the manner provided in section 144.

276.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 276 of the Bill provides for method of accounting.The clause corresponds to section 145 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

276.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Income computation and disclosure standards (ICDSs) may be reviewed afresh to align with the Indian Accounting Standards (Ind ASs) for prescribed class of corporates, and the Accounting Standards (ASs) for others, as may be applicable. In this regard, there appears to be a further opportunity to review if companies that are required to follow Ind ASs, converged with high quality globally accepted International Financial Reporting Standards (IFRS Accounting Standards), may be permitted to follow the same for tax computation purposes with minimal differences as may be determined. It is suggested if it can be considered in respect of areas where there are grounds for deviation from the accounting standards for tax computation purposes, if the specific tax treatment for certain areas/transactions may be prescribed by way of Rules instead of issuing the ICDS. This is because specific treatment for tax purposes, if notified as Rules may result in better compliance, than standards which sometimes lend themselves to interpretation and may lead to differences of opinion and associated compliance costs. Global best practices in this regard can be reviewed by a group/committee and NFRA can participate in such a group/committee.

ii. Income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall, subject to the provisions of sub-section (2), be computed as per either cash or accrual system of accounting regularly employed by the assessee. Accrual (Mercantile System) Basis of Accounting may be made mandatory for Companies and entities that are required to follow accrual basis of accounting as per the laws and rules applicable to those entities.

iii. It is suggested that section 276(2) may be omitted. The discrepancies between accounting profit and taxable profit arising from the application of ICDS have led to disputes and litigation. The introduction of ICDS created an additional compliance burden, as taxpayers are required to compute income separately under ICDS. Consideration of profits derived on the basis of accounts drawn in compliance with the accounting standards issued by regulatory bodies for tax purposes will help mitigate litigation and also serve the objective of simplification of tax laws. Accordingly, section 276(2) empowering the Central Government to notify ICDSs may be omitted.

276.5 Examination by the Committee:

276.5.1 To the above suggestions, the Ministry submitted as follows:

i. The suggestion is administrative in nature.

ii. The suggestion needs wider consultation with the stakeholders who shall be affected if cash system of accounting is not provided for. The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

iii. The stakeholder seeks to remove Income Computation and Disclosure Standards (ICDS). The suggestion is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act The Act (or the Bill) provides different computation mechanism in accordance with the peculiar nature of transactions in ICDS. ICDS plug the flexibility in the ICAI standards which makes it possible for an assessee to avoid the payment of correct taxes.

276.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 276 to be mere textual simplification of the corresponding provisions of the existing Act with no change in intent and therefore accept the Clause as proposed.

Clause 277– Method of accounting in certain cases

277.1 Provision proposed in the Income-Tax Bill, 2025:

277. (*1*) For the purposes of determining the income chargeable under the head "Profits and gains of business or profession",—

(*i*) the valuation of inventory shall be made at lower of actual cost or net realisable value computed as per the income computation and disclosure standards notified under section 276(*2*);

(*ii*) the valuation of purchase and sale of goods or services and valuation of inventory shall be adjusted to include any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(*iii*) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised as per the income computation and disclosure standards notified under section 276(*2*);

(*iv*) the inventory being securities other than those referred to in clause (*iii*), shall be valued at lower of actual cost or net realisable value as per the income computation and disclosure standards notified under section 276(*2*).

(*2*) For the purposes of sub-section (*1*), the inventory being securities held by a scheduled bank or public financial institution shall be valued as per the income computation and disclosure standards notified under section 276(*2*) after taking into account the extant guidelines issued by the Reserve Bank of India in this regard.

(*3*) For the purposes of sub-sections (*1*) and (*2*), the comparison of actual cost and net realisable value of securities shall be made category-wise.

(*4*) For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law in force, shall include all such payment irrespective of any right arising as a consequence to such payment.

(*5*) In this section, "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013.

277.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Method of accounting in certain cases.

145A. For the purpose of determining the income chargeable under the head "Profits and gains of business or profession",—

(*i*) the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

(*ii*) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(*iii*) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

(*iv*) the inventory being securities other than those referred to in clause (*iii*), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:

Provided that the inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145 after taking into account the extant guidelines issued by the Reserve Bank of India in this regard:

Provided further that the comparison of actual cost and net realisable value of securities shall be made category-wise.

Explanation 1.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

Explanation 2.—For the purposes of this section,—

(*a*) "public financial institution" shall have the meaning assigned to it in clause (*72*) of section 2 of the Companies Act, 2013 (18 of 2013);

(*b*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation 1* to clause (*5*) of section 43;

(*c*) "scheduled bank" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to clause (*viia*) of sub-section (1) of section 36.

277.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 277 of the Bill provides for method of accounting in certain cases.The clause corresponds to section 145A of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

277.4 Important Views/Suggestions given by Experts/Stakeholders:

i. It is recommended to omit the Clause 277 considering that method of recognition of purchases and sales inclusive or exclusive of GST has no impact on taxable income. If required, the disallowance for GST payable on sale of goods/services not paid till due date of filing return of income can be separately provided in Clause 37 of ITB 2025 to avoid any controversy on whether such disallowance can apply in absence of debit to P&L. Generally, taxpayers who avail credit in respect of indirect taxes paid on purchases / expenses record such purchases / expenses on net basis in their books of account as per applicable accounting standards. However, in section 145A of ITA 1961 [clause 277 ITB 2025] requires purchases, sales and inventories to be recognised on 'gross' basis (i.e inclusive of rate, duty, taxes etc) This compliance is made by drawing up Memorandum Trading A/c as per the guidance provided in ICAI Guidance on Tax Audit Report. With the introduction of GST Law, any GST paid on purchase of goods or services is generally available for input tax credit (ITC) This brings in controversy of 'net' method as per accounts and 'gross' method as per s 145A. However, if the correct principles of recognition of taxpayer's income on perfected entitlement to duty credit are followed, the net taxable income arising irrespective of 'net' method or 'gross' method (inclusive or exclusive of taxes, duty etc.) will be same. This proposition is supported by SC ruling in the case of CIT v Indo-Nippon Chemical Co Ltd (261 ITR 275) and ICAI Guidance Note on tax audit. Hence, clause 277 of ITB 2025 is redundant and can be omitted.

ii. It is suggested that Section 277 may be omitted. The discrepancies between accounting profit and taxable profit arising from the application of ICDS have led to disputes and litigation. The introduction of ICDS created an additional compliance burden, as taxpayers are required to compute income separately under ICDS. Consideration of profits derived on the basis of accounts drawn in compliance with the accounting standards issued by regulatory bodies for tax purposes will help mitigate litigation and also serve the objective of simplification of tax laws.

iii. When any person purchase goods or services, the treatment of duties paid like GST, Excise, cess, custom duty and other taxes in accounts are as given: In case where both the recipient and supplier of goods or services are registered under GST Act, then recipient of goods or services is eligible to claim input tax credit for the GST paid subject to conditions mentioned under section 16 of

CGST Act, 2017. In this case duty paid under GST Act, shall not be the part of cost of purchase. A separate ledger of GST Output and Input is to be maintained. In case where the recipient of goods or services is not registered under GST Act and supplier is registered under GST Act, then recipient of goods or services is not eligible to claim input tax credit for the GST paid. In this case duty paid under GST Act, shall be the part of cost of purchase. In case where both the recipient and supplier of goods or services are not registered under GST Act, then there will be no duty chargeable under the GST Act. Apart from GST if any other taxes or duty is paid like entry tax it will be the part of purchase cost. Import duty paid at the time of clearance of import goods and import duty paid on service received from foreign will be the part of purchase of cost of goods or services. Any adjustment in import duty like CVD is required to deduct from the cost of purchase. Thus incase of duties, taxes etc; paid on sale and purchase of goods or services may be part of the cost of purchase or may not be depending upon the circumstances as narrated above. The text of clause (ii) of Section 277(1) of the Income-Tax Bill 2025 does not cover the above cases fully. As per this clause any duty paid shall be the part of the cost of purchase. It does not address the cascading effect of the GST/Excise/Services tax paid.

277.5 Examination by the Committee:

277.5.1 The Ministry submitted following replies to the above suggestions:

i. The suggestion seeks to omit clause 277 of the Bill which provide for method of accounting in certain cases on the ground that method of recognition of purchases and sales inclusive or exclusive of GST has no impact on taxable income. The suggestion is in the nature of policy change and is beyond the objectives of IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act. The method of accounting provided in clause 277 of the Bill is based on the Income Computation and Disclosure Standards (ICDS) as notified under clause 276(2) of the Bill. There is no change in the policy and intent in the new provisions. ICDS was brought to provide uniformity in various issues such as revenue recognition, accounting standard, valuation of inventories etc. ICDS provide for objective and precise computation of income for tax purposes.

ii. The suggestion is in the nature of policy.

iii. Suggestion relates to adjustments on account of taxes and duties paid as part of purchase. The provisions of s. 145A (cl. 277(1)(ii) are clear in this respect as far as Income tax is concerned. The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of tax, duty, and cess or fee actually paid or incurred. Clause 37 of the Bill (Sec43B of the Act) provides that certain deductions will be allowed on actual

payment basis only. So, any disallowance on account of provisions of cl. 37 of the Bill will also include tax, duty ,cess which is part of cost of purchase as per cl. 277(1)9ii) of the Bill.

277.5.2 In this regard, the Committee sought clarification on SC ruling in the case of CIT v Indo-Nippon Chemical Co Ltd (261 ITR 275) and the Ministry have submitted as follows:

The judgment of Supreme Court in CIT v Indo-Nippon Chemical Co Ltd (261 ITR 275) came in January, 2003. The issue in the said judgment was that the Assessing Officer adopted 'gross method' at the time of purchase and 'net method' of valuation at the time of valuation of the stock in hand. Whereas assessee had adopted "net method" for all the valuation purposes. In this context, the court held that the AO was wrong in adopting gross method only for valuation of purchase. Sec 145A of the Income-Tax Act, 1961 was amended vide Finance Act 2018 with retrospective effect from 01.4.2017 to provide that valuation of purchase and sale of goods and services shall be adjusted to include any amount of tax, duty, cess or fee actually paid by the assessee. The provisions of the Act are clear in the sense that for valuation of purchase and sales, gross method has to be adopted by all the assessees. There is no ambiguity in this respect as of now. The AO also has to follow the gross method of valuation for the purchase and sales. Therefore, the Supreme Court judgment may not be relevant now.

277.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 277 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 278– Taxability of certain income

278.1 Provision proposed in the Income-Tax Bill, 2025:

278. (*1*) The interest received by an assessee on any compensation or on enhanced compensation, shall be deemed to be the income of the tax year in which it is received, irrespective of anything to the contrary contained in section 276.

(*2*) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the tax year in which reasonable certainty of its realisation is achieved.

(*3*) The income referred to in section 2(*49*)(*w*) shall be treated as the income of the tax year in which it is received, if not charged to income-tax in any earlier tax year.

278.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Taxability of certain income.

145B. (1) Notwithstanding anything to the contrary contained in section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.

(2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.

(3) The income referred to in sub-clause (*xviii*) of clause (*24*) of section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

278.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 278 of the Bill provides for taxability of certain income.The clause corresponds to section 145B of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

278.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 278 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 279– Income escaping assessment

279.1 Provision proposed in the Income-Tax Bill, 2025:

279. (*1*) If, in the case of an assessee, any income chargeable to tax has escaped assessment for any tax year (hereinafter referred to as "the relevant tax year" in this section and sections 280 to 286, the Assessing Officer may, subject to the provisions of sections 280 to 286, for the relevant tax year,—

(*a*) assess or reassess income;

(*b*) recompute the loss or the depreciation allowance or any other allowance or deduction.

(*2*) For the purposes of the assessment or reassessment or recomputation under this section, Assessing Officer may assess or reassess—

(*a*) the income which has escaped assessment;

(*b*) income in respect of other issues which come to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of sections 280, 281 and 284 were not complied with.

279.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income escaping assessment.

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year

Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.

279.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 279 of the Bill provides for income escaping assessment. The clause corresponds to section 147 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

279.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Removal of the requirement for prior approval in reopening assessments may dilute existing safeguards.
ii. Clause 279(2)(a) and 279(2)(b) may be merged. If they are not merged, the AO may make regular assessment under 279 and defeat the very purpose of the clause. This will also enable the AO to examine any issue which did not escape assessment or was already examined.
iii. It may be noted that review of assessment or change of opinion is not permissible under Clause 279. AO is empowered to assess or reassess income in respect of other issues which come to his notice. This ability should come with a caveat that such income should be chargeable to tax and should have escaped assessment. Section 284 merely defines the specified authority Hence reference to section 284 is not warranted.
iv. It is required to limit reassessment to issues identified in the Section 148A notice. If the Assessing Officer later accepts that the initially suspected items had not escaped assessment, AO should not assess any other income independently, without issuing a fresh notice under Section 148. This enlarges the scope beyond what was envisaged at the time of issuing the initial notice under section 148A leading to uncertainty and larger powers to AO.
v. It is recommended that the time limit of three months prescribed under the IT Act should be retained. Under the IT Act, orders giving effect to an appeal must be passed within three months from the end of the month in which the order is received by the Pr. CCIT/CCIT/Pr. CIT/CIT, or when an order under sections 263 or 264 is passed. The proviso allows the assessing officer to request an additional six months from the Pr. CIT or CIT if needed. Extending the time available to tax authorities to pass appeal effect orders may adversely impact the taxpayers, by delaying potential refunds and closure of matters.
vi. It is suggested that section 279(1) may be amended as: “(1) If, in the case of an assessee, any income chargeable to tax has escaped assessment for any tax year (hereinafter referred to as “the relevant tax year” in this section and sections 280 to 286), the Assessing Officer may, subject to the provisions of sections 280 to 286, for the relevant tax year,—The bracket opened before the reference to section 286 should be appropriately closed to ensure grammatical accuracy and proper statutory referencing.”

279.5 Examination by the Committee:

279.5.1 With reference to the above suggestions, the Ministry submitted as follows:

i. There is no change in the provision of the Bill viz-a-viz the provisions of IT Act 1961 from the policy perspective. However, it is clarified that prior approval of specified authority before reopening has not been removed in clause 281. The suggestion has already been taken care of.

ii. Accepted. The said clauses shall be considered for merging.

iii. The present provision under clause 279 is in alignment with section 147.The AO has the power to assess or reassess any income, which has escaped assessment, which comes to his notice subsequently in the course of the proceedings under section 147 of IT Act 1961. Where income has escaped from taxation and there has been no regular assessment, there the provisions have to be invoked for assessment only. Therefore, the provision has been rightly made as it was there in the Act. No policy change has been made in this clause. Clause 280(5) and 281(3) gives reference to specified authority which has been defined in clause 284 so the reference of clause 284 is very much essential. Thus, the suggestion is not feasible.

iv. The suggestion seeks to amend clause 279 income escaping assessment to provide that reassessment be limited to issues identified in the Section 148A notice only. If the AO later accepts that the initially suspected items had not escaped assessment, AO should not assess any other income independently, without issuing a fresh notice under Section 148 It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The AO may assess or reassess income in respect of any other issue and it is not necessary that such issue has been covered u/s 148A.This is to avoid multiplicity of proceedings. The suggestion will result in increase in litigation as issues are many a times interconnected. Thus, the suggestion is not feasible.

v. The time limit of three months was found to be difficult to adhere to in many cases owing to difficulty in reconciliation with CPC-TDS, CPC-ITR & ITBA. Sometimes the years involved are such that records are not available on systems or are difficult to obtain. The three-month time limit was actually giving rise to grievances on account of tax credit not provided adequately for the above and other reasons. The measure of 6 months allows appropriate closure of the case without having to resort to rectifications of the OGE. The change has been incorporated keeping in view the interests of taxpayers so as to reduce multiplicity of proceedings arising from OGE. This shall also obviate the tendency to seek extension in time period for OGE. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation. Therefore, no change in the provision is required.

vi. The suggestion seeks to put a missing bracket in clause 279(1). The suggestion is in nature of drafting correction and acceptable.

279.6 Observations/Recommendations of the Committee:

279.6.1 The Committee note a drafting correction in sub-clause(1) at Line No.11 and recommend to put a missing bracket in clause 279(1).

279.6.2 The Committee recommend for the merging of income escaping assessment clause 279(2)(a) and 279(2)(b) of the Bill.The

279.6.3 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 280– Issue of notice

280.1 Provision proposed in the Income-Tax Bill, 2025:

280. (*1*)(*a*) Before making the assessment, reassessment or recomputation under section 279, the Assessing Officer shall, subject to the provisions of section 281, issue a notice to the assessee, along with a copy of the order passed under section 281(*3*).

(*b*) the notice referred to in clause (*a*) shall require the assessee to furnish, within such period as may be specified therein, a return of his income or income of any other person in respect of whom he is assessable under this Act during the relevant taxyear; and.

(*c*) the period specified in the notice referred to in clause (*a*) shall not exceed three months from the end of the month in which such notice is issued.

(*2*) The return of income required under sub-section (*1*) shall be furnished in such form, verified in such manner and setting forth such other particulars, as prescribed, and the provisions of this Act shall apply accordingly, as if such return were a return required to be furnished under section 263.

(*3*) Any return of income required under sub-section (*1*), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 263.

(*4*) No notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant tax year.

(*5*) No notice under this section shall be issued without prior approval of the specified authority, where the Assessing Officer has received—

(*a*) information under the scheme notified under section 260; or

(*b*) directions from the Approving Panel under section 274(*6*); or

(*c*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under anyother law.

(*6*) For the purposes of this section and section 281, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means—

(*a*) any information in the case of the assessee for the relevant tax year as per the risk management strategy formulated by the Board from time to time;

(*b*) any audit objection to the effect that the assessment in the case of the assessee for the relevant tax year has not been made as per this Act;

(*c*) any information received under an agreement referred to in section 159 of this Act;

(*d*) any information made available to the Assessing Officer under the scheme notified under section 260;

(*e*) any information which requires action in consequence of the order of a Tribunal or a Court;

(*f*) any information in the case of the assessee emanating from the survey conducted under section 253, other than under sub-section (*4*) of the said section;

(*g*) any directions in the case of the assessee given by the Approving Panel under section 274(*6*);

(*h*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

280.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

[2a]**[Issue of notice where income has escaped assessment.**

148. (1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall, subject to the provisions of section 148A, issue a notice to the assessee, along with a copy of the order passed under sub-section (3) of section 148A, requiring him to furnish, within such period as may be specified in the notice, not exceeding three months from the end of the month in which such notice is issued, a return of his income or income of any other person in respect of whom he is assessable under this Act during the previous year corresponding to the relevant assessment year:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year:

Provided further that where the Assessing Officer has received information under the scheme notified under section 135A, no notice under this section shall be issued without prior approval of the specified authority.

(2) The return of income required under sub-section (1) shall be furnished in such form and verified in such manner and setting forth such other particulars, as may be prescribed, and the provisions of this Act shall, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that any return of income required under sub-section (1), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 139.

(3) For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

(*i*) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; or

(*ii*) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(*iii*) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(*iv*) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(*v*) any information which requires action in consequence of the order of a Tribunal or a Court; or

(*vi*) any information in the case of the assessee emanating from survey conducted under section 133A, other than under sub-section (2A) of the said section, on or after the 1st day of September, 2024.

280.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 280 of the Bill provides for issue of notice. The clause corresponds to section 148 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

280.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The concept of “reason to believe” as has been evolved by way of judicial interpretation should be imbibed in the provisions of clause 280(4) of the Bill. Prior to overhauling of the reassessment procedure vide the Finance Act, 2021, the in-built test for justifying the reassessment proceedings was whether the Assessing Officer has “reason to believe” to initiate such proceedings - The expression “reason to believe” has been a subject matter of interpretation and has been defined by the Hon’ble Apex Court in plethora of cases to mean that the Assessing Officer has tangible material in his possession which has rationale

nexus with the formation of belief that income chargeable to tax has escaped assessment. Further, the Hon'ble Courts have held that the term "information" under amended law or "reason to believe" under erstwhile law, the benchmark of "escapement of income chargeable to tax" still remains the primary condition to be satisfied before initiating reassessment proceedings Thus, the same would provide a safeguard to the taxpayer as the term "information" is wide enough to encapsulate everything, which may provide unbridled power to the Assessing Officer to initiate reassessment proceedings.

ii. Either Clause 280(6)(a) should be omitted or the meaning of term "Risk Management Strategy" may be specifically defined. Re-assessment proceedings form a major chunk of the direct tax litigation in the country This clause alone has led to significant litigation before High Courts at the stage of reopening notice (under section 148) itself, since the Risk Management Strategy is not explained / published by the Board, and it is not possible for taxpayers to assess whether proceedings have been initiated in accordance with law.

iii. Clause 280(1)(a) does not provide period for filing return, while Clause 280(1)(b) does. Therefore, reference should be made to clause (b) and not clause (a).

iv. With expanded scope and similar language, next round of litigation in the space of reassessment can be expected Internationally, practice for reassessment is only in exceptional cases under specified category of default, like failing to file return etc Therefore, it is recommended that Section 280 of the Bill shall retain the similar provisions as in existing Income-Tax Act.

v. The period within which a return of income is required to be filed should be explicit (say, 90 days) and should not be left to the discretion of the assessing officer. While the proposed clause is aligned with existing provision, a statutory well defined period in the provision itself rules out any arbitrariness as it maintains consistency for all assessees, thereby reducing any scope of litigation.

vi. It is suggested that section 280(1)(c) can be redrafted as : "the period specified in the notice referred to in clause (a) shall not be less than one month but shall not exceed three months from the end of the month in which such notice is issued." The insertion of the words "be less than one month but shall not" ensures clarity and precision in defining the minimum and maximum time limits, thereby aligning the provision with standard legal drafting practices and eliminating ambiguity.

vii. All cases of reassessment should ideally go through the same preliminary safeguard (the Clause 281 inquiry), including those where the information is in the form of directions from an Approving Panel or an order of appellate authorities/Tribunals/Courts. In other words, Clause 280(6)(g) and (h) should not be excluded from the ambit of Clause 281. It is required to extend the pre-notice inquiry procedure to these categories as well, to ensure uniform protection for taxpayers. The pre-notice inquiry allows the assessee to present his case before

a reassessment is initiated. An appellate order in some other matter contains an observation that income for another year might need to be taxed; currently, Clause 280(6)(h) would allow reopening that year without a show cause. The assessee should be issued a notice under Clause 281 to show cause. The pre-notice inquiry (or "same inquiry") should be required for clause (g)/(h) cases just as for others. This is essentially the same suggestion as discussed in the previous item at sr no 157, phrased in a concise manner: "Require same inquiry under clause (g)/(h) as others.". Clause 280(6)(g) and (h) bring into the ambit of "information" the directions of an Approving Panel and the findings/directions in orders of tribunals or courts, which, read with clause 281(4), mean that these cases would bypass the usual show-cause notice and pre-reassessment hearing. The Reassessment information is widened and there is no pre-notice check.

viii. Removal of the requirement for prior approval in reopening assessments may dilute existing safeguards.

280.5 Examination by the Committee:

280.5.1 In response to the above suggestions, the Committee submitted as follows:

i. The suggestion seeks to include the concept of "reason to believe" in the provisions of clause 280(4) of the Bill. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act.

ii. The suggestion seeks to omit clause 280(6)(a) which defines information for the purpose of making reassessment. It further seeks to define the term "Risk Management Strategy". There is no change in the provisions of the Bill viz-a-viz Act. As per the statute, Risk Management Strategy is 'formulated by the Board from time to time'. This is an administrative concept which finds mention in the law. The concept is dynamic in nature and it may not be possible to hard-code it. It basically means a selection criteria based upon risk parameters. The RMS utilizes algorithms, technology, and information available to identify doubtful or non-compliant taxpayers. The RMS only facilitates the selection of case and all the proceedings thereafter are initiated as per the procedure defined in law. The suggestion is not feasible.

iii. The suggestion seeks to replace the reference to "clause(a)" by "clause (b)" in clause 280(1)(c). In clause 280(1)(c), notice which has been referred is in clause (a) therefore the referencing is correct and the suggestion is not feasible.

iv. The suggestion seeks to retain the same provisions as in existing IT Act in clause 280 of the Bill as the new clause 280(h) expands the scope of 'information' for issue of notice to include order by any authority under the Act or reference or

revision or by a Court in any proceedings under any other law. When an Approving Panel issues a direction [280(6)(g)] or an appellate authority/Tribunal/Court[280(6)(h)] gives a finding that triggers reassessment, that direction or finding is binding on the tax authorities.

The pre-notice inquiry (Clause 281) is a mechanism for the department to internally review and for the taxpayer to have a say before a decision to reopen is made. But in scenarios (g) and (h), the decision to reopen has effectively been made by a higher authority – there is nothing left for the department to evaluate or the taxpayer to plead that can undo that directive. Besides under both circumstances, opportunity of being heard has been already granted by the Approving Panel or Appellate authority/Tribunal/Court. Hence no further opportunity is required to be given by the Assessing Officer before reopening of the assessment on the basis of such direction. Thus, the suggestion is not feasible.

v. The suggestion seeks to amend clause 280 issue of notice in case of reassessment by providing a fixed timeline of 90 days to file return in response to the notice issued by AO. There is no change in the provisions of the Bill vis-a-vis Act. It is to be mentioned that the time limit to complete the reopening assessment is one year from the end of the financial year in which notice under clause 280 is served to the assessee. Thus, for AO, the time limit starts as soon the notice under clause 280 is served to the assessee. The maximum time limit to file return in response to notice under clause 280 has been provided in clause 280(1)(c) and AO has been given power to specify the time limit for furnishing return by the assessee. This power is to enable the AO to provide extended time in case assessee faces any difficulty in filing such return. Further, there are cases of non-residents or persons leaving India where the assessment may have to be finalised quickly so as to enable such taxpayers to leave India after meeting their tax liabilities. This is particularly relevant for ships leaving India. Therefore, not all cases require whole 90 days period to furnish the return. Allowing all assessee to furnish return in 90 days will significantly delay the reassessment proceedings and increase further litigation. It is in the interest of the assessee if flexibility is retained in the section especially in cases where the assessee does not have ready access to old records. Thus, the suggestion is not feasible.

vi. The suggestion seeks to redraft the clause 280(1)(c) by including minimum time limit of one month in reopening notice issued to assessee. It is to be mentioned that the time limit to complete the reopening assessment is one year from the end of the financial year in which notice under clause 280 is served to the assessee. Thus, for AO, the time limit starts as soon the notice under clause 280 is served to the assessee. The maximum time limit to file return in response to notice under clause 280 has been provided in clause 280(1)(c) and AO has been

given power to specify the time limit for furnishing return by the assessee. This power is to enable the AO to provide extended time in case assessee faces any difficulty in filing such return. Further, not all cases require whole 90 days period to furnish the return. Allowing all assessee to furnish return in 90 days will significantly delay the reassessment proceedings and increase further litigation. Thus, the suggestion is not feasible.

vii. The suggestion to remove the exemption for Clause 280(6)(g) and (h) cases from the pre notice inquiry process is not acceptable. When an Approving Panel issues a direction [280(6)(g)] or an appellate authority/Tribunal/Court[280(6)(h)] gives a finding that triggers reassessment, that direction or finding is binding on the tax authorities. The pre-notice inquiry (Clause 281) is a mechanism for the department to internally review and for the taxpayer to have a say before a decision to reopen is made. But in scenarios (g) and (h), the decision to reopen has effectively been made by a higher authority – there is nothing left for the department to evaluate or the taxpayer to plead that can undo that directive. Besides under both circumstances, opportunity of being heard has been already granted by the Approving Panel or Appellate authority/Tribunal/Court. Hence no further opportunity is required to be given by the Assessing Officer before reopening of the assessment on the basis of such direction. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary.

viii. There is no change in the provision of the Bill viz-a-viz the provisions of IT Act 1961 from the policy perspective. However, it is clarified that prior approval of specified authority before reopening has not been removed in clause 281. The suggestion has already been taken care of.

280.5.2 In this regard, the Ministry further submitted as follows:

when we want to reopen any assessment for earlier years, then information is defined now. Under this information, you can reopen the case. That is in Clause 280 in the new Act, and sub-clause 6, there are A to H. Those are mentioned.
हम इसे दो तरह से डील करते हैं। जो ए से एफ तक है, उनमें पहले एसेसी को शो कॉज देते हैं कि हमारे पास यह इंफोर्मेशन है, इसलिए बताया जाए कि आपका केस रिओपन क्यों न किया जाए। जब उनका रिप्लाई आता है, हम आर्डर करते हैं और तब केस रिओपन होता है। जी और एच स्पेसिफिक इनफार्मेशन है। हमारे यहां जनरल एंटी एवायडेंस रूल के तहत अप्रूविंग पैनल है जिसे जज हैड करता है। इसमें चीफ कमिश्नर और अन्य सदस्य भी होते हैं। they can also give a finding. One of the findings can be, if they decide the case against the assessee, they can say that this particular income is taxable, but not in this year, it is in another year. So, this specific information comes.

Similarly, in the case, if any proceeding is going on before Appellate Tribunal, or some High Court, Supreme Court, they sometimes also give finding, which acts as information for opening earlier years' case. The finding may be given that it was not taxable in this year, this was taxable in this year. This was not taxable, substantive and protective, if it has not been made. They can say it is taxable in somebody else's hand.

So, these are the findings and directions which are binding on us. The assessee has already got his opportunity to explain all these things before court or approving panel. So, for these two, we have provided that we do not need to again go through the entire process. We can reopen the case directly.

280.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 280 to be corresponding to the existing provisions with textual simplification and therefore accept the Clause as proposed.

Clause 281– Procedure before issuance of notice under section 280

281.1 Provision proposed in the Income-Tax Bill, 2025:

281. (*1*) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant tax year, he shall, before issuing any notice under section 280 provide an opportunity of being heard to such assessee by serving upon him a show cause notice.

(*2*) The notice to show cause referred to in sub-section (*1*) shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant tax year, and on receipt of such notice, the assessee may furnish his reply within such period, as specified in therein.

(*3*)The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (*2*), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 280.

(*4*)The provisions of this section shall not apply to income chargeable to tax escaping assessment for any tax year in the case of an assessee, where the Assessing Officer has received—

(*a*)information under the scheme notified under section 260;

(*b*) directions issued by the Approving Panel under section 274(*6*);

(*c*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

281.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Procedure before issuance of notice under section 148.

148A. (1) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant assessment year, he shall, before issuing any notice under section 148 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case and such notice to show cause shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year.

(2) On receipt of the notice under sub-section (1), the assessee may furnish his reply within such period, as may be specified in the notice.

(3) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 148.

(4) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any assessment year in the case of an assessee where the Assessing Officer has received information under the scheme notified under section 135A.

Explanation.—For the purposes of this section and section 148, "specified authority" means the specified authority referred to in section 151.]

281.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

281.3.1 Clause 281 of the Bill provides for the procedure before issuance of notice under clause 280.The clause corresponds to section 148A of the Act. Apart from the information under the scheme notified under section 135A, the following categories of information (sub-clause (g) and (h) of Clause 280(6)) has also been exempted from the pre-notice inquiry process under this clause:

i. directions issued by the Approving Panel under section 274(6);
ii. any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

281.3.2 The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct.

281.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The expansion of the scope to by-pass procedure under clause 281 by including clauses (b) and (c) is unwarranted and should be removed.
ii. Procedure under section 281 ensures fairness, instils faith and confidence in administration of law and complies with principles of natural justice, which are the bedrock of the legislation and woven deep in our laws. Giving a fair opportunity to the assessee to rebut to the information relied upon by the assessing officer before reopening any assessment will also avoid possible litigation. Providing such opportunity in case of GAAR approving Panel direction or direction by court, etc is beneficial to both taxpayers and Tax Department. It provides opportunity to the taxpayer to own up the escaped income while filing return in response to reassessment notice. With extended time line for filing updated return in the case

of initiation of re-assessment proceedings, upto 4 years from end of the relevant tax year applicable from 1 April 2025, it gives opportunity to the taxpayer to file updated return with tax, interest & additional tax in which case the entire reassessment procedure is avoided and taxpayer is also saved from penalty & prosecution. Alternatively, it provides opportunity to taxpayer to explain why the GAAR approving panel directions or court directions do not warrant reopening. It also saves significant time & efforts for the Tax administration in conducting long drawn reassessment and ensuing litigation and more significantly, results in immediate collection of revenue if taxpayer accepts the escaped income.e Hence, the pre-notice inquiry procedure is a win-win situation for both taxpayers and tax administration in achieving immediate closure of tax proceedings in non-intrusive manner, collection of revenue and prevents clogging of appellate forums/courts with litigation in clear cases of escapement of income and/or provides opportunity to taxpayer to establish why reopening is not warranted. No prejudice is caused to Tax Department since there is no time limit for reopening pursuant to court direction and in any case, the procedure merely consumes at the highest three more months.

iii. It is suggested that in section 281(1) can be redrafted as “Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant tax year, he shall, before issuing any notice under section 280 provide an opportunity of being heard to such assessee by serving upon him a show cause notice allowing time of not less than fifteen days from the date of its service.” The inclusion of the phrase 'allowing a minimum period of 15 days from the date of service' ensures that the assessee is provided with a reasonable opportunity to be heard, thereby ensuring adherence to the principles of natural justice and procedural fairness. It is suggested that section 281(3) can be redrafted as “The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 280, within a period of 15 days from the end of the month in which reply is received from the assessee. “The inclusion of the phrase 'within a period of 15 days from the end of the month in which the reply is received from the assessee’ provides a definitive timeline for the passing of the order, thereby ensuring procedural certainty and facilitating prompt action by the Assessing Officer.

iv. There is a potential gap in clause 281’s framework that is the absence of an explicit consequence or enforcement mechanism if the Assessing Officer fails to enclose the information along with the show-cause notice or otherwise does not adhere to the procedure. The suggestion raised is that the law should make it

unequivocally clear that such procedural requirements are mandatory by stipulating consequences for non-compliance.

v. Clause 281(1) provides for issue of show cause notice but it is not stated what is the purpose of show cause notice. See section 148A(1) which states that a notice to show cause as to why a notice under section 148 should not be issued in his case.

281.5 Examination by the Committee:

281.5.1 The Ministry submitted its replies as follows for the above suggestions:

i. The suggestion seeks to omit clause 281(b) and (c). When an Approving Panel issues a direction [280(6)(g)] or an appellate authority/Tribunal/Court[280(6)(h)] gives a finding that triggers reassessment, that direction or finding is binding on the tax authorities.

ii. The suggestion seeks to omit clause 281(b) and (c). When an Approving Panel issues a direction [280(6)(g)] or an appellate authority/Tribunal/Court[280(6)(h)] gives a finding that triggers reassessment, that direction or finding is binding on the tax authorities. The pre-notice inquiry (Clause 281) is a mechanism for the department to internally review and for the taxpayer to have a say before a decision to reopen is made. But in scenarios (g) and (h), the decision to reopen has effectively been made by a higher authority – there is nothing left for the department to evaluate or the taxpayer to plead that can undo that directive. Besides under both circumstances, opportunity of being heard has been already granted by the Approving Panel or Appellate authority/Tribunal/Court. Hence no further opportunity is required to be given by the Assessing Officer before reopening of the assessment on the basis of such direction. Thus, the suggestion is not feasible.

iii. The suggestion seeks to provide a fixed time limit of 15 days to be provided to assessee for filing response to notice under clause 281(148A of IT Act). Further, the suggestion seeks to provide fixed time limit of 15 days to assessee to pass order under clause 281(3). Issue is in the nature of policy change. Where internal time limits are provided in one single process, then exclusions are also to be provided. There has been enough litigation on internal time limits. Therefore, the provisions were modified in July 2024 budget. Thus, the suggestion is not feasible.

iv. The provisions of clause 281, as drafted, are sufficiently effective to ensure compliance and protect the rights of taxpayers. By explicitly requiring the Assessing Officer to supply the information along with the show cause notice and to record an order considering the assessee's reply, the law makes these steps a statutory obligation. Thus, it is not necessary to enumerate a specific

consequence within the clause for such non-compliance. Thus, the suggestion is already taken also.

v. That is in the beginning only, it is said that before issuing notice under Section 280, show cause notice has to be given. So, effectively, the same meaning is coming.

281.5.2 Further, with regard to providing a fixed time limit of 15 days to assessee for filing response to notice, during oral evidence the Ministry stated as follows:

> *When we give the first notice, from their onwards, the timeline available to the assessing officer is within 90 days and he has to complete that whole process. He gives information, seeks reply, does investigation, and then passes a detailed order whether the case can be reopened or not. That is a consolidated timeline.*
>
> *..there are two definite timelines in this. The first is issuance of notice. He cannot delay the issuance of notice beyond 31st March. That timeline is already provided in the Act. So, there is no case of delaying it, taking it up to 30th June for the purpose of issuance of the first notice. So, that first concern is addressed thereafter. Sir, the earlier provisions of 148 were changed in 2024. The earlier provisions exactly had that type of structure that 15 days for this and further time sought by the assessee and extended up to that time and then 30 days from the end of the month in which the reply was filed. Sir, they were becoming six provisos to the original provision and becoming very complicated. So, we changed it and simplified it. 31* मार्च से पहले नोटिस इश्यू होना है और *30* जून से पहले *148* का फाइनल नोटिस इश्यू होना है।

281.6 Observations/Recommendations of the Committee:

281.6.1 The Committee observe that in sub-clause (1) to Clause 281, the purpose for issuing show-cause notice is not provided. That was there in the earlier wording in the Act of 1961 which said 'Serving upon him a notice to show cause as to why a notice under Section 148 should not be issued'. Therefore, the Committee recommend to align Clauses 281(1) & 281(2) with the IT Act, 1961.

281.6.2 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 282– Time limit for notices under sections 280 and 282

282.1 Provision proposed in the Income-Tax Bill, 2025:

282. (*1*) No notice under section 280 shall be issued for the relevant tax year,—

(*a*) if four years and three months have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(*b*) if four years and three months, but not more than six years and three months, have elapsed from the end of the relevant tax year, unless the Assessing Officer has books of account or other documents or evidence related to any asset or expenditure or transaction or entry which shows that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more.

(*2*) No notice to show cause under section 281 shall be issued for the relevant tax year,—

(*a*)if four years have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(*b*)if four years, but not more than six years, have elapsed from the end of the relevant tax year, unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to fifty lakh rupees or more.

(*3*) No notice under section 280 or 281 shall be issued within one year from the end of any tax year.

282.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

[3][**Time limit for notices under sections 148 and 148A.**

149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

(*a*) if three years and three months have elapsed from the end of the relevant assessment year, unless the case falls under clause (*b*);

(*b*) if three years and three months, but not more than five years and three months, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence related to any asset or expenditure or transaction or entries which show that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more.

(2) No notice to show cause under section 148A shall be issued for the relevant assessment year,—

(*a*) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (*b*);

(*b*) if three years, but not more than five years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to fifty lakh rupees or more.]

282.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 282 of the Bill seeks to provide for the time limit for notices under clauses 280 and 281.The clause corresponds to section 149 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

282.4 Important Views/Suggestions given by Experts/Stakeholders:

i. It is suggested that section 282(1)(b) can be amended as " If four years and three months, but not more than six years and three months, have elapsed from the end of the relevant tax year, unless the Assessing Officer has in his possession books of account or other documents or evidence related to any asset or expenditure or transaction or entry which shows that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more." The insertion of the words 'in his possession' ensures that the Assessing Officer forms a belief regarding income escaping assessment based on specific material evidence in his possession, thereby conforming to the principles of reasonableness and objective satisfaction as mandated under the provisions of the Act.

ii. As per Clause 282(3), no notice under section 280 or 281 shall be issued within one year from the end of any tax year. Hence there is an express bar to ensure that regular assessment and reassessment do not clash. Such bar should exist even during the pendency of assessment or reassessment proceedings as any such escaped income could always be brought to tax during such assessment.

282.5 Examination by the Committee:

282.5.1 The Ministry submitted following replies to the above suggestions:

i. The suggestion seeks to redraft clause 282(1)(b) to align it with Act by including the phrase 'in his possession'. The suggestion is in nature of drafting correction and acceptable.

ii. The suggestion seeks to provide for a bar on issuance of notice under clause 280 or 281 (income escaping assessment) during the pendency of assessment or reassessment proceedings. There is no change in the provisions of the Bill viz-a-viz Act. The said provision has been incorporated so that regular assessment precedes reassessment. During the pendency of assessment or reassessment, no other proceedings can be carried out. If during the assessment or reassessment proceeding, any income which has escaped assessment comes to the notice of AO then such issue will be covered in the same proceeding and no new proceeding will be carried out.

282.6 Observations/Recommendations of the Committee:

282.6.1 The Committee note that adding the words 'in his possession' in sub-clause (1)(b) before ‘books of accounts’ at Line No.03 can bring the provision in alignment with the Act. The Committee, therefore, recommend the Ministry to align it with the existing Act.

282.6.2 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 283– Provision for cases where assessment is in pursuance of an order on appeal, etc.

283.1 Provision proposed in the Income-Tax Bill, 2025:

283. (*1*) Irrespective of anything contained in sections 280 and 282, the notice under section 280 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to—

(*a*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law; or

(*b*) the directions issued by the Approving Panel under section 274(*6*).

(*2*) The provisions of sub-section (*1*) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to a tax year in respect of which an assessment, reassessment or recomputation could not have been made,by reason of any other provisions limiting the time within which any action for assessment, reassessment or recomputation may be taken, at the timewhen,—

(*a*) the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made; or

(*b*) the reference from the jurisdictional Principal Commissioner or Commissioner is made to the Approving Panel under section 274(*4*).

283.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Provision for cases where assessment is in pursuance of an order on appeal, etc.

150. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-

matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

283.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 283 of the Bill seeks to provide the provisions for cases where assessment is in pursuance of an order on appeal, etc.The clause corresponds to section 150 of the Act.The directions issued by the Approving Panel under clause 274(6) has been added in the clause. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct.

283.4 Important Views/Suggestions given by Experts/Stakeholders:

Use of “irrespective of anything contained in the Act”, may mean that to interpret this statutory provision, every other provision can be simply disregarded In sharp contrast to this approach, the expression “notwithstanding” implies that the related provision will have “an overriding effect in case of (and only in case of) a conflict” and that “the non obstante clause need not necessarily and always be co-extensive with the operative part so as to have the effect of cutting down the clear terms of enactment and if the words of the enactment are clear and are capable of a clear interpretation on a plain and grammatical construction of the words the non obstante clause cannot cut down the construction and restrict the scope of its operation” [See R S Raghunath Vs State of Karnataka & Ors [(1992) 1 SCC 335 (SC)] 2 283 should only override section 282 [similar to section 150 overriding section 149] 3 280(5)(b) and (c) specifically deal with situations covered by section 283 and would require prior approval before issuing notice 4 By making 283 override 280, the requirement of prior approval is negated 5 280(6)(g) and (h) deal with situations covered by section 283 and regard these situations as Information suggesting escapement Therefore, section 283 cannot override section 280.

283.5 Examination by the Committee:

283.5.1 The Ministry provided following reply to the above suggestion:

> *The suggestion seeks to retain "Notwithstanding" and omit "irrespective of". Irrespective of' has been used for ease of understanding by a 'common graduate'. "Notwithstanding" signifies a statutory override. Its interpretive function is fully preserved with the simpler expression "irrespective of". The statutory primacy of the clause is clear and there is no erosion of its overriding effect. In all likelihood, Courts will continue to give effect to the intended hierarchy of provisions, irrespective of the lexical form employed and without dilution of*

legislative intent. Both terms serve the same operative purpose of ensuring that specified provisions apply without being affected by any contrary provision. The judgment rendered by the Hon'ble Supreme Court in ICICI Bank Ltd. v. Sidco Leathers Ltd. is in the context of statutory conflict and priority (insolvency and inter creditor rights). However, its relevance may be limited when evaluating changes made in the drafting of income-tax provisions which are with the objective of making the law more readable without compromising legal substance. Thus, the suggestion is not feasible.

283.5.2 In this regard, the Ministry submitted further as follows:

Sir, this is an old provision which flows down from Section 150 of the old Act. पुराने एक्ट का सेक्शन 150 यह कह रहा था कि मान लीजिए किसी की असेसमेंट हुई, वह अपील में चला गया। उसके बाद ट्रिब्यूनल ने या उच्च न्यायालय ने कहा कि यह टैक्स पति की तरफ से नहीं देना था, यह उसकी पत्नी के अकाउंट से टैक्स लगना था, irrespective of the timelines specified in 280 and 281 and the process specified there, हम उसको अभी पत्नी के हाथ से री-असेस कर सकते हैं to give effect to a direction of the court in a particular case, बस क्लॉज़ 280 और 281 को ओवरराइड करने के लिए क्लॉज़ 283 दिया गया है।

283.5.3 When the Committee suggested an alternative as to avoid confusion regarding Clause 283 overriding Clauses 280 and 281, the Ministry submitted as follows:

There are specific directions which come from the court. They need to override the timelines.

सर, इसमें एक एडिशनल कंडीशन है कि हम दूसरा केस तभी री-ओपेन कर सकते हैं, जबकि जो ऑर्डर कोर्ट के सामने गया, उसमें जो डायरेक्शन आया, वह जिस तारीख को पास हुआ था, उस तारीख से, जो वर्ष का हम अभी री-ओपेन करना चाहते हैं, वह उसकी लिमिट की पीरियड के अंदर होना चाहिए। अगर उस दिन पहले से ही पाँच साल बीत चुका है तो कोर्ट के प्रोविजन्स से भी हम उसे री-ओपेन नहीं कर सकते हैं। यह असेसीज़ को एक अतिरिक्त बेनिफिट दी गयी है।

सर, अगर आज की तारीख में कोई असेसमेंट हुआ तो आज की तारीख से पाँच साल तक हम लोग किसी भी केस को री-ओपेन कर सकते हैं।

283.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 283 in line with the existing provisions with mere textual simplification and no change in intent and therefore accept the Clause as proposed.

Clause 284– Sanction for issue of notice

284.1 Provision proposed in the Income-Tax Bill, 2025:

284. The specified authority for the purposes of sections 280 and 281 shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

284.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

[4][**Sanction for issue of notice.**

151. Specified authority for the purposes of sections 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.]

284.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 284 of the Bill provides for sanction for issue of notice.The clause corresponds to section 151 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

284.4 Important Views/Suggestions given by Experts/Stakeholders:

i. In case the Assessing Officer is the Income tax Officer, the Assistant Commissioner or Deputy Commissioner, the Specified authority for the purposes of Clauses 280 and 281 shall be Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director. In case the Assessing Officer is the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, the Specified authority for the purposes of Clauses 280 and 281 shall be the Commissioner or the Director or the Principal Commissioner or the Principal Director. It is necessary to provide that specified authority shall be superior to the rank of AO.
ii. The specified authority shall be restored to the position as was there prior to 1-9-2024. For the purpose of sanction, more superior authorities ought to be granting approval for reopening any assessment as power to reopen is grave and severe and must therefore be handled with care and not arbitrarily/ asually A senior authority approving the reassessment will act as a counter to abusive use of the arbitrary power which will otherwise be available to the assessing officer.
iii. Sanctioning authority for the cases to be reopened beyond four years and three months ought to comprise of senior officials like Principal Chief Commissioner or Chief Commissioner. Finality in cases of tax disputes is a cornerstone for any

civilized society and reopening is an exception. In the erstwhile regime, i.e prior to Finance Act, 2024, there were two category of sanctions i.e first for reopening uptill three years and beyond three years and two separate sanctioning authorities were specified to ensure checks and balances and sufficient safeguards. The two classes of assesses cannot be treated at par where the reopening is within the period of four years and three months and beyond four years and three months but less than six years and three months.

284.5 Examination by the Committee:

284.5.1 To the above suggestions, the Committee provided a consolidated reply as follows:

The suggestion seeks to amend clause 284 and change the sanctioning authority for reopening beyond four years and three months to senior officials like principal chief commissioner or chief commissioner. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Joint/ Addl Commissioner is a senior level officer with experience ranging from 10-20 years, for direct recruit IRS officers, and about 20-35 years of service for promote officers.

284.5.2 During the oral evidence, the Ministry further apprised the Committee as follows:

Sir, there is reassessment. After three years, the approval has to be taken from a higher authority before proceeding with the reopening. So, the suggestion is that it should be escalated to senior officials like Principal Chief Commissioner or Chief Commissioner. So, that was the provision earlier and we have changed it by July, 2024 Budget because thousands of cases were flagged to the Principal Chief Commissioner and he had no time to do the due diligence. That was one. And second is that every assessment has to be reviewed by the Principal Commissioner. So, for that, if he or his senior authority is giving approval for the issuance of a show cause notice or for reopening of a case, then, after that AO will feel that the higher authority has already given approval so I have to assess that income in the hands of the taxpayer. So, that works against the taxpayer also.

Let us suppose that a case is flagged for reopening of a case and that gets approved by the Principal Chief Commissioner and the Principal Chief Commissioner gives a satisfaction that he is satisfied that a notice has to be issued. Now, the quasi-judicial authority is the Assessing Officer who is much below in rank to that Principal Chief Commissioner. Once that satisfaction on that issue has already been granted by the Principal Chief Commissioner, it is more

of a fait accompli that the Assessing Officer and the Additional Commissioner would adjudicate and say that 'no' that income has not escaped assessment.

284.5.3 The Committee asked the Ministry about the logic behind bringing about the aforementioned change through the July, 2024 Budget. The Ministry in oral evidence replied as follows:

In search cases, the time limit -- where search assessment could be done -- was ten years. So, in 2021, in the search cases, the separate assessment under 153(A) and 153(C) was done away with and the provision that came was that search assessments would also be done like normal reassessment. So, because they were to be completed as normal reassessment so that ten-year limit, which was there in 153(A) -- special provisions for search --came in reassessment provision also. So, from six years, it went to ten years. But then, it was felt that may be ten years is too long a period. In 2024, we have again separated the search provision. We have brought block provisions for search. So, search has again been taken out of that reassessment procedure and then, for the search, six-year period has been provided for block assessment and this has been reduced to five years.

सर, जुलाई, 2024 से जो प्रावधान आए हैं, उसमें तीन सालों के बाद से 50 लाख रुपये की लिमिट है, तीन सालों से पहले की कोई लिमिट नहीं है। उसमें यह प्रावधान है कि असेसमेंट वर्ष के अन्त होने के बाद से तीन साल तक तो री-ओपेन हो सकता है। उसके अन्तर्गत जिनका भी इनकम-एस्केपिंग असेसमेंट है और जब असेसिंग ऑफिसर के पास उसकी इंफॉर्मेशन आती है तो वह उसे री-ओपेन कर सकता है। लेकिन, अगर तीन साल बीत चुके हैं तो उसके बाद कम से कम इनकम-एस्केपिंग असेसमेंट 50 लाख रुपये होनी चाहिए। उसके बाद ही वह री-ओपेन हो सकता है।

284.6 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 284 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 285– Other provisions

285.1 Provision proposed in the Income-Tax Bill, 2025:

285. (*1*) In an assessment, reassessment or recomputation made under section 279, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(*2*) The Assessing Officer may drop the proceedings initiated under section 279 on a claim made by the assessee to the effect that—

(*a*) he had been assessed on an amount not lower than what he would be rightly liable for, even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made; and

(*b*) he has not impugned any part of the original assessment order for the relevant year under section 356or357 or 378.

(*3*) Where a claim has been made by an assessee under sub-section (*2*), he shall not be entitled to reopen matters concluded by an order under section 287 or 288 or 365(*10*) or 368 or 377.

285.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other provisions.

152. (1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(2) Where an assessment is reopened under section 147, the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made :

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262 or 263.

[5][(3) Where a search has been initiated under section 132 or requisition is made under section 132A, or a survey is conducted under section 133A [other than under sub-section (2A) of the said section], on or after the 1st day of April, 2021 but before the 1st day of September, 2024, the provisions of sections 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.

(4) Where, in a case other than that covered under sub-section (3), a notice under section 148 has been issued or an order under clause (*d*) of section 148A has been passed, prior to the 1st day of September, 2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.]

285.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 285 of the Bill deals with other provisions.The clause corresponds to section 152 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The redundant provisions of section 152(3) and 152(4) have been omitted in view of their applicability before 01.09.2024.

285.4 Important Views/Suggestions given by Experts/Stakeholders:

It is suggested that section 285(2) can be amended by substituting the word 'may' with 'shall', thereby making it mandatory for the Assessing Officer to drop the proceedings upon a valid claim made by the assessee. The reference in Clause 285(2)(b) should be to “original assessment order for the relevant tax year” not for “relevant year”.

285.5 Examination by the Committee:

285.5.1 The Ministry provided their replies as follows to the above suggestions:

> *The suggestion seeks to amend clause 285(2) [s. 152(2)] by replacing the phrase ‘may' with 'shall' thereby making it mandatory for the Assessing Officer to drop the proceedings upon a valid claim made by the assessee in respect of assessment, reassessment or recomputation. The Act uses the phrase 'shall' on showing by the assessee about the claim. Therefore, both the phrases shall be aligned with IT Act. Thus, suggestion is acceptable.*

285.6 Observations/Recommendations of the Committee:

285.6.1 The Committee recommend to replace 'may' with the word 'shall' in sub-clause (2) to align the proposed provision with the existing Act.

285.6.2 The Committee further recommend that in Clause 285(2)(b) at Line No.46, the reference may be amended to "original assessment order for the relevant tax year" not for "relevant year" for more clarity.

285.6.3 The Committee other than recommending the Ministry to carry out the necessary changes, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 286– Time limit for completion of assessment, reassessment and recomputation

286.1 Provision proposed in the Income-Tax Bill, 2025:

286. (*1*) No order in respect of proceedings mentioned in column B of the Table below shall be made after expiry of the period specified in column D of the said Table and calculated from the date as mentioned in column C thereof.

Table

Sl. No.	Nature of Proceedings or orders	Date from which time limit for completion is to be calculated	Time limit for completion
A	B	C	D
1.	Assessment order under section 270(*10*) or section 271.	End of the financial year succeeding the relevant tax year.	One year.
2.	Assessment order under section 270(*10*) or 271, where an updated return of income is furnished under section 263(*6*).	End of the financial year in which such updated return was furnished.	One year.
3.	Assessment order under section 270(*10*) or 271, where return is furnished in consequence of order under section	End of thefinancial year in which such return was furnished.	One year.

239(*3*)(*b*).

4.	Assessment, reassessment or recomputation order under section 279.	End ofthe financial year in which notice under section 280 was served.	One year.
5.	Fresh assessment order or fresh order under section 166 in pursuance to an order under section 359, or 363, or 377, or 378 setting aside or canceling an assessment order or an order under section166.	End of the financial year in which order under section 359 or 363 is received, or order under section 377 or 378 is passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
6.	Assessment or reassessment which stands revived, as per section 153A(*2*) of Income-tax Act, 1961(43 of 1961), or section 292.	End of the month in which such assessment or reassessment stands revived.	One year.
A	B	C	D
7.	Assessment required to be made in the hands of partner, in consequence of an assessment	End of the month in which assessment order in the case of firm is passed.	One year.

	made on the firm under section 279.		
8.	Assessment, reassessment or recomputation required to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order— (i) under section 359 or 363 or 365(*10*), or 368, or 377 or 378; or (*ii*) of any Court in a proceeding otherwise than by way of appeal or reference under this Act.	End of the month in which such order is received, or passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
9.	Order giving effect to an order under section 359 or 363 or 365(*10*) or 368 or 377 or 378, otherwise than by making a fresh	End of the month in which order under section 359 or 363 or 365(*10*) or 368 is received, or order under section 377 or 378 is passed, by the jurisdictional Principal Commissioner or	One year.

	assessment or reassessment or fresh order under section 166, where— (*i*) verification of any issue by way of submission of any document by the assessee or any other person is to be carried out; or (*ii*) an opportunity of being heard is to be given to the assessee.	Commissioner.	
A	B	C	D
10.	Order giving effect to an order under section 359 or 363 or 365(*10*) or 368 or 377 or 378otherwise than by making a fresh assessment or reassessment or fresh order under section 166.	End of the month in which order under section 359 or 363 or 365(*10*) or 368 is received, or order under section 377 or 378 is passedby the jurisdictional Principal Commissioner or Commissioner.	Six months, extendable to nine months with the approval of authorities as per section 2(*62*) and (*64*)
11.	Modification of assessment, reassessment or	End of the month in which such order under section 166 is received	Two months.

(*2*) Time limit for completion of any assessment or reassessment as provided in sub-section (*1*), in a case where reference is made to the Transfer Pricing Officer for determining the arm's length price under section 166(*1*), shall be extended by an additional period of twelve months.

(*3*) For the purposes of this section, in computing the time limit for completion, the following period shall be excluded,—

(*a*) the time taken in reopening the whole or any part of the proceeding on request of the assessee or in giving an opportunity to the assessee to be re-heard under section 244;

(*b*) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner;

(*c*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. No. 23, 24, 25) or section 270(*11*)(*i*), and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those provisions is received by the Assessing Officer;

(*d*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(*5*) and—

(*i*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that section; or

(*ii*) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner;

recomputationto give effect to the order passed under section 166 read with section 377	by the Assessing Officer.

(*e*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(*1*) and ending with the date on which the report of the Valuation Officer is received by him;

(*f*) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under section 375(*1*) and ending with the date on which the order under section 375(*3*) is made by him;

(*g*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 383(*1*) and ending with the date on which the order either rejecting the application or the advance ruling pronounced by it, is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*5*) or (*8*), as the case may be;

(*h*) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 159 and ending with the date on which the information requested is last received by the jurisdictional Principal Commissioner or Commissioner, or one year, whichever is less;

(*i*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(*1*) and ending on the date on which a direction under sub-section (*3*) or (*6*) or an order under sub-section (*5*) of the said section is received by the Assessing Officer;

(*j*) the period (not exceeding one hundred eighty days) commencing from the date on which a search is initiated under section 247 or a requisition is made under section 248 and ending on the date on which the seized items or the requisitioned items, are handed over to the Assessing Officer having jurisdiction over the assessee,—

(*i*) in whose case such search is initiated under section 247 or such requisition is made under section 248; or

(*ii*) to whom any money, bullion, jewellery, virtual digital asset or other valuable article or thing seized or requisitioned belongs to; or

(*iii*) to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to;

(*k*) the period commencing from the date on which the Assessing Officer makes a reference to the jurisdictional Principal Commissioner or Commissioner under the section 270(*13*) and ending with the date on which copy of the order under of section 351(*2*)(*ii*)(*A*) or (*B*), is received by the Assessing Officer.

(*4*) Where immediately after exclusion of the period as mentioned in sub-section (*3*), the remaining period for completion available to the Assessing Officer, as specified in sub-section (*1*), for making an order of assessment, reassessment or recomputation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limits for completion shall be deemed to have been extended accordingly.

(*5*) Where the period available to the Transfer Pricing Officer is extended to sixty days as per section 166(*8*) and the remaining period for completion available to the Assessing Officer under this section, for making an order of assessment, reassessment or re-computation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limit for completion shall be deemed to have been extended accordingly.

(*6*) Where a proceeding before the Interim Board for Settlement abates under section 245HA of the Income-tax Act, 1961 and the remaining period of limitation available to the Assessing Officer under this section for making an order of assessment, reassessment or re-computation, after the exclusion of the period under section 245HA(*4*) of the Income-tax Act, 1961, is less than one year, such remaining period shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 282, 287, 288 and 296 and for the purposes of payment of interest under section 437, this sub-section shall also apply accordingly.

(*7*) In a case where the remaining time period for making an order of regular or reassessment, after excluding the time period specified in sub-section (*3*)(*k*), ends before the end of the month, the remaining period shall be extended to the end of such month, and the specified time limit for completion shall be deemed to have been extended accordingly.

(*8*) For the purposes of this section and section 283, where by an order referred to in entry in sub-section (*1*) (Table: Sl. No. 8.A)—

(*i*) any income is excluded from the total income of the assessee for a tax year, then, an assessment of such income for another tax year shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order; or

(*ii*) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.

286.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Time limit for completion of assessment, reassessment and recomputation.

153. (1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable:

Provided that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

Provided further that in respect of an order of assessment relating to the assessment year commencing on—

(*i*) the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(*ii*) the 1st day of April, 2020, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

Provided also that in respect of an order of assessment relating to the assessment year commencing on [6][***] the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "nine months" had been substituted:

[7][**Provided also** that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2022, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted.]

(1A) Notwithstanding anything contained in sub-section (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of [8][twelve] months from the end of the financial year in which such return was furnished.

[9][(1B) Notwithstanding anything in sub-section (1), where a return is furnished in consequence of an order under clause (*b*) of sub-section (2) of section 119, an order of assessment under section 143 or section 144 may be made at any time before the expiry of twelve months from the end of the financial year in which such return was furnished.]

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served:

Provided that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.

(3) Notwithstanding anything contained in sub-sections (1) [10][, (1A)] and (2), an order of fresh assessment or fresh order under section 92CA, as the case may be, in pursuance of an order under [11][section 250 or] section 254 or section 263 or section 264, setting aside or cancelling an assessment, or an order under section 92CA, as the case may be, may be made at any time before the expiry of nine months from the end of the financial year in which the order under [11][section 250 or] section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the [12][Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be] :

Provided that where the order under [11][section 250 or] section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the [12][Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be,] on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.

[13][(3A) Notwithstanding anything contained in sub-sections (1), (1A), (2) and (3), where an assessment or reassessment is pending on the date of initiation of search under section 132 or making of requisition under section 132A, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections shall,—

(*a*) in a case where such search is initiated under section 132 or such requisition is

made under section 132A;

(*b*) in the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to;

(*c*) in the case of an assessee, to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to,

be extended by twelve months.]

(4) Notwithstanding anything contained in [14][sub-sections (1), (1A), (2), (3) and (3A)], where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said [15][sub-sections (1), (1A), (2), (3) and (3A)], shall be extended by twelve months.

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer or the Transfer Pricing Officer, as the case may be, wholly or partly, otherwise than by making a fresh assessment or reassessment or fresh order under section 92CA, as the case may be, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the [15][Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be] :

Provided that where it is not possible for the Assessing Officer or the Transfer Pricing Officer, as the case may be, to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer or the Transfer Pricing Officer, as the case may be, if satisfied, may allow an additional period of six months to give effect to the order:

Provided further that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3).

(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing

Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.

(6) Nothing contained in sub-sections (1) [16][, (1A)] and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3), (5) and (5A), be completed—

(*i*) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the [17][Principal Chief Commissioner or Chief Commissioner or] Principal Commissioner or Commissioner, as the case may be; or

(*ii*) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June, 2016, the Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before the 31st day of March, 2017.

(8) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A or sub-section (1) of section 153B [18][or section 158BE], the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A [18][or sub-section (5) of section 158BA], shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B [18][or section 158BE], whichever is later.

(9) The provisions of this section as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016:

Provided that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation 1*, such assessment or reassessment shall

be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).

Explanation 1.—For the purposes of this section, in computing the period of limitation—

(*i*) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

[19]**[***(*ii*) the period commencing on the date on which stay on the assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner; or***]**

(*iii*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (*21*) or clause (*22B*) or clause (*23A*) or clause (*23B*), under clause (*i*) of the first proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or

(*iv*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited [20][or inventory valued] under sub-section (2A) of section 142 and—

(*a*) ending with the last date on which the assessee is required to furnish a report of such audit [20][or inventory valuation] under that sub-section; or

(*b*) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(*v*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(*vi*) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him; or

(*vii*) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which

the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

(*viii*) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(*ix*) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or

(*x*) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(*xi*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or

(*xii*) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—

(*a*) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or

(*b*) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or

(*c*) to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to; or

(*xiii*) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second

proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (*ii*) or clause (*iii*) of the fifteenth proviso to clause (*23C*) of section 10 or clause (*ii*) or clause (*iii*) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), [21][(1A),] (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly:

Provided also that where the assessee exercises the option to withdraw the application under sub-section (1) of section 245M, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (5) of the said section, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year:

Provided also that for the purposes of determining the period of limitation under sections 149, 154 and 155, and for the purposes of payment of interest under section 244A, the provisions of the fourth proviso shall apply accordingly:

[22][**Provided also** that where after exclusion of the period referred to in clause (*xii*) the period of limitation for making an order of assessment, reassessment or

recomputation, as the case may be, ends before the end of the month, such period shall be extended to the end of such month.]

Explanation 2.—For the purposes of this section, where, by an order referred to in clause (*i*) of sub-section (6),—

(*a*) any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order; or

(*b*) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.]

286.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 286 of the Bill seeks to provide for time limit for completion of assessment, reassessment and recomputation. The clause corresponds to section 153 of the Act. The clause has been organised in a table to enhance readability and comprehension. Further, time period for Order Giving Effect has been rationalized, whereby, instead of time-period of 3 months, time period of 6 months has been proposed as it is difficult to pass the said order in 3 months. The period can be extended to 9 months as earlier with the prior aproval of Joint Commissioner (instead of Commissioner as at present). Section 153(3A) provides 12 months extension for assessments which are pending and a search has been conducted in those cases. This provision applied for searches between 1.4.2021 to 1.9.2024. As the regular assessments abate in the block assessment scheme for search cases, section 153(3A) has been omitted as redundant.

286.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Time limit for the remand proceedings should be reduced to 6 months from the end of the month in which the order is received. Considering the matter has already travelled through one round of litigation, the DRP/CIT(A) route can be skipped in the second round for a faster and effective resolution, thus making the second round of orders directly appealable to the ITAT. Such a timeline adds another 2-3 years of litigation to initiate the second round of proceedings before the lower authorities thus, delaying in the disposal of the appeal. Further, the

Assessee has to again travel through the CIT(A)/DRP route in the second round of proceedings, which swells the taxpayer's time and cost.

ii. It may be provided that if the orders are not passed within the time limits prescribed in the Act, such orders are deemed to have been passed in favour of the taxpayer. Refunds, if any arising, that would have resulted from such OGE/rectification orders shall be processed by Centralised Processing Center based on application filed by taxpayer. In many cases, taxpayers have experienced delays way beyond the time limit specified under the Act in passing of OGEs and issue of refunds. While applications can now be filed online, there is no stringent law enforcing the timeline resulting in increased litigations and huge number of writ petitions before the High Court.

iii. The provision can be directory in nature and not mandatory . ITAT should be given liberty to grant complete stay in deserving cases, similar to the pre-amendment scenario. Taxpayer's prior years entitlement to refunds should be considered as an adequate security Such a condition to grant stay only on payment of atleast 20% by ITAT (which an independent judicial body) ties their hand even in genuine cases where high-pitched adjustments have been proposed by the lower authorities, thus impacting cash reserves of the taxpayers.

iv. A likely drafting error in Clause 286(7). The clause currently references sub-section 286(3)(k) (which pertains to a period involving a reference to the Principal Commissioner/Commissioner in certain cases, e.g. matters related to charitable trusts) as the trigger for extending the time limit to month-end. The stakeholder notes that this seems inadvertent. In context, it would make more sense for the provision to refer to sub-section 286(3)(j), which covers the period of a search or requisition – a scenario where the completion deadline often could fall mid-month when the excluded period concludes. In essence, the suggestion is to replace the reference to 286(3)(k) with 286(3)(j) in Clause 286(7) so that the rule for extending the deadline to the end of the month applies to search cases (income escaping assessment in search/requisition situations) rather than to the charity reference cases. This correction would align the new Bill with the intent of the existing law's provisions, providing a clear cut-off date in search-related cases and avoiding ambiguity or mid-month deadline issues.

v. In practice, taxpayers face difficulties in obtaining timely "appeal effect" despite the existence of statutory time limits. "Appeal effect" here refers to the implementation of the orders of appellate authorities – for instance, when a taxpayer wins an appeal and an addition is deleted or reduced, the Assessing Officer must process the case accordingly (issuing refund, reducing demand, etc.). Although Section 153(2A) (now mirrored in the Bill) prescribes a time limit for such actions, delays still occur on the ground. They suggest that there ought to be an internal monitoring or reporting system within the tax department to

ensure that appellate orders are given effect to without undue delay. This suggestion is more of an administrative measure: essentially, the stakeholder is not asking for a change in the law's wording but is emphasizing the need for better enforcement of the existing timelines through departmental oversight (for example, a system to track pending appeal effects and hold officers accountable to the one-year deadline).

vi. It is suggested that the Bill incorporate provisions providing specific consequences for delays in appeal effect or refunds. These could include: Higher Interest or Costs for Delayed Refunds Assessee.

vii. The time limit of three months prescribed under the IT Act should be retained. Under the IT Act, orders giving effect to an appeal must be passed within three months from the end of the month in which the order is received by the Pr. CCIT/CCIT/Pr. CIT/CIT, or when an order under sections 263 or 264 is passed. The proviso allows the assessing officer to request an additional six months from the Pr. CIT or CIT if needed. Extending the time available to tax authorities to pass appeal effect orders may adversely impact the taxpayers, by delaying potential refunds and closure of matters.

286.5 Examination by the Committee:

286.5.1 To the given suggestions, the Ministry submitted as follows:

i. The suggestion seeks to provide a time limit of 6 months for remand proceedings and once the set-aside assessment is made then matter should be placed before ITAT bypassing CIT(A)/DRP. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. There is one level before ITAT. The ITAT is final fact-finding authority. The facts have to be correctly ascertained at the fist appellate level also. Therefore, the suggestion is not feasible.

ii. The suggestion seeks to provide for deeming OGE and rectification order in case these are not given within the stipulated time. There is no change in the provisions of the Bill viz-a-viz Act. It is impractical, nay impossible to determine refund or raise demand through deeming provisions. Order giving Effect involves multiple stakeholders-assessee, CPC TDS, CPC-ITR and ITBA. The appeal effect may be related to the tax year ranging from 1990s to recent years and the veracity of the claim of the assessee for all the challans claimed by the assessing officer needs adequate time. All the old challans are not digitised and physical records verification requires assistance from 3rd party which keeps the storage of the old physical files. Further, such challan claims needs OLTAS verification which takes time as some of the challan are partially consumed against any pending demand of the assessee against other assessment year's demand.

Sometime appeal effect orders are to be done in manual to system mode in ITBA for which accounting by CPC takes weeks. The provisions for penal interest resulting out of the delayed Order Giving Effects already exist in the present Act under section 244A(1A) and same have been incorporated in the clause 437(4). Thus, the suggestion is not feasible.

iii. The suggestion seeks to expand the power of ITAT by giving liberty to grant complete stay in deserving cases. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The suggestion given is not linked to the referred clause 286 in which time limits for completion of various proceedings have been mentioned. Further, as per clause 363(6), the ITAT may, after considering the merits of the application made by the assessee pass an order of stay for a maximum period of 180 days in any proceedings on deposition of at least 20 % of the tax. It is pertinent to mention that assessee has filed appeal in ITAT as CIT (A) has confirmed the additions made by AO. Thus, one level of appellate proceedings has gone against assessee. Therefore, it is logical that revenue should have at least 20 % of tax deposited till the time ITAT proceeding is ongoing. Therefore, the suggestion is not feasible.

iv. Clause 286, including sub clause (7), was designed to carry forward and refine the time-limit framework from the existing law. The rationale is to give the tax administration adequate time to complete proceedings in exceptional circumstances (like searches) while ensuring taxpayers have certainty on outer deadlines. Sub clause (7) specifically was introduced as a practical measure to simplify deadline computation – preventing the scenario where, say, a time limit might expire on an odd date (for example, 15th of a month) due to the exclusion of a period. By extending it to the month-end in such cases, the provision aims for administrative convenience and clarity. The intent was to apply this rule to the context of search or requisition cases, which commonly involve such complexities in timeline calculation. There is a drafting correction. Reference in Clause 286(7) should be to sub section (3)(j) (search/requisition cases) instead of (3)(k). The suggestion is acceptable.

v. The stipulations in Clause 286 (read with Clause 283) regarding time limits are carried over from the existing legal framework to ensure that assessments are finalized expediently, including after appellate decisions. The one-year (or other specified) time limit for giving effect to an appellate or revisional order is intended to protect taxpayers from prolonged uncertainty and to instil discipline in tax administration. By having such provisions, the law provides a clear mandate that once an appeal is decided, the follow-up actions by the department (whether issuing a refund or raising a revised demand) should not drag on indefinitely. The issue is seen as one of implementation and administrative efficiency rather than

a deficiency in the legal provisions. The Income-Tax Bill, 2025 already provides the necessary legal framework by prescribing the time limit to complete actions resulting from appellate orders, thereby obligating the Assessing Officer to act within that period. Also, sufficient monitoring structures, including Central Action Plan bringing out the respective targets for field formation as well as reporting mechanisms, are in place to ensure timely disposal of Orders giving effect. Further, to improve efficiency and ensure effective monitoring OGE is shifted from Manual to Systems Platform. Thus, suggestion is administrative in nature and does not pertain to the Bill.

vi. There is no change in the policy and intent in the new provisions. The provisions for penal interest resulting out of the delayed Order Giving Effects already exist in the present Act under section 244A(1A) and same have been incorporated in the clause 437(4). As per section 244(1A) , assessee is entitled to receive additional interest at a rate of 3 % per annum over and above the interest payable under section 244A(1). Also, sufficient monitoring structures, including Central Action Plan bringing out the respective targets for field formation as well as reporting mechanisms, are in place to ensure timely disposal of Orders giving effect and issue of refunds. Further, to improve efficiency and ensure effective monitoring OGE is shifted from Manual to Systems Platform. Hence, the suggestion given is already taken care of.

vii. The proposed provision has been incorporated for the purpose of rationalising and streamlining the process of appeal effect. The extension in time limit is to cater to all the appeal effects in time without creating any pendency which is detrimental to taxpayers. The time limit of three months was found to be difficult to adhere to in many cases owing to difficulty in reconciliation with CPC-TDS, CPC-ITR & ITBA. Sometimes the years involved are such that records are not available on systems or are difficult to obtain. The three-month time limit was actually giving rise to grievances on account of tax credit not provided adequately for the above and other reasons. The measure of 6 months allows appropriate closure of the case without having to resort to rectifications of the OGE. The change has been incorporated keeping in view the interests of taxpayers so as to reduce multiplicity of proceedings arising from OGE. This shall also obviate the tendency to seek extension in time period for OGE. The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation. Therefore, no change in the provision is required.

286.5.2 Further, when asked about the necessity of starting again the whole process when CIT appeal has rejected the matter and passed an order, the Ministry in their oral evidence submitted as follows:

Sir, CIT appeal earlier did not have the power to set aside the case. Recently they have been given this power, but only in those cases in which best judgment assessment has been passed in the sense, the assessee has not responded. So those are the cases in which the notices could not be received in time by the assessee. As we discussed, the assessee had given the email of its Chartered Accountant, and later on it came to know that in my case some assessment order has been passed and demand has been raised. So only those cases can be set aside by the CIT appeal. So naturally, those cases on merit have not been decided by CIT appeal. It goes through the considerations placed by the assess that due to certain circumstances, I could not appear before the assessing officer, so I need a second chance. The second chance is again provided by the assessing officer. Naturally, on merit, first, it will go to CIT appeal, and then it will go to ITAT. Before ITAT, normally we do not have our lawyers. Before ITAT, we have our own departmental officers who work as departmental representatives of the Commissioner level, and the Additional Commissioner level. Only in very few select cases where very huge revenue is involved, we involve our special counsels for that.

286.5.3 When asked whether timelines are available for more accountability, the Ministry, in written reply *inter-alia* stated as follows:

The Income-Tax Act of 1961 prescribes specific limitation and compliance periods for various tax-related obligations to ensure timely adherence to legal provisions. The clause 286 of the IT Bill, 2025 (section 153 of the IT Act, 1961) details the deadlines for the AO and procedures for assessments and reassessments under various clauses of assessment, reassessment, recomputation and order giving effects to appeal orders, etc.

Further, clause 287 provides timeline for rectification of any mistake apparent from record. Clause 377 and 378 provides for timelines for revision of orders by the jurisdictional Pr.CIT/ CIT. Clause 472 provides timeline for imposition of penalty under the IT Bill, 2025. Prosecution sections have their specific timelines. Further, clause 363 provides for timeline for disposal of appeal orders at the ITAT. While prescribing the 4 year period in clause 363(5), the phrase used is 'where it is possible'. Specific timelines have been provided in clause 358 for filing of appeal before the CIT(A). Similar provisions of time-limits are available in the Bill for filing appeals before the ITAT, HC and the Supreme Court.

It may be mentioned that for any appellate level, whether it be SC, HC, ITAT or CIT(A), time limits have not been provided for disposal of appeals as appellate proceedings are judicial proceedings and fast-tracking the same without taking into account the complexity or facts of the case may not be desirable. The statute only provides for the time-lines and procedural requirements and the mechanism to make appellate procedure more efficient and tax payer friendly is a continuing exercise taken up through administrative measures. Some of the administrative

and legal measures in this regard have been mentioned in reply to question at Sl. No. (ii) of this document.

While there have been suggestions to introduce statutory timelines for appellate proceedings, it is submitted that mandating strict deadlines may not be appropriate. Appellate cases vary significantly in complexity, and rigid timelines risk compromising the quality of adjudication. The Department has instead pursued a strategy of institutional strengthening, as a result of which, in FY 2024–25, a record 1,72,361 appeals were disposed of, which exceeds new filings for the first time and effectively reducing pendency as of 1st April 2025.

286.6 Observations/Recommendations of the Committee:

286.6.1 The Committee note a drafting error in sub-clause (7) in its reference to sub-section (3)(k) at Line No.11 instead of (3)(j). Therefore, the Committee recommend to replace the usage '(3)(k)' with '(3)(j)' in sub-clause (7) to provide for correct referencing as per the intent of the provision.

286.6.2 The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.

286.6.3 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 287– Rectification of mistake

287.1 Provision proposed in the Income-Tax Bill, 2025:

287. (*1*) An income-tax authority referred to in section 236, for rectifying any mistake apparent from the record, may amend any—

(*a*) order passed by it under the provisions of this Act;

(*b*) intimation or deemed intimation under section 271(*1*);

(*c*) intimation under section 399.

(*2*) Irrespective of anything contained in any law in force, the authority concerned may, amend any order under sub-section (*1*) in relation to any matter, other than the matter considered and decided in any proceeding by way of appeal or revision, relating to such order.

(*3*) Subject to the other provisions of this section, the authority concerned,—

(*a*) may make an amendment under sub-section (*1*) of its own motion; and

(*b*) shall make such amendment for rectifying any such mistake which has been brought to its notice by—

(*i*) the assessee or the deductor or the collector; or

(*ii*) the Assessing Officer, if the authority concerned is the Joint Commissioner (Appeals) or the Commissioner (Appeals).

(*4*) No amendment that enhances an assessment, reduces a refund or otherwise increases the liability of the assessee or the deductor or the collector, shall be made under this section by the authority concerned without giving—

(*a*) a notice of its intention of making such amendment; and

(*b*) a reasonable opportunity of being heard.

(*5*) The income-tax authority concerned shall pass an order in writing, if an amendment is made under this section.

(*6*) The Assessing Officer shall make refund which may be due to the assessee or the deductor or the collector, where an amendment reduces the assessment or otherwise reduces the liability of such assessee or the deductor or the collector.

(*7*) The Assessing Officer shall serve on the assessee or the deductor or the collector, a notice of demand in such form as prescribed specifying the sum payable,—

(*a*) where an amendment enhances the assessment or reduces a refund already made or otherwise increases the liability of such assessee or the deductor or the collector; and

(*b*) such notice shall be deemed to be issued under section 289 and the provisions of this Act shall apply accordingly.

(*8*) No amendment under this section, except as provided in section 288, shall be made after four years from the end of the financial year in which the order sought to be amended was passed.

(*9*) Subject to sub-section (*8*), an income-tax authority referred to in sub-section (*1*), shall pass an order for making the amendment or refusing to allow the claim within six months from the end of the month in which the application for amendment under this section is received by it from the assessee or the deductor or the collector.

287.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Rectification of mistake.

154. (1) With a view to rectifying any mistake apparent from the record an income- tax authority referred to in section 116 may,—

(*a*) amend any order passed by it under the provisions of this Act ;

(*b*) amend any intimation or deemed intimation under sub-section (1) of section 143;

(*c*) amend any intimation under sub-section (1) of section 200A;

(*d*) amend any intimation under sub-section (1) of section 206CB.

(1A) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(2) Subject to the other provisions of this section, the authority concerned—

(*a*) may make an amendment under sub-section (1) of its own motion, and

(*b*) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee or by the deductor or by the collector, and where the authority concerned is [24][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), by the Assessing Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee or the deductor or the collector, shall not be made under this section unless the authority concerned has given notice to the assessee or the deductor or the collector of its intention so to do

and has allowed the assessee or the deductor or the collector a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or the collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or the collector.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or the collector, the Assessing Officer shall serve on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

(8) Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,—

(*a*) making the amendment; or

(*b*) refusing to allow the claim.

287.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 287 of the Bill provides for rectification of mistake. The clause corresponds to section 154 of the Act. There is no major policy change. In sub-section 154(7) of the Act, there is a reference to sub-section (4) of 186 of the Act. Section 186 is now redundant as it is omitted from statute by Finance Act, 1992. Accordingly, there is no corresponding reference in the clause.

287.4 Important Views/Suggestions given by Experts/Stakeholders:

i. In addition to any order under sub-clause (1), reference should also be made to any intimation under sub-clause (1). The modified subsection would read: '(2) Irrespective of anything contained in any law in force, the authority concerned

may, amend any order or intimation under sub-clause (1) in relation to any matter, other than the matter considered and decided in any proceeding by way of appeal or revision, relating to such order.' Sub-clause (1) of Section 287 encompasses not just "orders" but also "intimations" under Clauses 270(1) and 399.The intent of Clause 287(2) is to permit rectification of any mistake apparent from the record unless the matter is already adjudicated in appeal or revision. The exclusion of "intimations" under sub-clause (2) appears to be inadvertent.

ii. In addition to order, reference should also be made to any intimation. The modified sub-clause would read: 'No amendment under this section, except as provided in section 288, shall be made after four years from the end of the financial year in which the order or intimation sought to be amended was passed.' The absence of reference to intimations in sub-clause (8) may lead to an erroneous conclusion that intimations can be rectified without any time limit.

iii. If the order is not passed within a period provided in sub-clause 9 of the bill, the application be deemed to be rejected, and appeal be allowed to lie to the competent authority. The competent appellate authority be empowered to allow the cost of such appeals. On such appeals, the cost shall be allowed to the assessee. Under the current clause there is no power to Commissioner/JT Commissioner Appeals to award cost of appeal This be amended appropriately It is generally observed that Income Tax Authorities avoid/delay passing such orders, putting the assesses to incontinence. The assesse has no remedy to this problem. Such provision will streamline the process of rectification and the assesse shall have an alternative remedy to his grievance Under the current clause, there is no power to Commissioner/JT Commissioner Appeals to award cost of appeal. This, be amended appropriately. The cost of appeal will provide some compensation to the assesse for the inaction by the Income Tax Department.

iv. Reference to 271(1) in 287(1)(b) should be corrected to 270(1) The modified subsection would read 287 (1) An income-tax authority referred to in section 236, for rectifying any mistake apparent from the record, may amend any— (a) order passed by it under the provisions of this Act; (b) intimation or deemed intimation under section 270(1); (c) intimation under section 399. The correct section for intimation under the IT Bill is 270 and not 271 271 deals with Best judgment assessment.

v. JAO should be directed to review and dispose rectification application independently regardless of appeal being filed If order either accepting or rejecting application is not passed within 6 months after the month in which the request was received, it will be deemed to be considered as if order has been passed in favour of taxpayer or against the taxpayer (if there is delay on part of the taxpayer in providing information) Additionally, if the taxpayer is owed a

refund in these situations, taxpayer should be eligible for extra interest at a rate of 3% per annum. JAO often hesitates to rectify mistake apparent from the records, if an appeal against the said issue is already filed and pending for disposal In practice, many Jurisdictional Assessing Officers decline to entertain or delay rectification applications simply because an appeal on the same issue is pending — even when the issue is not yet adjudicated or the rectification pertains to an undisputed factual error This leads to prolonged litigation, unnecessary interest cost to the assessee, and blockage of refunds.

287.5 Examination by the Committee:

287.5.1 To the above suggestions, the Ministry provided following replies:

i. The suggestion seeks that intimation may also be allowed to be amended under clause 287(2). Power to amend intimation is already there in cl. 287(1). Cl. 287(2) restricts the power of amendment and does not provide any new power. The suggestion is noted for removing any ambiguity.

ii. This is a drafting correction. The clause 287(8) Rectification of mistake shall be amended to provide reference of intimation.

iii. The suggestion seeks to make provision for deemed rejection of a rectification order if it is not passed within 6 months and consequent automatic appeal and also allow cost of such appeal. There is no change in the provisions of the Bill viz-a-viz Act. It is impractical, nay impossible to determine refund or raise demand through deeming provisions. It is also impossible to allow for appeal where there is no order against which the appeal is being made. The suggestion will increase litigation. The rectification of an order requires multiple stakeholders-assessee , CPC TDS, CPC-ITR and ITBA. The challan claims needs OLTAS verification which takes time as some of the challans are partially consumed against any pending demand of the assessee against other assessment year's demand. Sometimes rectification orders are to be done in manual to system mode in ITBA for which accounting by CPC takes weeks. Therefore, multiple reasons exist for not processing the rectification order in time. Deemed rejection of such applications and consequent automatic appeal will duplicate the work done and increase litigation. Levy of cost is the power of Courts and Tribunals, and is not vested with the income tax Authorities. Rectification and Order giving Effect, are being monitored at the highest level of the Government and grievances in this regard is effectively being reduced.

iv. This is a drafting correction. The reference 271(1) in clause 287(1)(b) shall be replaced by clause 270(1).

v. The suggestion seeks to provide for directions to JAO to dispose rectification application independently regardless of appeal being filed on the same matter and if such order is not passed within 6 months then such order shall be deemed

to be passed in favour of assessee and provide extra refund of 3 % to assessee. It is of administrative nature which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. It is impractical, nay impossible to provide for deeming provisions. Refund or demand cannot be determined by deeming provisions. There is no bar in the Act or Bill that restrict JAO to dispose such rectification applications even if the matter is pending in appeal. Rectification application handling has been shifted to systems to improve efficiency. There are targets assigned to JAO in Central Action Plan which is monitored by CIT/CCIT and PrCCIT. The assessee receives refund as per clause 437(interest on refunds) which is adequate.

287.5.2 The Committee sought clarification from the Ministry about those cases for which rectification orders are not issued in six months and about the global practices in this context. The Ministry in their oral evidence submitted as follows:

Sir, the cases are decided in due course. Then, I would like to just mention or submit a point that you made as regards global perspectives. In the US, how are the returns being processed vis-a-vis what is the difference as far as processing of returns in India is concerned? The fundamental difference is that at the time of processing of the returns, the tax credits that are available with the taxpayers, they are not matched in the US system. The return is just processed based on the return that is submitted by the taxpayer without any correlation of the TDS or any tax payment that has been reported by the taxpayer, and the return is processed. Subsequent to that, then the matching of the tax credit with the tax payments, that is done by the system and that is done after a few months. And in case there are frauds, then that is taken as the cost of business.

In India, that is not the case. In India, while processing the return, we match the tax credits available in the system with the tax rates that are claimed by the taxpayer and that is a fundamental difference. And that is why, the number of outliers, the number of cases where there is a discrepancy, that goes high. So, therefore, there are differences. In so far as UK and Australia is concerned, Sir, I am not justifying the timelines that we miss, but the number of cases, the number of SSEs, taxpayers, that the system in India processes is much higher than that in Australia.

287.5.3 In this regard, the Ministry further added as follows:

The rectification of an order requires multiple stakeholders-assessee, CPC TDS, CPC-ITR and ITBA. The challan claims needs OLTAS verification which takes time as some of the challans are partially consumed against any pending demand of the assessee against other assessment year's demand. Sometimes rectification orders are to be done in manual to system mode in ITBA for which accounting by CPC takes weeks. Therefore, multiple reasons exist for not processing the rectification order in time. Deemed rejection of such applications and consequent automatic appeal will duplicate the work done and increase

litigation. Levy of cost is the power of Courts and Tribunals, and is not vested with the income-tax Authorities. Rectification and Order giving Effect, are being monitored at the highest level of the Government and grievances in this regard is effectively being reduced.

The provisions of 'deemed rejection, consequent automatic appeal and allowing cost of such appeal' are not present in the tax laws of major economies like UK, Germany.

The proposed approach for deemed rejection of a taxpayer's rectification application (i.e., a fictitious negative decision), or the Indonesian approach of deemed acceptance of the application on delay in passing the rectification order (i.e., a fictitious positive decision) have been heavily debated in the field of administrative law.

As per the paper titled 'Silence of the Administration' , a system of fictitious negative decisions presupposes possibly lengthy court proceedings that are not preferred by citizens and companies. Therefore, administrative law scholarship needs to find other solutions to tackle the problem of failing to act within time-limits.

287.6 Observations/Recommendations of the Committee:

287.6.1 The Committee observe that Clause 287(1) provides for amending any order and intimation within its context. However, in Clause 287(2), while referring to the above said sub-clause (1), the Bill refers to 'order' only. Therefore, to bring in more clarity, the Committee recommend that in sub-clause (2), the word 'intimation' may suitably be mentioned at Line No.33 after 'order'. The Committee also recommend that similar reference to 'intimation' may also be suitably mentioned in sub-clause (8).

287.6.2 The Committee also recommend that the reference to Clause 271(1) dealing with best judgment assessment in Clause 287(1)(b) may be suitably replaced by "Clause 270(1)" which actually deals with assessment.

287.6.3 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 288– Other amendments

288.1 Provision proposed in the Income-Tax Bill, 2025:

288. The Assessing Officer, may carry out such actions as are specified in column B of the Table below for reasons mentioned therein, subject to the conditions as specified in column C, within four years (except serial number 12) referred to in section 287(*8*) which shall be reckoned from the time as specified in column D, and the provisions of section 287 shall, so far as may be, apply to such amendment:—

Table

Sl.No.	Actions	Conditions	Time
A	B	C	D
1.	Amendment of order of assessment of the partner of a firm so as to adjust the income of the partner corresponding to the amount not deductible under section 35(*f*)	Where any remuneration to any partner determined in completed assessment of the firm is subsequently found not deductible under section 35(*f*) in terms of— (*a*) assessment or reassessment of the firm; or (*b*) any reduction or enhancement made in the income of the firm under this section or section 287 or 356 or 363 or 365or 368 or 377 or 378; or (*c*) any order passed under section 245D (*4*) of the Income-tax Act,	From the end of the financial year in which the subsequent order was passed in the case of the firm.

A	B	C	D
		1961 on the application made by the firm,	
2.	Amendment of order of assessment of the member of an association of persons or of a body of individuals; so as to include the share of the member in the assessment or the corrections thereof	Where the share of the member in the income of the association of persons or body of individuals determined in completed assessment is subsequently found not included in the assessment of the member or, if included, is not correct in terms of — (*a*) assessment or reassessment of the association or body; (*b*) any reduction or enhancement made in the income of the association or body under this section or section 287 or 359 or 363 or 365 or 368 or 377 or 378; or (*c*) any order passed under section 245D (*4*) of the Income-tax Act, 1961 (43 of 1961) on the application	From the end of the financial year in which the subsequent order was passed in the case of the association or body.

		made by the association or body.	
3.	Total income of the assessee in respect of succeeding year or years referred to in column C, to be recomputed and necessary amendment made consequent to proceedings initiated under section 279 for any tax year.	(*a*) Recomputation of loss or depreciation; and (*b*) in consequence to such recomputation, recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of section 112(*1*) or 113(*2*) or 111(*1*) and (*2*) or 115(*1*)	From the end of the financial year in which the order under section 279 was passed.
4.	The total income of the transferor company for the tax year referred to in column C, to be recomputed and necessary amendment made.	Where in the assessment for any tax year,— (*a*) the capital gain arising from the transfer of a capital asset is not charged under section 67 in terms of section 70(*1*)(*c*) or (*d*);	From the end of the year— (*i*) in which the capital asset was converted or treated as stock-in trade; or

		(*b*) such gains are deemed under section 71(*1*) as "Capital gains" of the tax year in which the transfer took place at any time before the expiry of the period of eight years from the date of such transfer by reason of—	(ii) in which the parent company or its nominees or, the holding company ceased to hold the whole of the share capital of the subsidiary company.
		(*i*) such capital asset being converted by the transferee company into, or being treated by it, as stock-in trade of its business; or	
		(*ii*) the parent company or its nominees or, the holding company ceasing to hold the whole of the share capital of the subsidiary company.	
5.	The order of assessment to be amended; so	Where in the assessment for any tax year, a capital gain on transfer of original asset, referred to in	From the end of the financial year in which the compensatio

	as to exclude the capital gain not chargeable to tax under any of the sections referred to in section 89.	section 89 is charged to tax and within the period extended under that section— (*a*) the assessee acquires the new asset referred to in that section; or (*b*) deposits or invests such capital gain.	n was received by the assessee.
6.	The order of assessment to be amended - to allow deduction -in respect of such income or part thereof as is so received in, or brought into, India.	Where in the assessment for any year, any deduction under section 144 has not been allowed on the ground that— (*a*) such income has not been received in convertible foreign exchange in India; or (*b*) having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the	From the end of the financial year in which such income is so received in, or brought into, India.

		approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange, and subsequently such income or part thereof has been or is received in, or brought into, India in the manner specified in (*b*) above.	
7.	The order of assessment or any intimation or deemed intimation under section 270(*1*), -to be amended, - to give credit for income-tax - for the year in which such income is offered to tax or assessed to tax in India.	Where in the assessment for any tax year or in any intimation or deemed intimation under section 270(*1*) for any tax year,— (*a*) credit for income-tax paid in any country outside India or a specified territory outside India referred to in Chapter IX-B has not been given on the ground that the payment of such tax was under dispute; and	From the end of the financial year in which such dispute is settled.

		(*b*) subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer—	
		(*i*) evidence of settlement of dispute and evidence of payment of such tax; and	
		(*ii*) an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other tax year.	
8.	The order of assessment - to be amended -to compute the capital gain by taking the full value of the consideration to be the	Where, in the assessment for any year, a capital gain arising from the transfer of a capital asset, being land or building or both, is computed—	From the end of the financial year in which the order revising the value was passed in appeal or revision or reference.
		(*a*) by taking the full value of the consideration received or	

	value as so revised in appeal or revision or reference.	accruing as a result of the transfer to be the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty as per section 78(*1*); and (*b*) subsequently such value is revised in any appeal or revision or reference referred to in section 78(*2*)(*b*).	
9.	The order of assessment - to be amended - to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration.	(*a*) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset being a transfer referred to in clause (*b*) is computed— (*i*) by taking the compensation or consideration as referred to in section 67(*12*)(*a*) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in section 67(*12*)(*b*),to be the full value of	From the end of the financial year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

			consideration deemed to be received or accruing as a result of the transfer of the asset; and (*ii*) subsequently such compensation or consideration is reduced by any court, Tribunal or other authority.	
			(*b*) The transfer and consideration referred to in clause (*a*) shall be (*i*) Transfer by way of compulsory acquisition under any law; (*ii*) consideration that was determined or approved by the Central Government or the Reserve Bank of India.	
10.	Amendment to total income to disallow the deduction allowed under section 152.	Where a deduction has been allowed to an assessee in any tax year undersection 152 in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act,	From the end of the financial year in which the order of the Controller under section 2(*1*)(*b*), or the High Court under section	

		1970 (39 of 1970),— (*a*) the patent was revoked, or (*b*) the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which name of the assessee was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed.	2(*1*)(*i*), of the Patents Act, 1970(39 of 1970), was passed.
11.	Amendment of the order of assessment or any intimation - to allow credit of such tax deducted at source in the tax year referred to in column C, and the credit of	(*a*)Where any income has been included in the return of income furnished by an assessee under section 263 for any tax year, and tax on such income has been deducted at source and paid to the credit of the Central Government as per the provisions of Chapter XIX-B in a subsequent tax year; and	From the end of the financial year in which such tax has been deducted.

	such tax deducted at source not to be allowed in any other tax year.	(*b*) an application is made by an assessee in such form, as prescribed, within two years from the end of the tax year in which such tax was deducted at source.	
12.	The order of assessment or any intimation or deemed intimation under section 271 to be amended for two consecutive tax years to give effect to the order passed under section 166(*6*) or directions issued under section 275(*5*)	Where the Transfer Pricing Officer under section 166(*9*) declares the option of the assessee, for determining the arm's length price of similar international or specified domestic transaction for the two consecutive tax years immediately following the relevant tax year, as valid.	(*i*) Within three months from the end of the month in which the assessment is completed in the case of the assessee for the relevant tax year, and section 165(*7*) and (*8*) is applicable. (*ii*) If the order of assessment or any intimation or deemed intimation under section 270(*1*), for the two consecutive tax years is not made within the said three months,

such recomputation shall be made within three months from the end of the month in which such order of assessment or intimation or deemed intimation, is made.

288.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Other amendments.

155. (1) Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year, it is found—

(*a*) on the assessment or reassessment of the firm, or

(*b*) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, or

(*c*) on any order passed under sub-section (4) of section 245D on the application made by the firm,

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the Assessing Officer may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the firm.

(1A) Where in respect of any completed assessment of a firm it is found—

(*a*) on the assessment or reassessment of the firm, or

(*b*) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section

263 or section 264, or

(*c*) on any order passed under sub-section (4) of section 245D on the application made by the firm,

that any remuneration to any partner is not deductible under clause (*b*) of section 40, the Assessing Officer may amend the order of assessment of the partner with a view to adjusting the income of the partner to the extent of the amount not so deductible ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the firm.

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

(*a*) on the assessment or reassessment of the association or body, or

(*b*) on any reduction or enhancement made in the income of the asso-ciation or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, or

(*c*) on any order passed under sub-section (4) of section 245D on the application made by the association or body,

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the Assessing Officer may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the association or body, as the case may be.

(3) [***]

(4) Where as a result of proceedings initiated under section 147, a loss or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) or sub-section (3) of section 74, or sub-section (3) of section 74A, the Assessing Officer may proceed to recompute the total income in respect of such year or years and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the order was passed under section 147.

(4A) Where an allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently—

(*a*) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A ; or

(*b*) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant (other than machinery or plant of the nature referred to in clauses (*a*), (*b*) and (*d*) of the second proviso to sub-section (1) of section 32A) for the purposes of the business of the undertaking ; or

(*c*) at any time before the expiry of ten years referred to in clause (*b*) the assessee utilises the amount credited to the reserve account under sub-section (4) of section 32A—

(*i*) for distribution by way of dividends or profits ; or

(*ii*) for remittance outside India as profits or for the creation of any asset outside India ; or

(*iii*) for any other purpose which is not a purpose of the business of the undertaking,

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned,—

(*i*) in a case referred to in clause (*a*), from the end of the previous year in which the sale or other transfer took place ;

(*ii*) in a case referred to in clause (*b*), from the end of the ten years referred to in that clause ;

(*iii*) in a case referred to in clause (*c*), from the end of the previous year in which

the amount was utilised.

Explanation.—For the purposes of clause (*b*), "new ship" or "new aircraft" or "new machinery or plant" shall have the same meanings as in the *Explanation* below sub-section (2) of section 32A.

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), and subsequently—

(*i*) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (3) or sub-section (4) of section 33 ; or

(*ii*) at any time before the expiry of the eight years referred to in sub-section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (*a*) of that sub-section—

(*a*) for distribution by way of dividends or profits ; or

(*b*) for remittance outside India as profits or for the creation of any asset outside India ; or

(*c*) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.

(5A) Where an allowance by way of development allowance has been made wholly or partly to an assessee in respect of the cost of planting in any area in any assessment year under section 33A and subsequently—

(*i*) at any time before the expiry of eight years from the end of the previous year in which such allowance was made, the land is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government

company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (5) or sub-section (6) of section 33A ; or

(*ii*) at any time before the expiry of the eight years referred to in sub-section (3) of section 33A, the assessee utilises the amount credited to the reserve account under clause (*ii*) of that sub-section—

(*a*) for distribution by way of dividends or profits ; or

(*b*) for remittance outside India as profits or for the creation of any asset outside India ; or

(*c*) for any other purpose which is not a purpose of the business of the undertaking ;

the development allowance originally allowed shall be deemed to have been wrongly allowed, and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.

Explanation.—For the purposes of this sub-section, where an assessee having any leasehold or other right of occupancy in any land transfers such right, he shall be deemed to have sold or otherwise transferred such land.

(5B) Where any deduction in respect of any expenditure on scientific research has been made in any assessment year under sub-section (2B) of section 35 and the assessee fails to furnish a certificate of completion of the programme obtained from the prescribed authority within one year of the period allowed for its completion by such authority, the deduction originally made in excess of the expenditure actually incurred shall be deemed to have been wrongly made, and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the period allowed for the completion of the programme by the prescribed authority expired.

(6) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the Assessing Officer may proceed to recompute the distributable income and determine the tax

payable on the basis of such recomputation and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the company in respect of that proceeding.

(7A) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (*iv*) or, as the case may be, clause (*v*) of section 47, but is deemed under section 47A to be income chargeable under the head "Capital gains" of the previous year in which the transfer took place by reason of—

(*i*) such capital asset being converted by the transferee company into, or being treated by it, as stock-in-trade of its business ; or

(*ii*) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company,

at any time before the expiry of the period of eight years from the date of such transfer, the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the transferor company for the relevant previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company.]

(8) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(8A) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(9) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(9A) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(10) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(10A) Where in the assessment for any year, a capital gain arising from the transfer of a long-term capital asset, is charged to tax and within a period of six months after the date of such transfer, the assessee has made any investment or deposit in any specified asset within the meaning of *Explanation 1* to sub-section (1) of section 54E, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of sub-section (1) of section 54E ; and the provisions of section 154 shall, so far as may be, apply

thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment was made.

(10B) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(10C) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.*]

(11) Where in the assessment for any year, a capital gain arising from the transfer of any original asset as is referred to in section 54H is charged to tax and within the period extended under that section the assessee acquires the new asset referred to in that section or, as the case may be, deposits or invests the amount of such capital gain within the period so extended, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under any of the sections referred to in section 54H; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of section 154 being reckoned from the end of the previous year in which the compensation was received by the assessee.

(11A) Where in the assessment for any year, the deduction under section 10A or [25][section 10AA or] section 10B or section 10BA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 10A or [25][section 10AA or] section 10B or section 10BA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.

(12) Where in the assessment for any year commencing before the 1st day of April, 1988, the deduction under section 80-O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the

Assessing Officer shall amend the order of assessment so as to allow deduction under section 80-O in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such income is so received in, or brought into, India; so, however, that the period from the 1st day of April, 1988 to the 30th day of September, 1991 shall be excluded in computing the period of four years.

(13) Where in the assessment for any year, the deduction under section 80HHB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80HHB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.

(14) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, credit for tax deducted or collected in accordance with the provisions of section 199 or, as the case may be, section 206C has not been given on the ground that the certificate furnished under section 203 or section 206C was not filed with the return and subsequently such certificate is produced before the Assessing Officer within two years from the end of the assessment year in which such income is assessable, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto :

Provided that nothing contained in this sub-section shall apply unless the income from which the tax has been deducted or income on which the tax has been collected has been disclosed in the return of income filed by the assessee for the relevant assessment year.

(14A) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, credit for income-tax paid in any country outside India or a specified territory outside India referred to in section 90, section 90A or section 91 has not been given on the ground that the payment of such tax was under dispute, and if subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:

Provided that the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.

(15) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being land or building or both, is computed by taking the full value of the consideration received or accruing as a result of the transfer to be the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty in accordance with sub-section (1) of section 50C, and subsequently such value is revised in any appeal or revision or reference referred to in clause (*b*) of sub-section (2) of that section, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the full value of the consideration to be the value as so revised in such appeal or revision or reference; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order revising the value was passed in that appeal or revision or reference.

(16) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed by taking the compensation or consideration as referred to in clause (*a*) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in clause (*b*) of sub-section (5) of section 45, to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be

reckoned from the end of the previous year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

(17) Where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970 (39 of 1970),—

(*i*) the patent was revoked, or

(*ii*) the name of the assessee was excluded from the patents register as patentee in respect of that patent,

the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such order of the Controller referred to in clause (*b*) of sub-section (1), or the High Court referred to in clause (*i*) of sub-section (1) of section 2, of the Patents Act, 1970 (39 of 1970), as the case may be, was passed.

(18) Where any deduction in respect of any surcharge or cess, which is not allowable as deduction under section 40, has been claimed and allowed in the case of an assessee in any previous year, such claim shall be deemed to be under-reported income of the assessee for such previous year for the purposes of sub-section (3) of section 270A, notwithstanding anything contained in sub-section (6) of section 270A, and the Assessing Officer shall recompute the total income of the assessee for such previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of section 154 being reckoned from the end of the previous year commencing on the 1st day of April, 2021:

Provided that in a case where the assessee makes an application to the Assessing Officer in the prescribed form and within the prescribed time, requesting for recomputation of the total income of the previous year without allowing the claim for deduction of surcharge or cess and pays the amount due thereon within the specified time, such claim shall not be deemed to be under-reported income for the purposes of sub-section (3) of section 270A.

[26][(19) Where any deduction in respect of any expenditure incurred for the purchase of sugarcane has been claimed by an assessee, being a co-operative society engaged in the business of manufacture of sugar, and such deduction has been disallowed wholly or partly in any previous year commencing on or before the 1st day of April, 2014, the

Assessing Officer shall, on the basis of an application made by such assessee in this regard, recompute the total income of the assessee for such previous year after allowing deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of previous year commencing on the 1st day of April, 2022.]

[27][(20) Where any income has been included in the return of income furnished by an assessee under section 139 for any assessment year (herein referred to as the relevant assessment year) and tax on such income has been deducted at source and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year, the Assessing Officer shall, on an application made by the assessee in such form, as may be prescribed, within a period of two years from the end of the financial year in which such tax was deducted at source, amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year, and the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted:

Provided that the credit of such tax deducted at source shall not be allowed in any other assessment year.]

Following sub-section (21) shall be inserted after sub-section (20) of section 155 by the Finance Act, 2025, w.e.f. 1-4-2026:

(21) Where the arm's length price is determined in relation to an international transaction or a specified domestic transaction under sub-section (3) of section 92CA for any previous year and the Transfer Pricing Officer has declared that an option exercised by the assessee is valid under sub-section (3B) of the said section in respect of such transaction for two consecutive previous years immediately following such previous year, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive previous years, by amending the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be,—

*(*a*)* *in conformity with the arm's length price so determined by the Transfer Pricing Officer under sub-section (4A) of the said section in respect of such transaction; and*

*(*b*)* *taking into account the directions issued under sub-section (5) of section 144C, if any, for such previous year,*

within three months from the end of the month in which the assessment is completed in the case of the assessee for such previous year, and the first and second provisos to sub-section (4) of section 92C shall apply thereto:

Provided *that where the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, for the said two consecutive previous years is not made within the said three months, such recomputation shall be made within three months from the end of the month in which such order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, is made.*

Explanation.—For the purposes of this section,—

(*a*) "additional compensation" shall have the meaning assigned to it in clause (*1*) of the *Explanation* to sub-section (2) of section 54;

(*b*) "additional consideration", in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any court, tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made.

288.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 288 of the Bill provides for other amendments. The clause corresponds to section 155 of the Act. The clause has been organised in a table to enhance readability and comprehension. Redundancies in the present section 155 have been removed in the clause.

288.4 Important Views/Suggestions given by Experts/Stakeholders:

i. Reference to 271 should be corrected to 270. The modified sub-clause would read as 'The order of assessment or any intimation or deemed intimation under Clause 270 to be amended for two consecutive tax years to give effect to the order passed under section 166(6) or directions issued under clause 275(5). The correct section for regular assessment and intimation under the IT Bill is 270 and not 271. Clause 271 deals with Best judgment assessment.

ii. The Assessing Officer, may carry out such actions as are specified in column B of the Table below for reasons mentioned therein, subject to the conditions as specified in column C, within four years referred to in Clause 287(8) (except serial numbers 12 and 13) which shall be reckoned from the time as specified in column D, and the provisions of Clause 287 shall, so far as may be, apply to

such amendment. Under Clause 269(7), the Valuation Officer has the power to rectify his report as per Clause 287. Under Clause 287(8), time limit of 4 years from end of FY in which report is made is available However, when the report is rectified, the assessment may have been completed Hence, clause 288 which deals with power of rectification in certain cases is to be amended to include rectification of assessment order to give effect to the rectified valuation report.

288.5 Examination by the Committee:

288.5.1 To the suggestions given by the stakeholders, the Ministry have submitted their replies as follows:

i. This is drafting correction in clause 288(12) wherein Reference to 271 shall be corrected to 270.
ii. The suggestion seeks to amend clause 288 which deals with power of rectification in certain cases is to be amended to include rectification of assessment order to give effect to the rectified valuation report. Where the taxpayer is in appeal, providing specific rectification rights after change in valuer report will complicate the matter and increase litigation as two authorities It is best that the taxpayer takes the matter to CIT(A). Thus, the suggestion is not feasible.

288.6 Observations/Recommendations of the Committee:

288.6.1 The Committee note that the reference to Clause 271 dealing with best judgment assessment at sub-clause (12) of Clause 288 at Column B needs to be corrected. Therefore, the Committee therefore recommend that the correct reference may be amended to Clause 270 which deals with assessment.

288.6.2 The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.

288.6.3 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 289– Notice of demand

289.1 Provision proposed in the Income-Tax Bill, 2025:

289. (*1*) When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the assessee a notice of demand in such form, as prescribed, specifying the sum so payable.

(*2*) Where any sum is determined to be payable by the assessee or the deductor or the collector under section 270 or 399, the intimation under the said sections shall be deemed to be a notice of demand for the purposes of this section.

(*3*) Where the income of the assessee of any tax year includes income of the nature specified in section 17(*1*)(*d*) and such specified security or sweat equity shares referred to in the said section are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to insection 140, the tax or interest on such income included in the notice of demand referred to in sub-section (*1*) shall be payable by the assessee within fourteen days—

(*a*) after the expiry of sixty months from the end of the relevant tax year; or

(*b*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*c*) from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share, whichever is the earliest.

289.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Notice of demand.

156. (1) When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable :

Provided that where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.

(2) Where the income of the assessee of any assessment year, beginning on or after the 1st day of April, 2021, includes income of the nature specified in clause (*vi*) of sub-section (2) of section 17 and such specified security or sweat equity shares referred to

in the said clause are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in section 80-IAC, the tax or interest on such income included in the notice of demand referred to in sub-section (1) shall be payable by the assessee within fourteen days—

(*i*) after the expiry of forty-eight months from the end of the relevant assessment year; or

(*ii*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*iii*) from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,

whichever is the earliest.

289.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 289 of the Bill provides for notice of demand. The clause corresponds to section 156 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

289.4 Important Views/Suggestions given by Experts/Stakeholders:

There is no justification in providing separate timelines for an assessee whose total income includes income from specified security or sweat equity for the purpose of undertaking recovery of demand payable in consequence of an order passed by the assessing officer. Although, once the demand payable has been crystalized in consequence of any order passed under the Act, there is no reasonable justification for creating two separate classes of assesses and envisaging two separate limitations for recovery whilst issuing the notice of demand.

289.5 Examination by the Committee:

289.5.1 The Ministry in response to the above suggestion submitted as follows:

> *The suggestion seeks to remove the separate timelines for an assessee whose total income includes income from specified security or sweat equity for the purpose of undertaking recovery of demand payable in consequence of an order passed by the assessing officer. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. ESOPs have been a significant component of compensation for the employees of startups, as it allows the founders and startups to employ highly talented employees at a relatively low salary amount, with balance being made up via ESOPs. The tax on ESOPs as perquisites, if required to be paid at the*

time of exercise of option, may lead to cash flow problem as this benefit of ESOP is in kind. In order to ease the burden of payment of taxes by the employees of the eligible startups, or TDS by the startup employer, an extended timeline for tax payment has been provided by the Finance Act 2020 by making suitable amendments in sections 156, 191 and 192 of the Act. This is also in line with the Government's policy of actively supporting and promoting startups. Thus, the suggestion is not feasible.

289.5.2 Further, when the Committee asked a specific question as to why ESOP is taxed when employee exercise the option, the Ministry submitted as follows:

There are two transactions in ESOP. One is when the option is exercised. The second is when the security is sold. The employee benefits at the time of both the transactions. For the first time the ESOP has been granted to the employee as part of his employment. It is not taxed when the option is granted but it is taxed as a perquisite only at the time of exercising the option. This is because it has been given to him for the services provided by him to the employer. Further, the amount of the ESOP on which tax is paid is allowed as Cost in the computation of Capital Gains when the Shares are sold. Taxation at exercise of option is common in jurisdictions like India, France, Mauritius, and Singapore. The gain (FMV – exercise price) is taxed as employment income. This is considered fair since the employee acquires a valuable asset at a discount.

289.5.3 During the deliberations, the Committee further, considering the fact that ESOPs put an unfair burden on the recipient that it compels them to dispose of their ESOPs and enquired about the global best practice in this regard, the Ministry have submitted as follows in their written reply:

1. Indian Framework for ESOP Taxation

In India, the taxation of Employee Stock Option Plans (ESOPs) is structured around two tax events and provides deferral benefits for eligible start-ups:

A. At the time of Exercise:

- *Tax Nature: Perquisite, taxed as salary income under Section 17(2)(vi).*
- *Taxable Amount: Fair Market Value (FMV) on exercise date Exercise price paid by employee.*
- *TDS Obligation: Employer must deduct TDS on this perquisite.*

B. At the time of Sale of Shares:

- *Tax Nature: Capital Gains.*
- *Computation: Sale price FMV at the time of exercise.*
- *Tax Rate:*
    - *Listed shares:*
        - *LTCG (>12 months): 10%*
        - *STCG (≤12 months): 15%.*

- *Unlisted shares:*
  - *LTCG (>24 months): 20% with indexation, 12.5% without indexation.*
  - *STCG (<24 months): Slab rate.*

C. Start-up Tax Deferral Benefit (Section 191(2), Section 192(1C) and Section 156(2)):

Recognizing cash-flow issues at the time of exercise, eligible start-ups can defer tax deduction on ESOPs to the earlier of:

- *5 years from the end of the year of exercise,*
- *Date of sale of shares,*
- *Date of employee resignation.*

2. Alignment with Global Best Practices

India's ESOP taxation framework reflects international trends in the following ways:

Global Principle	***India's Alignment***
Tax on Exercise, Not Grant	*Like France, Germany, Singapore – tax arises on exercise, not at grant or vesting.*
Capital Gains Tax on Sale	*As in UK, France, and Germany – India applies CGT upon sale of shares.*
Lower CGT for Long-Term Holding	*Long-term capital gains receive concessional rates, promoting long-term investment.*
Start-up Focused Reliefs	*India defers TDS on ESOPs for DPIITrecognized start-ups – similar to Germany's deferment.*
Clear Employer TDS Rules	*Indian employers have a statutory TDS obligation at exercise, aligning with Singapore.*
No Tax on Vesting Alone	*Like most jurisdictions (Mauritius, France, Singapore), India does not tax on vesting.*
FMV Based Valuation	*India requires FMV certified by merchant bankers – similar to valuation norms globally.*
Separation of Income and Capital Components	*India bifurcates salary (exercise) and capital gain (sale) taxation, per global norms.*

Based on the above table, a thematic analysis of India's ESOP taxation shows the following:

1. Tax Timing: No Tax on Grant Globally, including in France, Germany, Singapore, and Mauritius, there is no tax at the time of grant of stock options. India also follows this norm, aligning well with the international approach that taxation should arise only when economic benefit is realized.

2. Tax at Exercise: Salary Income Taxation at exercise is common in jurisdictions like India, France, Mauritius, and Singapore. The gain (FMV – exercise price) is taxed as employment income. This is considered fair since the employee acquires a valuable asset at a discount.

3. Capital Gains at Sale Most countries levy capital gains tax on the difference between the sale price and the acquisition price (FMV at exercise), and India is no exception. Importantly, India offers preferential CGT rates (10–20%) for long-term holdings, consistent with regimes in the UK and Germany.

4. Start-up Relief Mechanisms India's startup-specific tax deferral under Section 192(1C) is akin to Germany's 2021 reforms (Fondsstandortgesetz), which defer taxation for startup employees until a liquidity event. This is a major step toward fostering innovation and entrepreneurship.*

5. No CGT: Exceptions and Tax Havens Countries like UAE and Mauritius do not levy personal income tax or capital gains tax. However, these are unique cases and do not represent the norm. India's practice of taxing both perquisites and capital gains is globally standard.

**Fondsstandortgesetz: Germany introduced a startup friendly tax regime in 2021 under the (Fund Location Act). Under this law, employees of qualifying startups-*

- *Less than 12 years old*
- *Fewer than 250 employees,*
- *Revenue bellow 50 Million euros.*

Can defer taxation on the benefit they received from receiving shares (i.e., exercise of option) until the earlier of three events:

• They seel the shares

• They leave the company, or

• 12 years have passed.

3. Comparison Table: ESOP Taxation Across Jurisdictions:

Country	***Tax at Exercise***	***Tax on Sale***	***Special Reliefs / Notes***
India	*Perquisite Tax (FMV – Exercise*	*CGT on FMV– Sale Price*	*Deferral for start-ups; concessional*

	Price)		*CGT*
Germany	*Salary tax on discount*	*CGT @ 25% + surcharges*	*Start-up deferral (2021 reform) up to 12 years or sale/exit*
UK (EMI)	*None (if EMI conditions met)*	*CGT (10% with BADR)*	*EMI schemes highly tax-efficient*
France (OSA)	*Income Tax + Social Charges (~70%)*	*CGT (PFU 30% or progressive with rebates)*	*AGA & BSPCE offer social/tax breaks*
Singapore	*Employment income based on FMV*	*CGT exempt (no CGT regime)*	*Tax deferral via QEEBR or deemed exercise rule*
Mauritius	*Income tax on (FMV – Exercise Price)*	*No CGT*	*TDS deducted under PAYE*
UAE	*No personal income tax*	*No capital gains tax*	*Tax-free jurisdiction*
Cyprus	*Benefit-in-kind taxed on FMV*	*CGT possible (as per income tax rates)*	*Based on residency status*

4. Policy Strengths of India's ESOP Tax Framework

• Global Compatibility: Mirrors most OECD and APAC practices.

• Two-Stage Taxation: Clear separation of income vs capital gain taxation.

• Start-up Support: Section 191(2) and 192(1C) promotes liquidity-aligned taxation.

• Administrative Clarity: Employers have well-defined TDS roles and FMV requirements.

• Capital Market Integration: Listed share ESOPs align with capital market investor policies.

Conclusion

India's ESOP taxation framework substantially aligns with global best practices. It follows a well defined, dual-tax regime with specific support for start-ups, tax deferral, and capital gain incentivization—comparable to mature regimes in the UK, France, Germany, and Singapore.

289.6 Observations/Recommendations of the Committee:

The Committee, upon detailed deliberation on the Clause along with the justification provided by the Ministry, note that the provisions of the Clause 289 are in line with the existing provisions of 1961 Act with textual simplification and therefore accept the Clause as proposed.

Clause 290– Modification and revision of notice in certain cases

290.1 Provision proposed in the Income-Tax Bill, 2025:

290. (*1*) The Assesssing Officer shall serve on the assessee a modified notice of demand specifying the sum payable, if any, and such notice shall be treated as a notice under section 289 and the provisions of this Act shall accordingly, apply in relation to such notice, where—

(*a*) any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued earlier under section 289; and

(*b*) such tax, interest, penalty, fine or any other sum is reduced as a result of an order of the Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016.

(*2*) The modified notice of demand as referred to in sub- section (*1*) shall be revised where the order referred to in sub-section (*1*)(*b*) is modified by the National Company Law Appellate Tribunal or the Supreme Court.

290.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Modification and revision of notice in certain cases.

156A. (1) Where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of the Adjudicating Authority as defined in clause (*1*) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall accordingly, apply in relation to such notice.

(2) Where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly.

290.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 290 of the Bill provides for modification and revision of notice in certain cases.The clause corresponds to section 156A of the Act. There is no policy change.

The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

290.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 290 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 291– Intimation of loss

291.1 Provision proposed in the Income-Tax Bill, 2025:

291. The Assessing Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of section 111(*1*)or (*2*) or 112 or 113(*2*) or 115(*1*), where—

(*a*) in the course of the assessment of the total income of any assessee, it is established that a loss has taken place; and

(*b*) the assessee is entitled to have carried forward and set off such loss under the provisions of the said sections.

B.—Special procedure for assessment of search cases

291.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Intimation of loss.

157. When, in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set off under the provisions of sub-section (1) of section 72, sub-section (2) of section 73, sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A, the Assessing Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of sub-section (1) of section 72, sub-section (2) of section 73, sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A.

291.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 291 of the Bill provides for intimation of loss.The clause corresponds to section 157 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

291.4 Examination by the Committee:

291.4.1 With reference to Clause 291, the Committee sought clarifications regarding legal status of the intimation of loss, time limit and consequences in case failure of Income tax department to issue intimation of loss, the Ministry stated as under:

(i) Clause 291 of the ITB is analogous to section 157 of the ITA 1961, which in turn is analogous to section 24(3) of ITA 1922. Section 24(3) of ITA 1922 states,

"(3) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section." The Income-tax Act 1922 had a separate provision for intimation of loss, since the section for assessment (section 23) in the 1922 Act only mentioned total income and not loss. Accordingly, it was required to formally communicate losses eligible for carry forward. There is no change in the provision of the Bill viz-a-viz provision of the Act. Further, this "intimation of loss" is not conclusive and can be subsequently modified in appeal, revision or through rectification. The present section 155(4) of the Act allows to rectify such mistake in reopening assessment.

(ii)Further, it is pertinent to mention that amount of loss to be carried forward after giving effect of the Assessment Order is intimated by the Assessing Officer in writing in the Assessment Order itself. Therefore, there is no requirement of any separate timeline for intimating such loss to assessee.

(iii)Thus, it gets clarified that how much reduced loss is to be carried forward. Further, in case of any omission by the Assessing Officer, it is being covered as curable defect under section 292B of Income-tax Act, 1961 or through rectification. Thus, Assessment Order can be accordingly rectified to include the amount of loss to be carried forward in consequence of the Assessment Order. Therefore, loss declared in the return does not automatically gets accepted on account of such defect.

291.5 Observations/Recommendations of the Committee:

The Committee, upon examination along with justification provided by the Ministry, find the provisions of the Clause 291 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 292– Assessment of income pertaining to the block period

292.1 Provision proposed in the Income-Tax Bill, 2025:

292. (*1*) Irrespective of any other provision of this Act, where on or after the commencement of this Act, in the case of any person, search is initiated or requisition is made, then, the Assessing Officer shall proceed to assess or reassess the total income of the block period as per this Chapter.

(*2*) The assessment or reassessment or recomputation proceedings under the provisions of this Act (other than this Chapter), if any, pertaining to any tax year falling in the block period, pending on the date of initiation of search, or the date of making of requisition, shall abate and shall be deemed to have been abated on such date.

(*3*) If any reference has been made under section 166(*1*) or order has been passed under section 166(*6*), the assessment or reassessment or recomputation proceedings, referred to in sub-section (*2*) together with such reference or order shall abate on the date referred to in sub-section (*2*).

(*4*) If any assessment under the provisions of this Chapter is required to be made in the case of an assessee, in whose case a search is initiated or a requisition is made subsequently—

(*a*) such pending assessment shall be duly completed;

(*b*) assessment in respect of such subsequent search or requisition shall be made thereafter under the provisions of this Chapter; and

(*c*) if the period available for assessment in clause (*b*) is less than three months, such period shall be extended to three months from the end of the month in which the assessment, as referred to in clause (*a*) was completed.

(*5*) Irrespective of anything contained in any other provision of this Act, if any proceeding initiated or completed under this Chapter has been annulled in an appeal or any other legal proceeding, then—

(*a*) the assessment or reassessment or recomputation or reference or order which has abated under sub-section (*2*) or (*3*), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner;

(*b*) the revival, as referred to in clause (*a*) shall cease to have effect, if such order of annulment is set aside.

(*6*) The income (other than undisclosed income) of the tax year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately as per other provisions of this Act.

(*7*) The total income pertaining to the block period, as referred to in section 293(*5*) shall be charged to tax at the rate specified in section 192, irrespective of the tax year or years to which such income pertains.

292.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment of [32][*total undisclosed income*] as a result of search.

158BA. (1) Notwithstanding anything in any other provisions of this Act, where on or after the 1st day of September, 2024, a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A, in the case of any person, then, the Assessing Officer shall proceed to assess or reassess the [32]**[***total undisclosed income***]** of the block period in accordance with the provisions of this Chapter.

(2) The assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), if any, pertaining to any assessment year falling in the block period, pending on the date of initiation of the search under section 132, or making of requisition under section 132A, as the case may be, shall abate and shall be deemed to have abated on the date of initiation of search or making of requisition.

(3) Where during the course of any pending proceeding for the assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), a reference under sub-section (1) of section 92CA has been made, or an order under sub-section (3) of section 92CA has been passed, such assessment or reassessment or recomputation, along with such reference made or order passed, as the case may be, shall also abate and shall be deemed to have abated on the date of initiation of search or making of requisition.

(4) Where any assessment under the provisions of this Chapter is [33]**[***required to be made***]** in the case of an assessee in whose case a subsequent search is initiated, or a requisition is made, such assessment shall be duly completed, and thereafter, the assessment in respect of such subsequent search or requisition shall be made under the provisions of this Chapter:

Provided that in a case where the period of completing the assessment in respect of subsequent search is less than three months such period shall be extended to three months from the end of the month in which the assessment in respect of the earlier search was completed.

(5) If any proceeding initiated under this Chapter or any order of assessment or reassessment made under clause (*c*) of sub-section (1) of section 158BC has been annulled in appeal or any other legal proceeding, then, notwithstanding anything in this Chapter or section 153, [34]**[***the assessment or reassessment or recomputation or*

*reference or order relating to any assessment year***]**which has abated under sub-section (2) or sub-section (3), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.

(6) The total income (other than undisclosed income) of the assessment year relevant to the previous year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately in accordance with the other provisions of this Act.

(7) The [35]**[***total undisclosed income***]** relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates.

292.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 292 of the Bill deals with assessment of income pertaining to the block periodThe clause corresponds to section 158BA of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, taxation of total income in the case of Block Assessment has been substituted to the taxation of total undisclosed income vide Finance Act, 2025. Accordingly, amendment is required to be made in the clause 292 of the Bill.

292.4 Important Views/Suggestions given by Experts/Stakeholders:

i. In the Clause ‘total income’ may be replaced with ‘total undisclosed income’. The amendments made by Finance Act, 2025, in section 158BA(1)/(5)/(7) of Income-tax Act, 1961 may be incorporated in the section 292(1)/(5)/(7) of the Income-tax Bill, 2025. In case of search, there may be situations where original assessment under Income-tax Act, 1961 may be pending. Those assessments also need to be abated. Therefore, sub-clause (2) may be modified.

ii. In proposed section 292 which is on assessment of income pertaining to the block period, refers to term ‘other than this Chapter’. The Chapter is XVI which has got two parts. Part A is normal procedure of assessment and Part B is Special provisions for assessment of search cases. The intent is to exclude the assessment as per part B. Hence, this proposed Clause needs to refer Part B of this Chapter instead of using ‘this Chapter’. In sub-clause (2), (4) and sub-clause 4(b), ‘this Chapter’ be changed to “Part B of this Chapter”.

292.5 Examination by the Committee:

292.5.1 The Ministry have submitted their replies as follows:

i. The suggestion seeks to incorporate FA 2025 amendments in clause 292(158BA of IT Act) assessment of total undisclosed income pertaining to the block period. The suggestion is acceptable and FA 2025 amendments will be incorporated. Also the reference to the Income-Tax Act 1961 proceedings is also required to be made for abatement.

ii. The suggestion seeks to provide correct reference of the chapter XVI-B in clause 292 to align it with the Act. The suggestion is in nature of drafting correction and is acceptable.

292.6 Observations/Recommendations of the Committee:

292.6.1 The Committee recommend that amendments made by Finance Act, 2025 with respect to assessment of total undisclosed income pertaining to the block period may be incorporated in Clause 292.

292.6.2 The Committee observe that the Clause 292, which addresses the assessment of income for a block period, currently refers to "other than this chapter" at sub-clause (2). Given that Chapter XVI comprises Part A (procedure for assessment) and Part B (special procedure for assessment of search cases), this phrasing "other than this chapter" excludes both parts. The Committee observe that here the intent, however, is to exclude only Part B. Therefore, the Committee recommend to change the phrase "other than this Chapter" at sub-clause (2) to "Part B of this Chapter" in Clause 292 to accurately reflect the exclusion. The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 293– Computation of total income of block period

293.1 Provision proposed in the Income-Tax Bill, 2025:

293. (*1*) The total income of the block period referred to in section 292(*1*) shall be the aggregate of the following:—

(*a*) undisclosed income declared in the return furnished under section 294;

(*b*) income assessed under section 270(*10*) or section 271 or 279 of this Act, or section 153A or 153C of the Income-tax Act, 1961, prior to the date of initiation of search or the date of making of requisition in respect of tax years comprising the block period;

(*c*) income declared in the return of income furnished under section 263 or in response to a notice under section 268(*1*) or 280 in respect of tax years comprising the block period, which is not covered under clause (*a*) or (*b*);

(*d*) income determined—

(*i*) in respect of a tax year, where such tax year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course before the date of initiation of search or the date of requisition;

(*ii*) in respect of period commencing from 1st April of the tax year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;

(*iii*) in respect of period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the authorisations;

(*e*) undisclosed income determined by the Assessing Officer under sub-section (*2*).

(*2*) The undisclosed income forming part of the total income referred to in section 292(*1*) shall be computed on the basis of following:—

(*a*) evidence found as a result of search or survey or requisition; and

(*b*) any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under this Chapter.

(*3*) The relating to any international transaction or specified domestic transaction referred to in section 166, shall not be considered for the purposes of determining the total income of the block period, and shall be considered in the assessment made under other provisions of this Act, if—

(*a*) such income pertains to the period beginning from the 1st April of the tax year in which last of the authorisations was executed and ending with the date of execution of the last of the authorisations; and

(*b*) such income is required to be determined—

(*i*) as a result of search or requisition of books of account or other documents; or

(*ii*) based on any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under this Chapter; or

(*iii*) based on entries relating to income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations.

(*4*) For the purposes of determination of undisclosed income,—

(*a*) of a firm, such income assessed for each of the tax years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration, by whatever name called, to any partner not being a working partner;

(*b*) the provisions of sections 102,103,104 and 105 shall, so far as may be, apply and reference to tax year in those sections shall be construed as references to the relevant tax year falling in the block period;

(*c*) the provisions of section 166 shall, so far as may be, apply and reference to tax year in that section shall be construed as reference to the relevant tax year falling in the block period excluding the period referred to in sub-section (*3*).

(*5*) The tax referred to in section 292(*7*) shall be charged on the total income pertaining to the block period determined in the manner specified in sub-section (*1*) as reduced by the total income referred to in clause (*b*), (*c*) and (*d*) of the said sub-section.

(*6*) For the purposes of sub-sections (*1*) and (*5*), the following shall be ignored:—

(*a*) the undisclosed income declared under sub-section (*1*)(*a*) is a loss; or

(*b*) the income disclosed in respect of any tax year comprising the block period is a loss; or

(*c*) the returned income or assessed income under sub-section (*1*)(*b*) or (*c*) is a loss; or

(*d*) the income as determined under of sub-section (*1*)(*d*) is a loss.

(*7*) For the purposes of assessment, losses brought forward from the tax year (prior to the first tax year comprising the block period) under Chapter VII or unabsorbed depreciation under section 33(*11*) shall not be set off against the undisclosed income determined in the block assessment under this Chapter.

(*8*) Losses or unabsorbed depreciation as referred to in sub-section (*7*) may be carried forward for being set off in the tax year subsequent to the tax year in which the block period ends, for the remaining period, taking into account the block period and such tax year, and as per the provisions of this Act.

293.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Computation of [35][*total undisclosed income*] of block period.

158BB. [36]**[***(1) The total undisclosed income referred to in sub-section (1) of section 158BA of the block period shall be the aggregate of the following, namely:—*

`*(*a*)* *undisclosed income declared in the return furnished under section 158BC;*

*(*b*)* *undisclosed income determined by the Assessing Officer under sub-section (2).*

(1A) The following income shall not be included in the total undisclosed income of the block period, namely:—

*(*a*)* *the total income determined under sub-section (1) of section 143 or assessed under section 143 or section 144 or section 147 or section 153A or section 153C or assessed earlier under clause (*c*) of sub-section (1) of section 158BC or sub-section (4) of section 245D, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period;*

*(*b*)* *the total income declared in the return of income filed under section 139 or in response to a notice under sub-section (1) of section 142, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period, and not covered under clause (*a*);*

*(*c*)* *the income computed by the assessee, in respect of—*

(i) *a previous year, where such previous year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course*

before the date of initiation of search or the date of requisition;

*(*ii*)* *the period commencing from the 1st day of April of the previous year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;*

*(*iii*)* *the period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the authorisations:*

Provided *that where the Assessing Officer is of the opinion that any part of the income as computed by the assessee under this clause is undisclosed, he may recompute such income;*

*(*d*)* *the total income referred to in sub-section (5) of section 115A or section 115G or sub-section (1) of section 194P.***]**

(2) The undisclosed income falling within the block period, [37]**[***]** shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.

[38]**[***(3) Where any income required to be determined as a result of search or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations, relates to any international transaction or specified domestic transaction referred to in section 92CA, pertaining to the period beginning from the 1st day of April of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such income shall not be considered for the purposes of determining the total undisclosed income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.***]**

(4) For the purposes of determination of undisclosed income,--

(*a*) of a firm, such income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called to any partner not being a working partner;

(*b*) the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to "financial year" in those sections shall be construed as references to the relevant previous year falling in the block period;

(*c*) the provisions of section 92CA shall, so far as may be, apply and references to "previous year" in that section shall be construed as reference to the relevant previous year falling in the block period excluding the period referred to in sub-section (3).

[39]**[***(5) The tax referred to in sub-section (7) of section 158BA shall be charged on the total undisclosed income determined in the manner specified in sub- section (1).***]**

(6) [40]**[***]**

(7) For the purposes of assessment under this Chapter, losses brought forward from the previous year (prior to the first previous year comprising the block period) under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter but may be carried forward for being set off in the previous year subsequent to the assessment year in which the block period ends, for the remaining period, taking into account the block period and such assessment year, and in accordance with the provisions of this Act.

293.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 293 of the Bill deals with computation of total income of block period.The clause corresponds to section 158BB of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, taxation of total income in the case of Block Assessment has been substituted to the taxation of total undisclosed income vide Finance Act, 2025. Accordingly, amendment is required to be made in the clause 293 of the Bill.

293.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The amendments made by Finance Act 2025 in section 158BB of the Income-tax Act, 1961 may be suitably incorporated in Clause 293 of Income-tax Bill, 2025.
ii. It is suggested that the word ‘survey’ appearing in section 293(2) of the Income-tax Bill appears to have been inadvertently included, as the entire Chapter XVI-B pertains specifically to the assessment of search cases.

iii. As per the provisions of the Income-tax Bill, 2025, the losses or unabsorbed depreciation brought forward are not allowed to be set off against the total income computed under 293(1). There may be situations where such loss may get lapsed after the assessment order for the block period has been passed. Hence, the Income-tax Bill, 2025 may clarify that the loss can be carried forward for the remaining period as per the provisions of the Act.

293.5 Examination by the Committee:

293.5.1 With regard to the suggestions received the Ministry submitted as under:

i. The suggestion seeks to incorporate amendments made by Finance Act 2025 in section 158BB of the Income-tax Act, 1961 in clause 293. The suggestion is acceptable.

ii. The suggestion seeks to delete the phrase 'survey' from clause 293(2) [s. 158BB] which states that undisclosed income is to be computed based on evidence found as a result of search, survey or requisition. It is in the nature of policy change. During the pending block assessment proceeding, any evidence based on searches as well as surveys carried out during the entire search action are to be included. Thus, survey is also one source of evidence based on which AO may determine the undisclosed income of the block period. Thus, suggestion is not feasible.

iii. The suggestion seeks to amend clause 293(8) [s.158BB(7)] to increase the time period of adjustment of losses where there are losses brought forward from period prior to block period as they can not be adjusted during the block period. It is in the nature of policy change. The restriction is only regarding setoff of losses against the undisclosed income of the block period. Therefore, there is no justification for extending the period of set off of losses. Thus, suggestion is not feasible.

293.6 Observations/Recommendations of the Committee:

293.6.1 The Committee recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 293.

293.6.2 The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.

293.6.3 The Committee other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 294– Procedure for block assessment

294.1 Provision proposed in the Income-Tax Bill, 2025:

294. (*1*) Where any search has been initiated or requisition is made in the case of any person, then,—

(*a*) the Assessing Officer shall, in respect of such search or requisition, issue a notice to such person, requiring him to furnish within a period specified in the notice, not exceeding sixty days, a return in the form and verified in the manner, as prescribed, setting forth his total income, including the undisclosed income, for the block period, and—

(*i*) such return shall be considered as if it was a return furnished under section 263 and thereafter notice under section 270(*8*) shall be issued;

(*ii*) any return furnished beyond the period allowed in the notice shall not be deemed to be a return under section 259;

(*iii*) no notice under section 280 is required to be issued for the purpose of proceeding under this Chapter;

(*iv*) a person who has furnished a return under this clause shall not be entitled to furnish a revised return;

(*b*) the Assessing Officer shall proceed to determine the total income including the undisclosed income of the block period in the manner laid down in section 293and the provisions of sections 268, 270(*8*), 270(*10*), 271, 276, 287 and 288 shall, so far as may be, apply;

(*c*) the Assessing Officer, on determination of the total income of the block period as per this Chapter, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment, so, however that—

(*i*) the provisions of section 275 shall not apply in respect of such order;

(*ii*) where the order of assessment or reassessment is made in pursuance of section 295, the block period for such assessment or reassessment shall be the same as that determined in respect of the person in whose case search was initiated or requisition was made and proceedings under the said section were initiated due to such search or requisition;

(*d*) the assets seized under section 247 or requisitioned under section 248 shall be dealt with as per section 250.

(*2*) The provisions of section 270(*1*) shall not apply to the return furnished under this section.

(*3*) The Assessing Officer, before issuance of notice under sub-section (*1*)(*a*), shall take prior approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

294.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Procedure for block assessment.

158BC. (1) Where any search has been initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then,—

(*a*) the Assessing Officer shall, in respect of search initiated, or books of account or other documents or any assets requisitioned, on or after the 1st day of September, 2024, issue a notice to such person, requiring him to furnish within such period, not exceeding a period of sixty days, as may be specified in the notice, a return in the form and verified in the manner, as may be prescribed, setting forth his [41]**[***]** undisclosed income, for the block period:

Provided that such return shall be considered as if it was a return furnished under the provisions of section 139 and notice under sub-section (2) of section 143 shall thereafter be issued:

Provided further that any return of income, required to be furnished by an assessee under this section and furnished beyond the period allowed in the notice shall not be deemed to be a return under section 139:

Provided also that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided also that a person who has furnished a return under this clause shall not be entitled to furnish a revised return:

[42]**[Provided also***that the time allowed for furnishing a return under this clause may be extended by a further period of thirty days, where—*

*(*i*)* *in respect of a previous year immediately preceding the previous year in which the search is initiated or requisition is made, the due date for furnishing the return has not expired prior to the date of initiation of such search or requisition;*

*(*ii*)* *the assessee was liable for audit under section 44AB for such previous year;*

*(*iii*)* *the accounts (maintained in normal course) of such previous year have not been audited on the date of issuance of such notice; and*

*(*iv*)* *the assessee requests in writing for extension of time for furnishing such return to get such accounts audited;***]**

(*b*) the Assessing Officer shall proceed to determine the [43]**[***total undisclosed income***]** of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143, section 144, section 145, section 145A and section 145B shall, so far as may be, apply;

(*c*) the Assessing Officer, on determination of the [44]**[***total undisclosed income***]** of the block period in accordance with this Chapter, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment:

Provided that nothing in the provisions of section 144C shall apply in respect of such order:

[45]**[***]**

(*d*) the assets seized under section 132 or requisitioned under section 132A shall be dealt with in accordance with the provisions of section 132B.

(2) The provisions of sub-section (1) of section 143 shall not apply to the return furnished under this section.

(3) The Assessing Officer, before issuance of notice under clause (*a*) of sub-section (1), shall take prior approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.

294.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 446 of the Bill deals with procedure for block assessmentThe clause corresponds to section 158BC of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, taxation of total income in the case of Block Assessment has been substituted to the taxation of total undisclosed income vide Finance Act, 2025. Accordingly, amendment is required to be made in the clause 292 of the Bill.

294.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The amendment made by the Finance Act, 2025 to section 158BC of the Income-tax Act, 1961 may be suitably incorporated in section 294 of the Income-tax Bill, 2025.

ii. There should be a minimum time limit prescribed for furnishing the return for the block period, The furnishing of the block return requires review of seized documents and returns of various years. Even in reopening cases, the time limit prescribed is three months.

iii. Sub-clause (ii) contains a typographical error, wherein the reference to 'section 259' should be substituted with 'section 263', as the provisions relating to the return of income are correctly dealt with under section 263 and not under section 259.

iv. The amendment made by the Finance Act, 2025 to the 5th proviso of section 158BC(1) of the Income-tax Act, 1961 may be appropriately incorporated in Clause 294(1)(v) of the Income-Tax Bill, 2025.

v. There are two typographical errors in clause (b), where the references to Clauses '287 and 288' may be substituted with 'sections 277 and 278', as the provisions relating to 'method of accounting in certain cases' and 'taxability of certain income' are correctly dealt with under sections 277 and 278, respectively. It is suggested for removal of section 277. The amendment made by the Finance Act, 2025 to section 158BC(1)(c) of the Income-tax Act, 1961 may be suitably incorporated in Clause 294(1)(c) of the Income-tax Bill, 2025.

vi. At the stage of reopening of the block period in pursuance to the search, the Assessing Officer should first determine that the undisclosed income and the incriminating material pertain to which assessment year and thereafter issue the notice in pursuance to the approval by the specified authority. The Hon'ble Supreme Court in Principal Commissioner of Income tax, Central-3 vs Abhisar Buildwell (P.) Ltd [2023] 454 ITR 212 (SC) has concluded that in respect of completed assessments/unabated assessments no addition can be made by Assessing Officer in absence of any incriminating material found during course of search under section 132 or requisition under section 132A of the Income-tax Act, 1961.

294.5 Examination by the Committee:

294.5.1 The Ministry, in response to the above suggestions, submitted their replies as follows:

i. The suggestion seeks to incorporate FA 2025 amendments in clause 294(158BC of IT Act procedure for block assessment) The suggestion is acceptable and FA 2025 amendments will be incorporated.

ii. The suggestion seeks to provide for minimum time limit prescribed for furnishing the return for the block period. It is in the nature of policy change. The Act and Bill provides for a maximum time limit of 60 days.As the Block

period time barring is fixed therefore no fixed minimum time barring period can be provided as it will delay the block assessment proceeding. Further in case assessee requires audit, he may request additional 30 days' time from AO. Thus, suggestion is not feasible.

iii. The suggestion seeks to correct the reference of section 263 in clause 294(1)(a)(iii). The suggestion is in nature of drafting correction and is acceptable.

iv. The assessee seeks to incorporate FA 2025 amendments in clause 294(1) 158BC of IT Act procedure for block assessment) The suggestion is acceptable and FA 2025 amendments will be incorporated.

v. The suggestion seeks to correct the reference of section 145A and 145B of the IT Act 1961 in clause 294(1)(b)(c). The suggestion is in nature of drafting correction and is acceptable.

vi. The suggestion seeks to amend the procedure for block assessment in clause 294(3). It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The case law cited pertains to earlier search assessment regime, wherein separate assessment years were opened for assessment and were individually assessed as per section 153A by passing separate assessment order for each assessment year. The provision has now changed by Finance (No.2) Act, 2024. Now the statute mandates assessment of the total undisclosed income of the block period, wherein a single assessment order is passed for the block period. This means that a consolidated proceeding for a block of 6 assessment years plus part period shall be conducted for search assessment in case. Hence, there is no requirement to determine that the undisclosed income and the incriminating material pertain to which assessment year before issuing the notice of reassessment for the block period in the new search assessment regime. Thus, the suggestion is not feasible.

294.6 Observations/Recommendations of the Committee:

294.6.1 The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 294. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 294.

294.6.2 The Committee note that the reference of 'Section 259' dealing with power to call for information by prescribed income-tax authority mentioned at Clause 294(1)(a)(ii), LineNo.12 is incorrect. The Committee observe that in the context of provisions in Clause 294 the correct reference should be to 'Section 263'. The Committee recommend to replace the reference 'Section 259' at sub-clause(1)(a)(ii) with 'Section 263'.

294.6.3 The Committee also note that the sub-clause (b) empowers the Assessing Officer to determine the total income including the undisclosed income of the block period in the manner laid down in the Act. Therefore, in this context, the references to sections '287 and 288' are incorrect and need to be substituted with 'sections 277 and 278', relating to 'method of accounting in certain cases' and 'taxability of certain respectively. The Committee therefore recommend to replace references to sections '287 and 288' with 'sections 277 and 278' in sub-clause (b).

294.6.4 The Committee other than recommending the Ministry to carry out the necessary changes, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 295– Undisclosed income of any other person

295.1 Provision proposed in the Income-Tax Bill, 2025:

295. Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person, other than the person with respect to whom search was initiated or requisition was made, then—

(*a*) any money, bullion, jewellery, virtual digital asset or other valuable article or thing, or assets, or books of account, other documents, or any information contained therein, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person; and

(*b*) such other person referred to in clause (*a*) shall be assessed under section 294 and the provisions of this Chapter shall apply accordingly.

295.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

[46][**Undisclosed income of any other person.**

158BD.*Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person (herein referred to as the "other person"), other than the person (herein referred to as the "specified person" for the purposes of this section) with respect to whom search was initiated under section 132 or requisition was made under section 132A, then any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed under section 158BC against such other person and the provisions of this Chapter shall apply accordingly:*

Provided *that,—*

*(*a*) where there is one specified person relevant to such other person, the block period for such other person shall be the same as that for the specified person; and*

*(*b*) where there is more than one specified persons relevant to such other person, the block period for such other persons shall be the same as that for the specified person in whose case the block period ends on a later date:*

Provided further *that in case of such other person, for the purposes of abatement under sub-sections (2) and (3) of section 158BA, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A shall be construed as reference to the date on which such money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other*

*documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income were received by the Assessing Officer having jurisdiction over such other person.***]**

295.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 295 of the Bill deals with undisclosed income of any other person.The clause corresponds to section 158BD of the Act. The provisions of the section 158BD has been amended vide Finance Act, 2025. The same has not been incorporated in the Income-tax Bill, 2025. Accordingly, amendment is required to be made in clause 295 of the Bill.

295.4 Important Views/Suggestions given by Experts/Stakeholders:

The amendment made by Finance Act, 2025 in Section 158BD of Income-tax Act, 1961 may be incorporated in Clause 295 of Income-tax Bill,2025.

295.5 Examination by the Committee:

The Ministry has submitted their reply as “The suggestion seeks to incorporate FA 2025 amendments in clause 295(158BD of IT Act undisclosed income of any other person) The suggestion is acceptable and FA 2025 amendments will be incorporated.”

295.6 Observations/Recommendations of the Committee:

295.6.1 The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 295. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 295.

295.6.2 The Committee other than recommending the Ministry to carry out the necessary changes find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 296– Time-limit for completion of block assessment

296.1 Provision proposed in the Income-Tax Bill, 2025:

296. (*1*) Irrespective of the provisions of section 296, the order under section 294 shall be passed within twelve months from the end of the month in which the last of the authorisations for search was executed, or requisition was made.

(*2*) Where search was initiated or requisition was made, and during the course of assessment or reassessment of the total income of the relevant block period, any reference under section 166(*1*) is made, the period available for completion of such assessment or reassessment proceeding shall be extended by twelve months.

(*3*) In computing the period of limitation under sub-section (*1*), the period (not exceeding one hundred eighty days) commencing from the date on which a search is initiated or a requisition is made and ending on the date on which seized or requisitioned items are handed over to the Assessing Officer having jurisdiction over the assessee shall be excluded.

(*4*) If after exclusion of the period referred to in sub-section (*3*), the remaining period of limitation for completion of assessment or reassessment, expires before the end of a month, such period shall be extended to end of such month.

(*5*) The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 295 shall be twelve months from the end of the month in which the notice under section 294 in pursuance of section 295, was issued to such other person.

(*6*) The period available for completion of assessment or reassessment proceeding in respect of the block period in a case referred to in sub-section (*5*) shall be extended by twelve months, where a reference under section 166(*1*) is made in such case.

(*7*) In computing the period of limitation under this section, the following period shall be excluded,—

(*a*) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner;

(*b*) the period commencing from the date on which a first of the reference for exchange of information (made by an authority competent under an agreement referred to in section 159) is made and ending with the date on which such information requested is last received by the jurisdictional Principal Commissioner or Commissioner or one year, whichever is less;

(*c*) the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under section 244(*2*);

(*d*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(*5*) and—

(*i*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that sub-section; or

(*ii*) where such direction is challenged before a court, ending with the date on which the certified copy of the order setting aside such direction is received by the jurisdictional Principal Commissioner or Commissioner;

(*e*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(*1*) and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer;

(*f*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. No. 23, 24 or 25) as referred to in section 270(*11*)(*i*) and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, under those clauses is received by the Assessing Officer;

(*g*) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner as per section 270(*13*) and ending with the date on which the copy of the order under section 351(*2*)(*ii*)(*A*) or (*B*), is received by the Assessing Officer;

(*h*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(*1*) and ending on the date on which a direction under sub-section (*3*) or (*6*) or an order under sub-section (*5*) of the said section is received by the Assessing Officer;

(*i*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 381(*1*) and ending with the date on which the order rejecting the application is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*5*);

(*j*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 381(*1*) and ending with the

date on which the advance ruling pronounced by it is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*8*).

(*8*) Where immediately after the exclusion of the period referred to in sub-section (*7*), the remaining period of limitation referred to in sub-section (*1*) or (*5*) available to the Assessing Officer for completion of assessment under section 294 is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(*9*) Where after extension of the period referred to in sub-section (*8*), the period of limitation for making an order of assessment or reassessment, expires before the end of a month, such period shall be extended to the end of such month.

296.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Time-limit for completion of block assessment.

158BE. (1) Notwithstanding the provisions of section 153, the order under section 158BC shall be passed within twelve months from the end of the [47]**[***quarter***]** in which the last of the authorisations for search under section 132, or requisition under section 132A, was executed or made, as the case may be:

Provided that in a case where search under section 132 was initiated, or requisition under section 132A was made, and during the course of the proceedings for the assessment or reassessment of the [48]**[***total undisclosed income***]** of the relevant block period, any reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in respect of the block period shall be extended by twelve months:

[49]**[Provided further***that in a case where in pursuance to fifth proviso to clause (*a*) of sub-section (1) of section 158BC, the time allowed under the said clause for furnishing return is extended by a further period of thirty days, the provisions of this sub-section shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.***]**

(2) In computing the period of limitation under sub-section (1), the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be, shall be excluded:

Provided that where after exclusion of the period referred to in this sub-section, the period of limitation for making an order of assessment or reassessment, as the case may be, expires before the end of a month, such period shall be extended to the end of such month.

(3) The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 158BD shall be twelve months from the end of the [50]**[***quarter***]** in which the notice under section 158BC in pursuance of section 158BD, was issued to such other person:

Provided that in case where during the course of the proceedings for the assessment of undisclosed income of the block period in case of other person referred to in section 158BD, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment in respect of the block period in case of such other person shall be extended by twelve months:

[51]**[Provided further***that in a case where in pursuance to fifth proviso to clause (*a*) of sub-section (1) of section 158BC, the time allowed under the said clause for furnishing return is extended by a further period of thirty days, the provisions of this sub-section shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.***]**

(4) In computing the period of limitation under this section, the following period shall be excluded,—

[52]**[**(i) *the period commencing on the date on which stay on assessment proceedings was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner; or***]**

(*ii*) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(*iii*) the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

(*iv*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under sub-section (2A) of section 142 and—

(*a*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that sub-section; or

(*b*) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the

Principal Commissioner or Commissioner; or

(*v*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(*vi*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (*21*) or clause (*22B*) or clause (*23A*) or clause (*23B*) of section 10, under sub-clause (*i*) of the first proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or

(*vii*) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (*ii*) or clause (*iii*) of the fifteenth proviso to clause (*23C*) of section 10 or clause (*ii*) or clause (*iii*) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer; or

(*viii*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or

(*ix*) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(*x*) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (1) or sub-section (3) available to the Assessing Officer for making an order under clause (*c*) of sub-section (1) of section 158BC is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where after extension of the period referred to in the first proviso, the period of limitation for making an order of assessment or reassessment, as the case may be, expires before the end of a month, such period shall be extended to the end of such month.

296.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 296 of the Bill deals with time-limit for completion of block assessment.The clause corresponds to section 158BE of the Act.The provisions of the section 158BE has been amended vide Finance Act, 2025. The same has not been incorporated in the Income-tax Bill, 2025. Accordingly, amendment is required to be made in clause 296 of the Bill.

296.4 Important Views/Suggestions given by Experts/Stakeholders:

The amendment made by Finance Act, 2025 in sub-section (1)/(3) of section 158BE of Income-tax Act, 1961 may be incorporated or inserted in sub-clauses (1)/(3)/(5) of Clause 296 of Income-tax Bill,2025. The serial numbering of Clause 296 has been duly revised in accordance with the renumbering of provisions under the Income-tax Bill, 2025, to ensure consistency and alignment with the amended provisions of the Income-Tax Act, 1961.It is suggested to use quarter-end instead of month-end cutoff.

296.5 Examination by the Committee:

296.5.1 The Ministry has submitted their reply as “The suggestion seeks to incorporate FA 2025 amendments in clause 296 (158BE of IT Act Time limit for completion of block assessment The suggestion is acceptable and FA 2025 amendments will be incorporated.”

296.6 Observations/Recommendations of the Committee:

296.6.1 The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 296. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 296.

296.6.2 The Committee other than recommending the Ministry to carry out the necessary changes find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 297– Certain interests and penalties not to be levied or imposed

297.1 Provision proposed in the Income-Tax Bill, 2025:

297. Interest under section 423, 424 or 425 or penalty under section 439 shall not be levied or imposed upon the assessee for the undisclosed income assessed or reassessed for the block period.

297.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Certain interests and penalties not to be levied or imposed.

158BF. No interest under section 234A, 234B or 234C or penalty under section 270A shall be levied or imposed upon the assessee in respect of the undisclosed income assessed or reassessed for the block period.

297.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 297 of the Bill provides for certain interests and penalties not to be levied or imposed.The clause corresponds to section 158BF of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

297.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 297 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 298– Levy of interest and penalty in certain cases

298.1 Provision proposed in the Income-Tax Bill, 2025:

298. (*1*) Where the return of total income as required under a notice under section 294(*1*)(*a*), is not furnished within the period specified in such notice, or is not furnished, then,—

(*a*) the assessee shall be liable to pay simple interest at the rate of 1.5% of the tax on undisclosed income determined under clause (*c*) of said sub-section;

(*b*) the interest in clause (*a*) shall be paid for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in said notice, and ending on the date of completion of assessment under clause (*c*) of said sub-section.

(*2*) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that the person shall pay by way of penalty a sum which shall be equal to 50% of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under section 294(*1*)(*c*).

(*3*) The order imposing penalty under this section or section 444(*1*) or 450 or 451 or 452 shall not be made for the block period in respect of a person, if—

(*a*) such person has furnished a return under section 294(*1*)(*a*);

(*b*) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(*c*) evidence of tax paid is furnished along with the return; and

(*d*) an appeal is not filed against the assessment of that part of income which is shown in the return.

(*4*) The provisions of the sub-section (*3*) shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined, which is in excess of income shown in the return.

(*5*) The order imposing a penalty under sub-section (*2*) shall not be made—

(*a*) unless an assessee has been given a reasonable opportunity of being heard;

(*b*) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, where penalty exceeds two lakh rupees except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director;

(*c*) in a case where the assessment is the subject-matter of an appeal under section 357 or 362,—

(*i*) after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed; or

(*ii*) six months from the end of the financial year in which the order of the Commissioner (Appeals) or the Appellate Tribunal is received by the jurisdictional Principal Commissioner or Commissioner,

whichever period expires later;

(*d*) in a case where the assessment is the subject-matter of revision under section 377, after the expiry of six months from the end of the financial year in which such order of revision is passed;

(*e*) in any case other than those mentioned in clause (*c*) and clause (*d*), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.

(*6*) In computing the period of limitation under this section, the following period shall be excluded—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*);

(*b*) the period commencing on the date on which stay on proceeding under sub-section (*2*) was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

(*7*) Where immediately after the exclusion of the period referred to in sub-section (*6*), the remaining period of limitation referred to in sub-section (*5*) available to the Assessing Officer for making an order under sub-section (*2*) of this section is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(*8*) If after exclusion of the period referred to in sub-section (*7*), the remaining period of limitation for making of an order for imposition of penalty expires before the end of a month, such remaining period shall be extended to the end of such month.

(*9*) An income-tax authority on making an order under sub-section (*2*) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.

298.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Levy of interest and penalty in certain cases.

158BFA. (1) Where the return of [53]**[***undisclosed income***]** for the block period, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of September, 2024, as required by a notice under clause (*a*) of sub-section (1) of section 158BC, is not furnished within the time specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent of the tax on undisclosed income determined under clause (*c*) of sub-section (1) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and ending on the date of completion of assessment under clause (*c*) of sub-section (1) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that the person shall pay by way of penalty a sum which shall be equal to fifty per cent of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (*c*) of sub-section (1) of section 158BC:

Provided that no order imposing penalty under this section or sub-section (1) of section 271AAD or section 271D or section 271DA or section 271E shall be made for the block period in respect of a person if—

(*i*) such person has furnished a return under clause (*a*) of sub-section (1) of section 158BC;

(*ii*) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(*iii*) evidence of tax paid is furnished along with the return; and

(*iv*) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the first proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

(*a*) unless an assessee has been given a reasonable opportunity of being heard;

(*b*) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, as the case may be, where the amount of penalty exceeds two lakh rupees except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be;

(*c*) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the financial year in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Commissioner or Commissioner, whichever period expires later;

(*d*) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the financial year in which such order of revision is passed;

(*e*) in any case other than those mentioned in clause (*c*) and clause (*d*), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.

(4) In computing the period of limitation under this section, the following period shall be excluded—

(*i*) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129; or

[54]**[***(*ii*) the period commencing on the date on which stay on the proceeding under sub-section (2) was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner:***]**

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (3) available to the Assessing Officer for making

an order under sub-section (2) of this section is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where after exclusion of the period referred to in the first proviso, the period of limitation for making of an order for imposition of penalty expires before the end of a month, such period shall be extended to the end of such month.

(5) An income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.

298.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 298 of the Bill deals with levy of interest and penalty in certain casesThe clause corresponds to section 158BFA of the Act. The provisions of the section 158BFA has been amended vide Finance Act, 2025. The same has not been incorporated in the Income-tax Bill, 2025. Accordingly, amendment is to be made in clause 298 of the Bill.

298.4 Important Views/Suggestions given by Experts/Stakeholders:

i. The amendment made by Finance Act, 2025 in sub-section 158BFA(1) of Income-tax Act, 1961 may be incorporated in Section 298(1) of Income-tax Bill,2025.
ii. As per the current provisions of the Income-tax Bill, 2025, tax at the rate of 50% shall be payable for all additions or disallowance. The definition of "undisclosed income" under section 301(g) is broad enough to include additions or disallowances that may not have a direct nexus with the search proceedings. For instance, addition under section 2(22)(e) or disallowance under section 14A of the Income-tax Act, 1961 which has not been added /which has been disallowed by the Assessing Officer in earlier assessment or reassessment since the same falls under section 293(1)(e) read with section 293(2) of Income-tax Bill. As per the existing provisions, there is no specific power to levy penalty on some additions and not to levy penalty on other additions. The proposed changes suggested by us gives the discretion to the Assessing Officer not to impose penalty on additions or disallowances which are forming part of regular assessment proceedings.

298.5 Examination by the Committee:

298.5.1 To the above suggestions, the Ministry stated as follows:

(i) The suggestion seeks to incorporate FA 2025 amendments in clause 298(158BFA of IT Act Levy of interest and penalty in certain cases) The suggestion is acceptable and FA 2025 amendments will be incorporated.

(ii) The suggestion seeks to redraft the clause 298(2) to allow specific power to levy penalty on some additions and not to levy penalty on other additions. The provisions of search assessments have been rationalised. To end litigation for search cases, it is proposed that all undisclosed income shall be taxed @60%. There will be no penalty where such income is shown voluntarily by the taxpayer. Where it is not so shown, the AO may direct 50% uniform penalty. Thus, suggestion is not feasible.

298.5.2 The Committee sought clarification from the Ministry regarding short title and cross referencing to clauses i.e. the corresponding Clause 453 is not mentioned in this clause, instead clause 452 is mentioned. The replies of the Ministry are as under:

(i) Suggestion seeks to replace 'incertain cases' with 'in certain cases' which is a drafting correction in the title of clause 298.

(ii) Cross referencing error in clause 298 is a drafting correction in sub-clause (3). The same is accepted.

298.5.3 Further the Committee considered the discretionary powers of income-tax authorities as given at sub-clause (b) on specific types of additions/disallowances. The Department apprised as "there is a provision that whatever is the undisclosed income, which has been added by the Assessing Officer over and above what was shown in the return of income. On that whole amount, 50 per cent penalty is levied. So, there the distinction is not there that on some additions, penalty would be levied and on some other additions, penalty would not be levied. So, that discretion is not available with the Assessing Officer."

298.6 Observations/Recommendations of the Committee:

298.6.1 The Committee note that in the short tile, instead of 'in certain cases', it is read as 'incertain cases'. The Committee, therefore, recommend to replace 'incertain cases' with 'in certain cases' at the short title.

298.6.2 The Committee further observe that in sub-clause (3) instead of referring to corresponding provision Clause 453, Clause 452 is mentioned and the Committee recommend to replace the reference to Clause 452 with Clause 453.

298.6.3 The Committee recommend that Financial Act, 2025 amendments may be incorporated in Clause 298 suitably.

298.6.4 The Committee other than recommending the Ministry to carry out the necessary changes, find the provisions to be a textual simplification and accept the Clause as proposed.

Clause 299– Authority competent to make assessment of block period

299.1 Provision proposed in the Income-Tax Bill, 2025:

299. (*1*) The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director.

(*2*) The order referred to in sub-section (*1*) shall be passed with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, in respect of search initiated or requisition made on or after the commencement of this Act.

299.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Authority competent to make assessment of block period.

158BG. The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of September, 2024.

299.3 Reasons Justification given by the Ministry of Finance for the proposed provision:

Clause 299 of the Bill provides for authority competent to make assessment of block period. The clause corresponds to section 158BG of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

299.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 299 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 300– Application of other provisions of Act.

300.1 Provision proposed in the Income-Tax Bill, 2025:

300. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.

300.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Application of other provisions of this Act.

158BH. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.

300.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 300 of the Bill deals with application of other provisions of ActThe clause corresponds to section 158BH of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

300.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 300 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.

Clause 301– Interpretation

301.1 Provision proposed in the Income-Tax Bill, 2025:

301. In this Chapter—

(*a*) "block period" means the aggregate of—

(*i*) the period comprising six tax years preceding the tax year in which the search was initiated or any requisition was made; and

(*ii*) the period starting from the 1st April of the tax year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;

(*b*) "requisition" means requisition of books of account, other documents or any assets under section 248;

(*c*) "requisitioned items" means the books of account, or other documents or money or bullion or jewellery or other valuable article or thing requisitioned under section 248;

(*d*) "search" means a search initiated under section 247;

(*e*) "seized items" means the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 247;

(*f*) "the last of the authorisations" shall be deemed to have been executed,—

(*i*) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued, irrespective of whether or not any seizure is recorded in such *panchnama*;

(*ii*) in the case of requisition, on the actual receipt of the books of account or other documents or assets by the Authorised Officer; and

(*g*) "undisclosed income" includes—

(*i*) any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, virtual digital asset, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, in respect of the block period; or

(*ii*) any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

301.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Definitions.

158B. In this Chapter, unless the context otherwise requires,—

(*a*) "block period" means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was initiated under section 132 or any requisition was made under section 132A and also includes the period starting from the 1st day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;

(*b*) "undisclosed income" includes any money, bullion, jewellery [31][*, virtual digital asset*] or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery [31][*, virtual digital asset*], valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

Explanation.—For the purposes of this Chapter, the last of the authorisations shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;

(*b*) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

301.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

Clause 301 of the Bill provides for interpretation of provisions relating to Chapter-XVI-B (Special procedure for assessment of search cases).The clause corresponds to section 158B of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

301.4 Observations/Recommendations of the Committee:

The Committee note the justification provided by the Ministry and find the provisions of the Clause 301 in line with the existing provisions with textual simplification and therefore accept the Clause as proposed.

CHAPTER XVII

SPECIAL PROVISIONS RELATING TO CERTAIN PERSONS

A. Association of persons, firm, Hindu undivided family, etc.
1- Legal Representatives

Clause 302 - Legal representative

302.1 Provision proposed in the Income-Tax Bill, 2025:

(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purposes of making an assessment (including an assessment, reassessment or recomputation under section 279) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative as per the provisions of sub-section (1), any proceeding—

(a) taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall be deemed to be an assessee for the purposes of this Act.

(4) Subject to the provisions of sub-sections (5), (6) and (7), the liability of a legal representative referred to in sub-section (1) shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

(5) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while such liability remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession.

(6) The liability of a legal representative referred to in sub-section (5) shall be limited to the value of the asset so charged, disposed of or parted with.

(7) The provisions of sections 304(2) and (5) and 305, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

302.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Legal representatives.

159. (1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1),—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(5) The provisions of sub-section (2) of section 161, section 162, and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

(6) The liability of a legal representative under this section shall, subject to the provisions of sub-section (4) and sub-section (5), be limited to the extent to which the estate is capable of meeting the liability.

302.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 302 of the Bill provides for legal representative (in cases of death). The clause corresponds to section 159 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

302.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Replace "sum" with "tax" .The term "sum" is significantly wider than "tax", which is more suitable in relation to the tax obligations of legal representatives

2. Add the phrase", for less than adequate consideration" in the end of this provision, in the following manner: "Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while such liability remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, for less than adequate consideration."
Further, the personal liability of a legal representative should be restricted to situations where the transfer or disposition limits the ability of the legal representative to fulfil tax obligations If adequate consideration is received for the transfer, there should be no reason for such liability These changes would make it easier for legal representatives to fulfil their obligations under succession law, while also complying with tax requirements.

302.5 Examination by the Committee:

302.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. “Accepted. The suggestion seeks to replace "sum" with "tax" in clause 302(5) for the purposes of liability of legal representative of the deceased. This is the nature of drafting correction and is acceptable”.

2. “In the IT Act, there are two places where liability is cast upon the legal representative. At one place liability is for 'sum' and at other place it is for 'tax'. This is an anomaly. therefore, the Bill seeks to replace the word 'tax' with 'sum'. The amendment has been made to remove such anomaly. The suggestion seeks enablement to dispose of the assets of deceased for adequate consideration by adding the phrase "for less than adequate consideration" in the end of this provision of clause 302(5). It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The provision is nature of anti-abuse. The legal representative cannot be allowed to part with the estate without discharging the liability. Thus, the suggestion is not feasible”.

302.5.2 With regard to suggestion for adding the phrase ", for less than adequate consideration", the representative of the Ministry deposed before the Committee as follows:-

> *“…….it seeks enablement to dispose of assets of deceased for adequate consideration by adding the phrase ‘for less than adequate consideration’. So, what it says is that if the legal representative can dispose of the assets of the deceased for less than adequate consideration also, that also should be enabled. So, we are saying that provision is in nature of anti-abuse”.*

302.6 Observations/Recommendations of the Committee:

The Committee observe Clause 302 of the Bill (mirroring Section 159 of the extant Act) regarding legal representatives in death cases. The Committee find a drafting error in sub-clause (5) where "sum" should be replaced with "tax," which the Department accepts. The suggestion to add "for less than adequate consideration" in sub-clause (5) is deemed untenable as it is an anti-abuse provision. The Committee, therefore, concur with the views of the Department of Revenue and recommend to amend the sub-clause (5) as accepted. Apart from this drafting correction, the Committee approve the clause as proposed.

Clause 303 - Representative assesses—General provisions

303.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) For the purposes of this Act, "representative assessee" means—

(*a*) in respect of the income of a non-resident specified in section 9, the agent of the non-resident, including a person who is treated as an agent under section 306;

(*b*) in respect of the income of a minor or a person who is mentally ill or of unsound mind, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor or a person who is mentally ill or of unsound mind ;

(*c*) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, by whatever name called, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

(*d*) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees;

(*e*) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees

(*2*) For the purposes of sub-section (*1*)(*d*), a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) shall be deemed to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Assessing Officer,—

(*a*) where the trust has been declared before the 1st June, 1981, within three months from that day; and

(*b*) in any other case, within three months from the date of declaration of the trust.

(*3*) For the purposes of sub-section (*1*)(*e*), "oral trust" means a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) and which is not deemed under sub-section (*2*) to be a trust declared by a duly executed instrument in writing.

(*4*) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

303.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Representative assessee.

160. (1) For the purposes of this Act, "representative assessee" means—

(*i*) in respect of the income of a non-resident specified in sub-section (1) of section 9, the agent of the non-resident, including a person who is treated as an agent under section 163;

(*ii*) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot;

(*iii*) in respect of income which the Court of Wards, the Administrator- General, the Official Trustee or any receiver or manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

(*iv*) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913),] receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees;

(*v*) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

Explanation 1.—A trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913), shall be deemed, for the purposes of clause (*iv*), to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Assessing Officer,—

(*i*) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day; and

(*ii*) in any other case, within three months from the date of declaration of the trust.

Explanation 2.—For the purposes of clause (*v*), "oral trust" means a trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913),] and which is not deemed under *Explanation 1* to be a trust declared by a duly executed instrument in writing.

(2) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

303.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 303 of the Bill provides for representative assessee. The clause corresponds to section 160 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause*".

303.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

303.5 Observations/Recommendations of the Committee:

The Committee note that Clause 303 provides for representative assessee, aligns with the provisions of Section 160 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 303 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

Clause 304 - Liability of representative assessee

304.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and for this purpose,—

(*a*) the representative assessee shall be liable to assessment and any other proceedings under this Act, in his own name in respect of that income and any such proceedings shall be deemed to be made upon him in his representative capacity only; and

(*b*) the tax on such income shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from the representative assessee in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

(*2*) If any person, in respect of any income is assessable under this Chapter in the capacity of a representative assessee, then he shall not, in respect of that income, be assessed under any other provisions of this Act.

(*3*) Irrespective of the provisions of this Chapter, the Assessing Officer may directly assess the person on whose behalf or for whose benefit income therein referred to is receivable, or may recover from such person the tax payable in respect of such income.

(*4*) If only part of the income of a trust is chargeable under this Act, then the proportion of income receivable by a beneficiary from such trust derived from the chargeable part shall be determined as follows:—

$$\frac{A}{B} \times C$$

Where,—

A = the chargeable part of the income of the trust;

B = the whole income of the trust; and

C = the income receivable by the beneficiary from the trust.

(*5*) The Assessing Officer shall have the same remedies in the same manner against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, whether the demand is raised against the representative assessee or against the beneficiary direct.

304.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Liability of representative assessee.

161. (1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income; but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

(1A) Notwithstanding anything contained in sub-section (1), where any income in respect of which the person mentioned in clause (*iv*) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, tax shall be charged on the whole of the income in respect of which such person is so liable at the maximum marginal rate :

Provided that the provisions of this sub-section shall not apply where such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.

(2) Where any person is, in respect of any income, assessable under this Chapter in the capacity of a representative assessee, he shall not, in respect of that income, be assessed under any other provision of this Act.

304.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 304 of the Bill provides for liability of representative assessee. The clause corresponds to section 161, 165, 166, 167 of the Act. In clause 304(4), formula has been introduced to calculate the proportion of income receivable by a beneficiary of a trust from the chargeable part of the income derived by the trust".*

304.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Add a proviso stating that: "Provided that, recovery may be either against the representative assessee or against the represented tax payer but not against both simultaneously." Since a representative assessee is assessed on behalf of a tax payer it is not appropriate for proceedings to be initiated against both simultaneously.

2. Add a proviso stating that: "Provided that, tax shall be levied upon and recoverable either from the representative assessee or from the taxpayer represented but not from both." Since a representative assessee is assessed on behalf of a tax payer it is not appropriate for proceedings to be initiated against both simultaneously.

3. The provisions are intended only to ensure recovery of amounts due form the representative assesses. However, the term 'and any other proceedings', may give rise to unintended anomalous situations, giving rise to launching of prosecution, etc. against the representative. Ambiguity: The provisions are intended only to ensure recovery of amounts due form the representative assesses. However, the term 'and any other proceedings', may give rise to unintended anomalous situations, giving rise to launching of prosecution, etc against the representative.

304.5 Examination by the Committee:

On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion seeks to add a proviso in clause 304(3) liability of representative assessee stating that: "Provided that, recovery may be either against the representative assessee or against the represented taxpayer but not against both simultaneously." It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The power to assess representative assessee and assessee simultaneously was already existing in the Act. Further adding the proviso will remove the deterrence among the tax evaders. Moreover, it is impossible that both taxpayer and representative assessee will pay taxes separately in respect of same income. Thus, the suggestion is not feasible".

2. **Accepted.** "This is drafting correction. The phrase "and any other proceedings' shall be deleted in clause 304(1) in order to align the provision of the Bill with the Act".

304.6 Observations/Recommendations of the Committee:

The Committee observe Clause 304 of the Bill, aking to Section 161 of the extant Act, provides for liability of representative assessee. The Committee find a drafting error in sub-clause (1) (a) of Clasue 304 where the phrase “"and any other proceedings' shall be deleted in order to align the provision of the Bill with the Act which the Department has accepted. The suggestion to add a proviso regarding recovery against the representative or tax payer is impractical as it is not possible for both parties to be taxed separately on the same income. The Committee, therefore, concur with the views of the Department of Revenue and recommend only the above-mentioned drafting correction in Clause 304(1)(a); and accept the clause as proposed.

Clause 305 - Right of representative assessee to recover tax paid

305.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

(*2*) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (herein referred to as the principal), a sum equal to his estimated liability under this Chapter.

(*3*) In the event of any disagreement between such principal and such representative assessee or person with regard to the amount to be so retained as referred to in sub-section (*2*), such representative assessee or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(*4*) The amount recoverable from such representative assessee or person shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

305.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Right of representative assessee to recover tax paid.

162. (1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this Chapter, and in the event of any disagreement between the principal and such representative assessee or person as to the amount to be so retained, such representative assessee or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(3) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to

the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

305.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 305 of the Bill deals with right of representative assessee to recover tax paid. The clause corresponds to section 162 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause*".

305.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

305.5 Observations/Recommendations of the Committee:

The Committee note that Clause 305 is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the Department.

Clause 306 - Who may be regarded as agent

306.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) For the purposes of this Act, "agent", in relation to a non-resident, includes—

(*a*) any person in India—

(*i*) who is employed by or on behalf of the non-resident; or
(*ii*) who has any business connection with the non-resident; or
(*iii*) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or
(*iv*) who is the trustee of the non-resident;

(*b*) any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India.

(*2*) A broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal, but deals with or through a non-resident broker shall not be deemed to be an agent under this section, in respect of such transactions, if the following conditions are fulfilled:—

(*a*) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(*b*) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

(*3*) A person shall not be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

(*4*) In this section, "business connection" shall have the meaning assigned to it in section 9(*8*)(*b*).

306.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Who may be regarded as agent.

163. (1) For the purposes of this Act, "agent", in relation to a non-resident, includes any person in India—

(*a*) who is employed by or on behalf of the non-resident; or

(*b*) who has any business connection with the non-resident; or

(*c*) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(*d*) who is the trustee of the non-resident;

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India :

Provided that a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely:—

(*i*) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(*ii*) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

Explanation.—For the purposes of this sub-section, the expression "business connection" shall have the meaning assigned to it in *Explanation 2* to clause (*i*) of sub-section (1) of section 9 of this Act.

(2) No person shall be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

306.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 306 of the Bill provides for who may be regarded as agent. The clause corresponds to section 163 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause*".

306.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Clause 306(1)(a)(iii) should be replaced with "a person acting on behalf of a non-resident from or whom the non-resident is in receipt of any income whether directly or indirectly." Agency suggests that the representative assessee is acting on behalf of the non-resident and had the ability to influence the tax payable by the non-resident. This understanding is also consistence with the other categories of representative assessee. The broad language in the modified provisions deviates from this understanding and have been significantly litigated in the past. Further, the categories of persons

contemplated in the modified provisions would already be covered and liable under withholding tax provisions.

2. This clause be deleted. The power to decide the tax liability of non-resident has now been delegated to Chartered Accountants. I believe that no one has been treated as an agent for this purpose in last five years. Hence, provision has lost the relevance.

3. Delete clause 306 (1)(b)

306.5 <u>Examination by the Committee:</u>

306.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "“a person acting on behalf of a non-resident from or whom the non-resident is in receipt of any income whether directly or indirectly.” It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. 'Acting on behalf' is subjective and prone to litigation. The suggested phrase limits the scope of the sub-section. It puts additional burden on the AO to prove that the said person was "acting on behalf of a non-resident" which is not the intended policy. Thus, the suggestion is not feasible”.

2. *“*The suggestion seeks to delete the clause 306 i.e. Representative Assessee-Special cases (who may be regarded as agent). It is in the nature of Policy Change which is outside the scope of the Bill. "Agent" in relation to a non-resident has not been defined anywhere else in the Act. Hence, the said clause is required to be retained in the Bill for avoiding unnecessary litigation. Thus, the suggestion is not feasible”.

3. “The suggestion seeks to delete the clause 306(1)(b) which provides that agent in relation to a non-resident includes person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India. There is no change in the provisions of the Bill *viz-a-viz* Act. No rationale is provided for deleting the clause 306(1)(b) of the Bill. Whereas, the said clause has been incorporated as per the existing provisions of the section 163 (1) of the Act”.

305.5.2 With regard to Clause 306, the representative of the Ministry has deposed the following before during the sitting of the Committee held on 10 June, 2025 as under:-

> *“It relates to clause 306, where agent in relation to a non-resident is defined. The agent includes any person in India from or through whom the non-resident is in receipt of any income, whether directly or indirectly. The suggestion is that this special case should be replaced by a ‘representative assessee’. Sir, this is*

something for non-resident that has always been there in the Act and that has been reproduced in the Bill. Nothing new has been incorporated." Further, the representative of the Ministry also stated that "It again relates to 306, and they are saying that the clause itself should be deleted because there is a chartered accountant who is powered to decide tax liability of non-resident. This power has now been delegated to chartered accountant. So, that suggestion itself is not applicable".

306.6 Observations/Recommendations of the Committee:

Clause 306 defines who may be regarded as an agent. The Committee note that this Clause is simplified textual version of existing Section 163 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 306 as proposed.

Clause 307 - Charge of tax where share of beneficiaries unknown

307.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Subject to the other provisions of this section, the income or any part thereof, in respect of the person mentioned in sections 303(*1*)(*c*) and (*d*) shall be chargeable to tax at the maximum marginal rate, if—

(*a*) such income or such part thereof is not specifically receivable on behalf or for the benefit of any one person; or

(*b*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown.

(*2*) The income or any part thereof as referred to in sub-section (*1*), shall be chargeable to tax at the rate applicable to an association of persons, if,—

(*a*) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in case of an association of persons, or is a beneficiary under any other trust; or

(*b*) such income or part of such income is receivable under a trust declared by any person by will and such trust is the only trust declared by him; or

(*c*) such income or part of such income is receivable under a trust created before the 1st March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created *bona fide*—

(*i*) exclusively for the benefit of the relatives of the settlor; or

(*ii*) exclusively for the benefit of the members of such family, where the settlor is a Hindu undivided family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(*d*) such income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession.

(*3*) Subject to the provisions of sub-section (*4*), where the income in respect of the person mentioned in section 303(*1*)(*d*) consists of, or includes, profits and gains of business, tax shall be charged at the maximum marginal rate on the whole of the income.

(*4*) Where the profits and gains referred to in sub-section (*3*) are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent

on him for support and maintenance, and such trust is the only trust so declared by him, tax shall be charged at the rate applicable to an association of persons.

(*5*) For the purposes of this section,—

(*a*) such income or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the tax year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(*b*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed and are ascertainable as such on the date of such order, instrument or deed

307.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Charge of tax where share of beneficiaries unknown.

164. (1) Subject to the provisions of sub-sections (2) and (3), where any income in respect of which the persons mentioned in clauses (*iii*) and (*iv*) of sub-section (1) of section 160 are liable as representative assessees or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown (such income, such part of the income and such persons being hereafter in this section referred to as "relevant income", "part of relevant income" and "beneficiaries", respectively), tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate :

Provided that in a case where—

(*i*) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or

(*ii*) the relevant income or part of relevant income is receivable under a trust declared by any person by will and such trust is the only trust so declared by him; or

(*iii*) the relevant income or part of relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances

existing at the relevant time, that the trust was created *bona fide* exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(*iv*) the relevant income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession,

tax shall be charged on the relevant income or part of relevant income as if it were the total income of an association of persons :

Provided further that where any income in respect of which the person mentioned in clause (*iv*) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, the preceding proviso shall apply only if such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.

(2) In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, or which is of the nature referred to in sub-clause (*iia*) of clause (*24*) of section 2, or which is of the nature referred to in sub-section (4A) of section 11, tax shall be charged on so much of the relevant income as is not exempt under section 11 or section 12, as if the relevant income not so exempt were the income of an association of persons :

Provided that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (*c*) or clause (*d*) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.

(3) In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes or is of the nature referred to in sub-clause (*iia*) of clause (*24*) of section 2 or is of the nature referred to in sub-section (4A) of section 11, and either the relevant income applicable to purposes other than charitable or religious purposes (or any part thereof) is not specifically receivable on behalf or for the benefit of any one person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be the aggregate of—

(*a*) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons; and

(*b*) the tax on that part of the relevant income which is applicable to purposes other

than charitable or religious purposes, and which is either not specifically receivable on behalf or for the benefit of any one person or in respect of which the shares of the beneficiaries are indeterminate or unknown, at the maximum marginal rate :

Provided that in a case where—

(*i*) none of the beneficiaries in respect of the part of the relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or

(*ii*) the relevant income is receivable under a trust declared by any person by will and such trust is the only trust so declared by him; or

(*iii*) the relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust, to the extent it is not for charitable or religious purposes, was created *bona fide* exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance,

tax shall be charged on the relevant income as if the relevant income (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons :

Provided further that where the relevant income consists of, or includes, profits and gains of business, the preceding proviso shall apply only if the income is receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him :

Provided also that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (*c*) or clause (*d*) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.

Explanation1.—For the purposes of this section,—

(*i*) any income in respect of which the persons mentioned in clause (*iii*) and clause (*iv*) of sub-section (1) of section 160 are liable as representative assessee or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for

whose benefit such income or such part thereof is receivable during the previous year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed ;

(*ii*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.

Explanation 2.— [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989*.]

307.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 307 of the Bill provides for charge of tax where share of beneficiaries unknown. The clause corresponds to section 164 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

307.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

307.5 Observations/Recommendations of the Committee:

The Committee note that Clause 307, a textual simplification of Section 164 of the Income-Tax Act, 1961, provides for change of tax where share of beneficiaries unknown. As no policy changes are incorporated, the Committee accept Clause 307 as proposed by the Department of Revenue.

Clause 308 - Charge of tax in case of oral trust

308.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The income of the person appointed under an oral trust as mentioned in section 303(*1*)(*e*) shall be chargeable to tax at the maximum marginal rate, irrespective of anything contained in any other provision of this Act.

(*2*) For the purposes of this section, "oral trust" shall have the meaning assigned to it in section 303(*3*).

308.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Charge of tax in case of oral trust.

164A. Where a trustee receives or is entitled to receive any income on behalf or for the benefit of any person under an oral trust, then, notwithstanding anything contained in any other provision of this Act, tax shall be charged on such income at the maximum marginal rate.

Explanation.—For the purposes of this section,—

(*i*) [***]

(*ii*) "oral trust" shall have the meaning assigned to it in *Explanation 2* below sub-section (1) of section 160.

308.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 308 of the Bill provides for charge of tax in case of oral trust. The clause corresponds to section 164A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

308.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

308.5 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 308 of the Bill sets forth the special tax provision for oral trusts, akin to Section 164A of the Income-Tax Act, 1961. The Committee further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

4. Association of persons and body of individuals

Clause 309 - Method of computing a member's share in income of association of persons or body of individuals

309.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) For the purposes of this section, sections 310 and 311, an association of persons or body of individuals shall not include a company or a co-operative society or a society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India.

(*2*) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known, the share of a member in the income or loss of such association or body shall be computed in the following manner,—

(*a*) any interest, salary, bonus, commission or remuneration, by whatever name called, paid to any member in respect of the tax year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(*b*) the interest, salary, bonus, commission or remuneration referred to in clause (*a*), shall be,—

(*i*) added to the apportioned amount referred to in clause (*a*), if such apportioned amount is a profit; or

(*ii*) adjusted against the apportioned amount referred to in clause (*a*), if such apportioned amount is a loss,

and the resultant amount shall be treated as the share of the member in the income of such association or body.

(*3*) The share of a member in the income or loss of the association or body, as computed under sub-section (*2*), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(*4*) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

(*5*) For the purposes of this section, “paid” means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head “Profits and gains of business or profession”.

309.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Method of computing a member's share in income of association of persons or body of individuals.

67A. (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely :—

(*a*) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(*b*) where the amount apportioned to a member under clause (*a*) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body;

(*c*) where the amount apportioned to a member under clause (*a*) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under sub-section (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (*2*) of section 43.

309.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 309 of the Bill provides for method of computing a member's share in income of association of persons or body of individuals. The clause corresponds to section 67A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause*".

309.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. LLPs to be included in the list of entities covered. While the exclusion of companies, co-ops, and societies is retained, there's no mention of LLPs Given their growing use, clarity on whether LLPs fall under this clause would assist in compliance, increase certainty and reduce disputes.

2. Clause 309(1) to be redrafted as below: "(1) For the purposes of this Chapter, an association of persons shall mean the coming together of two or more persons in a common or joint purpose or common or joint action, with the object of producing income, profits or gains Provided that an association of persons or body of individuals shall not include a company or a cooperative society or a society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India." The term AOP is not currently defined under the IT Act, although there have been judicial precedents and CBDT circulars on the subject It will be useful to include a definition in section 309(1) alongside the exclusion provision which is already suggested.

309.5 <u>Examination by the Committee:</u>

309.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion seeks to include LLPs in the list of entities covered in clause 309(1) AOP and BOI. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act.
The firm has also not been included in this provision in existing Act and LLP is also of same nature".

2. “The suggestion seeks to define AOP. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The definition of the term 'Association of Person' is a settled matter. Therefore, this is no ambiguity on meaning of AOP. Thus, the suggestion is not feasible”.

309.5.2 The representative of the Ministry has stated the following with regard to the above suggestions during the 31st Sitting of the Committee held on 10 June, 2025 as follows:-

> *“It relates to clause 309 where there is a method of computing member share in relation to association of persons or body of individuals. The suggestion seeks to include LLP in the list of entities covered in this clause.”*

309.5.3 The representative has added futher :-

> *“….they are seeking to define what is an association of persons. It is a settled matter and no ambiguity as such”.*

309.6 Observations/Recommendations of the Committee:

Clause 309 of the Income-Tax Bill 2025 outlines the method for computing a member's share in income of association of persons or body of individuals, corresponding to Section 67A of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 309 as proposed.

Clause 310 - Share of member of association of persons or body of individuals in income of association or body

310.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Income-tax shall not be payable by an assessee (who is a member of an association of persons or body of individuals) in respect of his share in the income of the association of persons or body of individuals computed in the manner provided in section 309, except in a case referred to in sub-section (*2*).

(*2*) Where no income-tax is chargeable on the total income of the association of persons or body of individuals, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income.

(*3*) Where no income-tax is payable by an assessee under sub-section (*1*),—

(*a*) if the association of persons or body of individuals is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income.

310.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Share of member of an association of persons or body of individuals in the income of the association or body.

86. Where the assessee is a member of an association of persons or body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India), income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67A :

Provided that,—

(*a*) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income :

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case.

310.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 310 of the Bill provides for share of member of an association of persons or body of individuals in income of association or body The clause corresponds to section 86 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

310.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, *between* the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

310.5 Observations/Recommendations of the Committee:

The Committee observe that Clause 310 of the Bill provides for share of member of an association of persons or body of individuals in income of association or body which corresponds to Section 86 of the extant Act. The Committee note that, apart from textual simplification, no policy change has been introduced in this Clause. The Committee, therefore, accept Clause 310 as proposed by the Department of Revenue.

Clause 311 - Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

311.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are indeterminate or unknown,—

(*a*) tax shall be charged on the total income of the association or body at the maximum marginal rate; or

(*b*) where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(*2*) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are determinate or known,—

(*a*) the total income of any member thereof for the tax year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(*b*) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate,—

(*i*) tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be; and

(*ii*) the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

(*3*) For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.

311.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

167B. (1) Where the individual shares of the members of an association of persons or body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India) in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate :

Provided that, where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1),—

(*i*) the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(*ii*) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate, tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be, and the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

Explanation.—For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.

311.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 311 of the Bill provides for charge of tax where shares of members in association of persons or body of individuals unknown, etc. The clause corresponds to section 167B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

311.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

311.5 Observations/Recommendations of the Committee:

The Committee note that Clause 311 of the Bill provides for charge of tax where shares of members in association of persons or body of individuals unknown etc. is similar to the provisions of existing Section 167B of the Income-Tax Act, 1961 with no policy change. The Committee, therefore, approve the Clause 311 as proposed by the Department of Revenue.

5. Executors

Clause 312 - Executor

312.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) The income of the estate of a deceased person shall be chargeable to tax in the hands of the executor as an individual, if there is only one executor, or as an association of persons, if the executors are more than one.

(*2*) The executor shall be deemed to be resident or non-resident according to the residential status of the deceased person for the tax year in which his death took place.

(*3*) For the purposes of this section, “executor” includes an administrator or other person administering the estate of the deceased person.

(*4*) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(*5*) Separate assessments shall be made under this section on the total income of each completed tax year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(*6*) In computing the total income of any tax year under this section, any income of the estate of that tax year distributed to, or applied to the benefit of, any specific legatee of the estate during that tax year shall be excluded; but the income so excluded, shall be included in the total income of the tax year of such specific legatee.

(7) The provisions of section 305 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him, as they apply in the case of a representative assessee.

312.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Executors.

168. (1) Subject as hereinafter provided, the income of the estate of a deceased person shall be chargeable to tax in the hands of the executor,—

(*a*) if there is only one executor, then, as if the executor were an individual; or

(*b*) if there are more executors than one, then, as if the executors were an association of persons;

and for the purposes of this Act, the executor shall be deemed to be resident or non-resident according as the deceased person was a resident or non-resident during the previous year in which his death took place.

(2) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(3) Separate assessments shall be made under this section on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(4) In computing the total income of any previous year under this section, any income of the estate of that previous year distributed to, or applied to the benefit of, any specific legatee of the estate during that previous year shall be excluded; but the income so excluded shall be included in the total income of the previous year of such specific legatee.

Explanation.—In this section, "executor" includes an administrator or other person administering the estate of a deceased person.

312.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 312 of the Bill provides for Executor, in whose hands income of the estate of a deceased person shall be chargeable to tax. The clause corresponds to section 168 and 169 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

312.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

312.5 Observations/Recommendations of the Committee:

The Committee note that Clause 312 of the Income-Tax Bill, 2025, which corresponds to Sections 168 and 169 of the Income-Tax Act, 1961, provides for Executor, in whose hands income of the estate of a deceased person shall be chargeable to tax. Given that this Clause is similar to the existing Sections 168 and 169 with no policy change, the Committee recommend its inclusion as is in the proposed legislation.

6. Succession to business or profession

Clause 313 - Succession to business or profession otherwise than on death

313.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Where a person carrying on any business or profession (herein referred to as the predecessor) has been succeeded therein by any other person (herein referred to as the successor) who continues to carry on that business or profession,—

(*a*) the predecessor shall be assessed in respect of the income of the tax year in which the succession took place up to the date of succession;

(*b*) the successor shall be assessed in respect of the income of the tax year after the date of succession.

(*2*) Irrespective of anything contained in sub-section (*1*), when the predecessor cannot be found, the assessment of the income of the tax year in which the succession took place up to the date of succession and of the tax year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(*3*) Irrespective of anything contained in sub-sections (*1*) and (*2*), where there is succession, the assessment or reassessment or any other proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

(*4*) When any sum payable under this section in respect of the income of such business or profession assessed on the predecessor,—

(*a*) for the tax year in which the succession took place up to the date of succession; or

(*b*) for the tax year preceding the year in which the succession took place, cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(*5*) Without prejudice to the provisions of this section, where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the

business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 315.

(*6*) In this section,—

(*a*) "income" includes any gain accruing from the transfer, in any manner, of the business or profession as a result of the succession; and

(*b*) "pendency" means the period commencing from the date of filing of application for such succession of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016 and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, is received by the Principal Commissioner or the Commissioner.

313.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Succession to business otherwise than on death.

170. (1) Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

(*a*) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession;

(*b*) the successor shall be assessed in respect of the income of the previous year after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the previous year in which the succession took place up to the date of succession and of the previous year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(2A) Notwithstanding anything contained in sub-sections (1) and (2), where there is succession, the assessment or reassessment or any other proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

Explanation.—For the purposes of this sub-section, the term "pendency" means the period commencing from the date of filing of application for such succession of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in clause (*1*)

of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, as the case may be, is received by the Principal Commissioner or the Commissioner.

(3) When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for the previous year preceding that year, assessed on the predecessor, cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(4) Where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 171, but without prejudice to the provisions of this section.

Explanation.—For the purposes of this section, "income" includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession.

313.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 313 of the Bill provides for succession to business or profession otherwise than on death. The clause corresponds to section 170 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

313.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. The definitions provided in clause 313(6) should be shifted to clause 314(4), for consolidating defined terms in one place. Since the terms defined under clause 313(6) and clause 314(4) are common and relevant for both the clauses, hence they should be consolidated in one place.

2. The following proviso should be added after clause 313(2): “Provided that the liability of the successor under this sub-section shall be limited to the income attributed to inherited assets, or value of inherited assets, whichever is lower.” Successors face unlimited liability for predecessor’s dues, even if inherited assets are insufficient. This discourages business reorganisations and leads to extensive negotiations Successor liability should be capped to the value of inherited assets. Further, recovery by successor of sums payable by the predecessor, should not be added to the successor’s income. This would encourage efficient corporate reorganisations.

3. The following provisos should be added after clause 313 (4): “Provided that the liability of the successor under this sub-section shall be limited to the income attributed to inherited assets, or value of inherited assets, whichever is lower. Provided also that the sums recovered by the successor under this sub-section shall not be treated as the successor’s income under the provisions of this Act.”

313.5 Examination by the Committee:

313.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. “The suggestion seeks to move the definition in clause 313(6) Succession to business or profession to clause 314(4) Effect of order of tribunal or court in respect of business reorganisation. There is no change in the provisions of the Bill viz-a-viz Act. Clause 313 deals with provisions relating to succession to business or profession otherwise than on death. The terms defined in the said section are required to be retained in the said section only as moving them to the subsequent sections will disrupt the flow of readability. Thus, the suggestion is not feasible”.

2. “The suggestion seeks to add after clause 313(2): “Provided that the liability of the successor under this sub-section shall be limited to the income attributed to inherited assets, or value of inherited assets, whichever is lower." It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The successor, either expressly or impliedly, assumes the obligations of the predecessor. Limiting the liability will be prone to misuse. Further, the suggested provisos restrict the scope of the section hence, cannot be accepted. Thus, the suggestion is not feasible”.

3. “The suggestion seeks to add after clause 313(4): “Provided that the liability of the successor under this sub-section shall be limited to the income attributed to inherited assets, or value of inherited assets, whichever is lower.” It is in the nature of

Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The successor, either expressly or impliedly, assumes the obligations of the predecessor. Limiting the liability will be prone to misuse. Further, the suggested provisos restrict the scope of the section and seems averse to the interest of Revenue, hence, cannot be accepted. Thus, the suggestion is not feasible".

313.5.2 Clause 313(6) defines income as: "income includes any gain accruing from the transfer, in any manner, of the business or profession as a result of the succession" Mapping Section 170- Explanation defines income as: "income includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession" Omitting "whatsoever" would, from a legal drafting perspective, be a weakening of the clause's comprehensive nature. While "in any manner" is still broad, "whatsoever" acts as a powerful barrier against restrictive interpretations and potential loopholes. Its removal could introduce ambiguity and increase the likelihood of legal challenges regarding the scope of transfers covered by the section.

313.5.3 When the Commkittee asked about the Ministry's precise legal assessment of the potential impact on judicial interpretation, scope of coverage, an incidence of litigation, due to removal of the word "whatsoever"; and to elaborate on how such an omission would align or diverge from the legislative intent to broadly include all forms of transfer, the Ministry in their written replies while accepting the above has stated that the suggestion seeks to make drafting correction in clause 313(6) by bring back the word "whatsoever" in place of "in any manner".

313.5.4 The representative of the Ministry during the 31st Sitting of the Committee held on 10 June, 2025 with regards to move the definition in clause 313(6) Succession to business or profession to clause 314(4) , has stated as follows:-

> *"they are asking to move the definition from one clause to another. Our point is that they are relevant to this clause itself, and moving them from one clause to another will disrupt the flow of readability".*

313.6 Observations/Recommendations of the Committee:

The Committee note that Clause 313, which addresses succession in business or profession (excluding succession by death), mirrors Section 170 of the Income-Tax Act, 1961. In the course of examination of the Bill, the Committee deliberated upon the suggestions received from the stakeholders and the responses from the Department of Revenue. The Committee also note the Department's agreement to reinstate the word "whatsoever" in the clause, replacing "in any manner." This change aligns with the Committee's suggestion and the existing Income-Tax Act, 1961. After considering the viewpoints of both the stakeholders and the Department, the Committee recommend that sub-clause (6) (a) of Clause 313 be amended to incorporate the word "whatsoever," as agreed by the Department. Beyond this specific drafting correction, the Committee accept Clause 313 as proposed by the Department.

Clause 314 - Effect of order of tribunal or court in respect of business reorganisation

314.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Irrespective of anything to the contrary contained in Section 263, if prior to the date of order in respect of business reorganisation, any return of income has been furnished under the provisions of the said section by an entity for any tax year to which such order applies, the successor shall furnish, within six months from the end of the month in which the order was issued, a modified return in such form and manner, as prescribed, in accordance with and limited to the said order.

(*2*) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—

(*a*) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (*1*), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order and taking into account the modified return so furnished;

(*b*) are pending on the date of furnishing of the modified return as per sub-section (*1*), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order of the business reorganisation and taking into account the modified return so furnished.

(*3*) Subject to any other provisions of this section, in an assessment or reassessment made in respect of a tax year under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such tax year.

(*4*) In this section,—

(*a*) “business reorganisation” means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(*b*) “order in respect of business reorganisation” means an order of a High Court or tribunal or an Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016; and

(*c*) “successor” means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.

314.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

[**Effect of order of tribunal or court in respect of business reorganisation.**

170A. (1) Notwithstanding anything to the contrary contained in section 139, in a case of business reorganisation, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as defined in clause (*1*) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereinafter referred to as order in respect of business reorganisation), as the case may be, any return of income has been furnished by an entity to which such order applies under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, the successor shall furnish, within a period of six months from the end of the month in which the order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.

(2) Where the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the order in respect of the business reorganisation applies,—

(*a*) have been completed on the date of furnishing of the modified return in accordance with the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, in accordance with such order and taking into account the modified return so furnished;

(*b*) are pending on the date of furnishing of the modified return in accordance with the provisions of sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished.

(3) Save as otherwise provided in this section, in an assessment or reassessment made in respect of an assessment year under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such assessment year.

Explanation.—In this section, the expressions—

(*i*) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(*ii*) "successor" means all resulting companies in a business reorganisa-tion, whether or not the company was in existence prior to such business reorganisation.]

314.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 314 of the Bill provides for effect of order of tribunal or court in respect of business reorganization. The clause corresponds to section 170A of the Act. The existing section has been textually simplified and retained with the same intent in this clause".

314.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Replace "in accordance with such order" in clause 314(2)(a) with "in accordance with such order in respect of business reorganisation".

2. Replace "order of the business reorganisation" in clause 314(2)(b) with "order in respect of business reorganisation".

3. Replace the phrase "In this section" in clause 314(4) worth "For the purposes of section 313 and section 314"

4. Insert a new provision clause 314(4)(d) defining the term "succession" as below: "A change in the ownership of a business where the identity of the business is retained, and its operations are continued by the successor in the same manner as before." A clarification be included in clause 313(4) that recovery of sums by successors not result in income in the hands of the successor.

314.5 <u>Examination by the Committee:</u>

314.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. Accepted:

"The suggestion seeks to replace "in accordance with such order" in clause 314(2)(a) with "in accordance with such order in respect of business reorganisation" and replace "order of the business reorganisation" in clause 314(2)(b) with "order in respect of business reorganisation". It is in the nature of drafting correction. There is no change in the provisions of the Bill viz-a-viz Act. In respect of proposals vide 1 & 2, though the existing words convey the meaning correctly; however to provide more clarity, the modified language as suggested may be accepted".

2. Accepted:

"The suggestion seeks to replace the phrase "In this section" in clause 314(4) with "For the purposes of section 313 and section 314" and insert a new provision clause 314(4)(d) defining the term "succession" as below: "A change in

the ownership of a business where the identity of the business is retained, and its operations are continued by the successor in the same manner as before." and to clarify in clause 313(4) that recovery of sums by successors not result in income in the hands of the successor. It is in the nature of drafting correction. There is no change in the provisions of the Bill viz-a-viz Act".

3. "In respect of proposals at 3 & 4, it is stated that the definition of the term 'succession' is not required. All the tax implications of business succession are already expressly provided in clause 313. The express definition of the term 'succession' does not make any value addition to the provisions. Further, the term defined in clause 314(4) are not applicable to clause 313. Therefore, the proposal for substituting the phrase "In this section" in clause 314(4) with " For the purposes of section 313 and section 314" is not acceptable".

4. "In respect of proposal to clarify clause 313(4) stating that the sum so recovered by successor from the predecessor shall not result in income in the hands of the successor, is found to be unnecessary, because the general principles of taxation would always apply in such situation".

314.5.2 The representative of the Ministry has made the following oral submission during the the 31st Sitting of the Committee held on 10 June, 2025 :-

" …….they are asking for definition of the term 'succession'. We are saying all the tax implications of business succession are already expressly provided. So, the definition of succession will not have any value addition".

314.6 Observations/Recommendations of the Committee:

The Committee note that Clause 314 of the Bill, which addresses how tribunal or court orders affect business reorganization, streamlines the existing Section 170A of the Act while preserving its core intent. Following receipt and deliberation on suggestions from stakeholders and experts, the Committee observe that the Department of Revenue has agreed to specific textual revisions within sub-clauses (2)(a) and (2)(b). These involve replacing "in accordance with such order" with "in accordance with such order in respect of business reorganisation" in Clause 314(2)(a), and substituting "order of the business reorganisation" with "order in respect of business reorganisation" in Clause 314(2)(b). The Department deems these as drafting corrections that do not alter the Bill's provisions relative to the Act. Therefore, sub-clauses (2)(a) and (2)(b) of Clause 314 may be redrafted as follows:

2) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—

(a) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order in respect of business reorganisation and taking into account the modified return so furnished;

(b) are pending on the date of furnishing of the modified return as per sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order in respect of the business reorganisation and taking into account the modified return so furnished. "

After a thorough review of the perspectives shared by stakeholders and the Department, the Committee approve Clause 314, contingent upon the aforementioned drafting corrections.

Clause 315 - Assessment after partition of Hindu undivided family

315.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) A Hindu family, hitherto assessed as undivided, shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(*2*) Where, at the time of making an assessment under section 270 or section 271, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(*3*) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(*4*) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the tax year,—

(*a*) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(*b*) each member or group of members shall, in addition to any tax for which he or it may be separately liable and irrespective of anything contained against Schedule III (Table: Sl. No. 2), be jointly and severally liable for the tax on the income so assessed.

(*5*) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the tax year, the total income of the tax year of the joint family shall be assessed as if no partition had taken place, and the provisions of sub-section (*4*)(*b*), so far as may be, apply to the case.

(*6*) Irrespective of anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(*7*) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to

the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

(*8*) Irrespective of anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(*a*) a claim that such partial partition has taken place shall not be inquired into under sub-section (*2*) and no finding shall be recorded under sub-section (*3*) that such partial partition had taken place and any finding recorded under sub-section (*3*) to that effect at any time, shall be *null* and *void*;

(*b*) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place; and

(*c*) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition.

(*9*) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial and the provisions of this Act shall apply accordingly.

(*10*) In this section,—

(*a*) “partition”means,—

(*i*) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(*ii*) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(*b*) “partial partition” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

315.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment after partition of a Hindu undivided family.

171. (1) A Hindu family hitherto assessed as undivided shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 143 or section 144, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the previous year,—

(*a*) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(*b*) each member or group of members shall, in addition to any tax for which he or it may be separately liable and notwithstanding anything contained in clause (*2*) of section 10, be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the previous year, the total income of the previous year of the joint family shall be assessed as if no partition had taken place; and the provisions of clause (*b*) of sub-section (4) shall, so far as may be, apply to the case.

(6) Notwithstanding anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial.

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

(9) Notwithstanding anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(*a*) no claim that such partial partition has taken place shall be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect whether before or after the 18th day of June, 1980, being the date of introduction of the Finance (No. 2) Bill, 1980, shall be null and void;

(*b*) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(*c*) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(*d*) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.

Explanation.—In this section,—

(*a*) "partition" means—

(*i*) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(*ii*) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(*b*) "partial partition" means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

315.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 315 of the Bill provides for assessment after partition of a Hindu undivided family The clause corresponds to section 171 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

315.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Partial partitions are not recognized under clause 315(1)(8) and accordingly references to partial partition in the rest of the clause may be removed especially since its leading to contradictory provisions under sub-clauses (4), (8) and (9) of clause 315. Partial partition is not recognized under IT Act for many years now Hence, the concept under the IT Bill should be done away with since its leading to contradictory positions under law; and in any case, this IT Bill applies prospectively and the Act would be sufficient to cater to any exigency of legacy litigation.

2. The clause should have a provision allowing taxpayer to inform the jurisdictional AO of the factum of partition as soon as reasonably possible during the concerned year. Presently, under clause 315(2) the claim of partition can be filed only during assessment which limits the ability of the taxpayer to file an independent claim Further, in case if the return is processed simpliciter by Centralized Processing Centre ("CPC") it leads to logistical issues of intimating the jurisdictional AO Accordingly, it is recommended that there should be a provision allowing the taxpayer to inform the AO (preferably through an e-filing system) of the factum of partition as soon as reasonably possible during the concerned year.

3. The Karta of the HUF, which is partitioned, shall intimate the Assessing Officer about such partition of the HUF, within a period of six months from the date of partition, and the Assessing Officer, shall conduct the inquiry under the provisions of this section and shall give his finding by passing an order within one year of the receipt of such intimation. If no order is passed by the assessing officer it would be deemed that the partition is approved with no tax implications there after The order passed by the assessing officer be made an appealable order. In the case of partition of the HUF, the ambiguity regarding the date of partition and its tax liability continues indefinitely, till the Assessing Officer declares the partition, and assesses it This is creating uncertainty in taxation. Such uncertainty in timing of taxation and quantum of tax needs to be addressed There is no provision for appeal to such order by the assessing officer and the assesse has no further remedy Hence the appeal remedy be provided to the order passed by the Assessing Officer.

315.5 <u>Examination by the Committee:</u>

315.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion seeks to remove the reference of partial partition in clause 315 (Assessment after partition of HuF). It is in the nature of Policy Change which is outside

the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Partial partitions in case of undivided families are not recognized under clause 315(1)(8) after 31.12.1978 but any such partition before this date is to be recognised. References to partial partition in the rest of the clauses needs to be retained to take care of provisions related to successor HUFs wherein partial; partition is before 31.12.1978. Thus, the suggestion is not feasible".

2. "The suggestion seeks to expand the scope of clause 315 by allowing taxpayer to inform the jurisdictional AO of the factum of partition as soon as reasonably possible during the concerned year. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The suggestion if implemented will create unnecessary compliance burden on the taxpayer especially in cases where no demand or proceedings is pending in the case of the taxpayer. The taxpayer has the option to update their personal details on the e-filing portal. Thus, the suggestion is not feasible".

315.5.2 The representative of the Ministry has deposed before the Committee at the 31st Sitting of the Committee held on 10 June, 2025 as follows:-

".....the suggestion is to remove the reference of partial partition in Clause 315, which is assessment after partition of HUF. We are saying partial partition in case of undivided families are not recognised under clause 315 after 31.12.1978. But there may be such partitions before 1978. So, the reference to partial partition needs to be retained to take care of successor HUFs where partial partition was made before 31.12.1978".

315.5.3 During further, discussion it was also stated by the Ministry representatives as follows:-

".....where there is a case of partition, the request is that the taxpayer should inform the jurisdictional assessing officer as soon as reasonably possible during the concerned year itself. So, we are saying that it would put unnecessary compliance burden on the taxpayer, especially in cases where there is no demand or there is no proceeding pending. So, if the taxpayer has to update his personal details, then he can as well update it on the e-filing portal.

A partial partition is when some, but not all, assets or members of an HUF are divided, leaving the rest as a joint family. Section 171(9) of the IT Act, 1961 nullifies any partial partition that occurs after the specified date (March 30, 1978) for tax purposes. This means that even if a partial partition is valid under Hindu law, it won't be recognized by the tax authorities. This restriction was put to avoid creation of multiple HUFs which was leading to evasion of Income-Tax. Before the amendment, partial partitions were being used to split income among family members and reduce tax liabilities. The Income-Tax Act, 1961 now requires a complete partition of all assets and members for it to be recognized for tax

purposes. The restriction on partial partitions aims to prevent the manipulation of HUF structures to avoid taxes.

The Supreme court has analysed the issue in the case of Union of India Vs. M. V. Valliappan 238 ITR 1027.The court held that it if for the legislature to decide whether the recognition of partial partition introduced in the Income-Tax Act should continue or not. If it considers that it has led to abuses or inconvenience is entitled to amend or delete. By having multiple partial partitions qua the properties or members, it is possible to manipulate the affairs of the HUF for reduction of tax liability and to prevent such manipulation, sub-section (9) of section 170 added".

315.6 Observations/Recommendations of the Committee:

The Committee note that Clause 315 of the Bill, which provides for the assessment process following the partition of a Hindu Undivided Family (HUF), mirrors Section 171 of the existing Income-Tax Act. The Committee also note that the provisions of the current section have been textually simplified and carried forward into this new clause with no intended policy changes. After carefully considering the views presented by various stakeholders and the responses from the Department, the Committee approve Clause 315, as proposed.

8- Profits of non-residets from occasional shipping business

Clause 316 - Shipping business of non-residents

316.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Irrespective of anything in the other provisions of this Act, the provisions of this section shall apply for the purpose of levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

(*2*) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India,—

(*a*) 7.5 % of the amount paid or payable on account of such carriage shall be deemed to be income accruing in India to the owner or charterer or to any person on his behalf, on account of such carriage, whether that amount is paid or payable in or out of India; and

(*b*) the amount referred to in clause (*a*) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.

(*3*) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the person as mentioned in sub-section (*2*) on account of such carriage shipped at that port, since the last arrival of the ship thereat.

(*4*) The requirement of furnishing the return as per sub-section (*3*) shall be deemed to have been complied with, if—

(*a*) the Assessing Officer is satisfied that—

(*i*) it is not possible for the master of the ship to furnish the return before the departure of the ship from the port; and

(*ii*) the master of the ship has made satisfactory arrangements for filing of the return and payment of tax by any other person on his behalf; and

(*b*) the return is filed within thirty days of the departure of the ship by any person so authorised by the master.

(*5*) On receipt of the return, the Assessing Officer shall—

(*a*) assess the income referred to in sub-section (*2*); and

(*b*) determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in section 393(*1*)(Table: Sl. No. 7) and such sum shall be payable by the master of the ship.

(*6*) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (*5*) after the expiry of nine months from the end of the tax year in which the return under sub-section (*3*) is furnished.

(*7*) For the purposes of determining the tax payable under sub-section (*5*), the Assessing Officer may call for such accounts or documents as he may require.

(*8*) A port clearance shall not be granted to the ship until the Commissioner of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(*9*) Nothing in this section shall prevent the owner or charterer of a ship from claiming, before the end of the year following the tax year in which the date of departure of the ship from Indian port falls, that an assessment be made of his total income of the tax year as per other provisions of this Act, andtax payable be determined on the basis of such assessment.

(*10*) In a case falling under sub-section (*9*), any payment made under this section during the tax year, if so claimed, shall be treated as—

(*a*) tax paid in advance with respect to that year and adjusted against tax payable by such person; and

(*b*) the difference between the sum so paid and the amount of tax found so payable by him on such assessment shall be paid by him or refunded to him.

316.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Shipping business of non-residents.

172. (1) The provisions of this section shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

(2) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India, seven and a half per cent of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage.

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, livestock, mail or goods shipped at that port since the last arrival of the ship thereat:

Provided that where the Assessing Officer is satisfied that it is not possible for the master of the ship to furnish the return required by this sub-section before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Assessing Officer may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance with this sub-section.

(4) On receipt of the return, the Assessing Officer shall assess the income referred to in sub-section (2) and determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in section 194 and such sum shall be payable by the master of the ship.
(4A) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (4) after the expiry of nine months from the end of the financial year in which the return under sub-section (3) is furnished:

Provided that where the return under sub-section (3) has been furnished before the 1st day of April, 2007, such order shall be made on or before the 31st day of December, 2008.

(5) For the purpose of determining the tax payable under sub-section (4), the Assessing Officer may call for such accounts or documents as he may require.

(6) A port clearance shall not be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(7) Nothing in this section shall be deemed to prevent the owner or charterer of a ship from claiming before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis

thereof be determined in accordance with the other provisions of this Act, and if he so claims, any payment made under this section in respect of the passengers, livestock, mail or goods shipped at Indian ports during that previous year shall be treated as a payment in advance of the tax leviable for that assessment year, and the difference between the sum so paid and the amount of tax found payable by him on such assessment shall be paid by him or refunded to him, as the case may be.

(8) For the purposes of this section, the amount referred to in sub-section (2) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.

316.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 316 of the Bill provides for shipping business of non-residents. The clause corresponds to section 172 of the Act. Word 'Commissioner of customs' is incorporated in place of 'collector of customs' and the existing section has been textually simplified and retained with the same intent in this clause*".

316.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961*."

316.5 Observations/Recommendations of the Committee:

The Committee note that Clause 316 of the Bill provides for shipping business of non-residents, aligns with Section 172 of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.

9 – Persons leaving India

Clause 317 - Assessment of persons leaving India

317.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Irrespective of anything contained in section 4, when it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry, with no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of departure from India (referred to as specified period in this section) shall be chargeable to tax in that current tax year.

(*2*) The total income of each completed tax year or part of any tax year included in the specified period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(*3*) The Assessing Officer may estimate the income of such individual for such specified period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(*4*) For the purposes of making an assessment under sub-section (*1*), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as specified in the notice, a return in the same form and verified in the same manner as a return under section 268(*1*), setting forth his–

(*a*) total income for each completed tax year comprised in such specified period referred to therein; and

(*b*) estimated total income for any part of the tax year comprised in such specified period, and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under section 268(*1*).

(*5*) Irrespective of anything contained in section 268(*1*) or 280, where the provisions of sub-section (*1*) are applicable, the Assessing Officer may issue any notice under section 268(*1*) or 280, requiring the furnishing of the return by such individual in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(*6*) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provisions of this Act.

317.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment of persons leaving India.

174. (1) Notwithstanding anything contained in section 4, when it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The Assessing Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under clause (*i*) of sub-section (1) of section 142, setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under clause (*i*) of sub-section (1) of section 142.

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Assessing Officer under clause (*i*) of sub-section (1) of section 142 or section 148 in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in clause (*i*) of sub-section (1) of section 142 or section 148, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Assessing Officer may think proper.

317.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 317 of the Bill provides for assessment of persons leaving India. The clause corresponds to section 174 of the Act. There is no policy change except the term 'specified period' has been introduced for the period beginning from the first day of that tax year upto the probable date of departure from India".*

317.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

317.5 Observations/Recommendations of the Committee:

The Committee note that Clause 317 of the Income-Tax Bill, 2025, mapped to Section 174 of the Income-Tax Act, 1961, provides for assessment of persons leaving India. The Committee approve Clause 317 as proposed, noting its simplified approach to existing provisions.

10- Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose

Clause 318 - Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose

318.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Irrespective of anything contained in the section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose in a tax year is likely to be dissolved in the same year or immediately after such year, the total income of such association or body or juridical person for the period beginning from the first day of that tax year up to the date of its dissolution shall be chargeable to tax in that tax year.

(*2*) For the purpose of sub-section (*1*), the provisions of section 317(*2*) to (*6*) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

318.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.

174A. Notwithstanding anything contained in section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose is likely to be dissolved in the assessment year in which such association of persons or a body of individuals or an artificial juridical person was formed or established or incorporated or immediately after such assessment year, the total income of such association or body or juridical person for the period from the expiry of the previous year for that assessment year up to the date of its dissolution shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2) to (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

318.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 318 of the Bill provides for assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose. The clause corresponds to section 174A of the Act. There is no policy change.*

The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

318.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

318.5 Observations/Recommendations of the Committee:

The Committee note that Clause 318 of the Bill, dealing assessment of association of persons or body of individuals or artificial judicial person formed for a particular event or purpose, aims to simplify the existing provisions of Section 174A. The Committee concur with the Department's justification for this simplification and, therefore, accept Clause 318 as proposed.

11 – Persons trying to alienate their assets

Clause 319 - Assessment of persons likely to transfer property to avoid tax

319.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Irrespective of anything contained in section 4, where it appears to the Assessing Officer during any current tax year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period beginning from the first day of that current tax year up to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in current tax year.

(*2*) For the purpose of sub-section (*1*), the provisions of section 317(*2*) to (*6*) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

319.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment of persons likely to transfer property to avoid tax.

175. Notwithstanding anything contained in section 4, if it appears to the Assessing Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

319.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 319 of the Bill deals with assessment of persons likely to transfer property to avoid tax. The clause corresponds to section 175 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

319.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

Insert the following provisos to clause 319(1): "Provided that, nothing in this section shall apply in case of transfer of assets for bona fide purposes if adequate consideration is received by the transferor. Provided further that, before commencing proceedings under this section, the Assessing Officer shall obtain prior written approval from the Principal Commissioner or any other higher Income-Tax authority, as may be prescribed." Our recommendations are intended to prevent the misuse of clause 319 in situations where there are legitimate transfers. This will also lead to greater certainty for taxpayers.

319.5 <u>Examination by the Committee:</u>

319.5.1 On the above suggestion, the Ministry of Finance has stated the following in their written submission:-

> "The suggestion seeks to insert the following provisos to clause 319(1) Persons trying to alienate their assets: "Provided that, nothing in this section shall apply in case of transfer of assets for bona fide purposes if adequate consideration is received by the transferor. Provided further that, before commencing proceedings under this section, the Assessing Officer shall obtain prior written approval from the Principal Commissioner or any other higher Income-Tax authority, as may be prescribed. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. This is an anti-abuse provision. As this is a specific provision wherein person is trying to alienate its assets in order to evade tax liability so any relaxation in this regard is prone to misuse. Further, veracity of Bonafide reasons and adequate consideration will increase litigation. Thus, the suggestion is not feasible".

319.5.2 In this regard, the representative of the Ministry during the 31st Sitting of the Committee held on 10 June, 2025 deposed before the Committee as follows:-

> *"The suggestion is where the property is likely to be, where the property is transferred for bona fide purposes and for adequate consideration, this section should not be applicable in such a case. The second suggestion is that the assessing officer should obtain prior written approval from the principal commissioner for invoking powers under this provision. This is a rarely used provision and it is an anti-abuse provision where a person is trying to alienate assets in order to evade tax liability which is already there. These are some anti-abuse provisions. If we include bona fide*

purposes, adequate considerations, that anti-avoidance nature gets diluted".

319.6 Observations/Recommendations of the Committee:-

The Committee observe that Clause 319 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 175 of the Income-Tax Act, 1961 regarding assessment of persons likely to transfer property to avoid tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 319 as proposed.

12 – Discontinuance of business, or dissolution

Clause 320 - Discontinued business

320.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Irrespective of anything contained in section 4, where any business or profession is discontinued in any tax year, the income of the period beginning from the first day of that tax year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

(*2*) The total income of each completed tax year or part of any tax year included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(*3*) Any person discontinuing any business or profession shall give to the Assessing Officer notice of such discontinuance within fifteen days thereof.

(*4*) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.

(*5*) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the said person, had it been received before such discontinuance.

(*6*) Where an assessment is to be made under the provisions of this section, the Assessing Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under section 268(*1*) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under section 268.

(*7*) Irrespective of anything contained in section 268 or 280, where the provisions of sub-section (*1*) are applicable, the Assessing Officer may issue any notice under section 268 or 280, requiring the furnishing of the return by the person whose income is to be assessed in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(*8*) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

320.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Discontinued business.

176. (1) Notwithstanding anything contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) Any person discontinuing any business or profession shall give to the Assessing Officer notice of such discontinuance within fifteen days thereof.
(3A) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.

(4) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance.

(5) Where an assessment is to be made under the provisions of this section, the Assessing Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under clause (*i*) of sub-section (1) of section 142 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under clause (*i*) of sub-section (1) of section 142.

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(7) Where the provisions of sub-section (1) are applicable, any notice issued by the Assessing Officer under clause (*i*) of sub-section (1) of section 142 or section 148 in respect of any tax chargeable under any other provisions of this Act may, notwithstanding anything contained in clause (*i*) of sub-section (1) of section 142 or section 148, as the case may be, require the furnishing of the return by the person to whom the aforesaid notices are issued within such period, not being less than seven days, as the Assessing Officer may think proper.

320.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 320 of the Bill deals with discontinued business. The clause corresponds to section 176 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause*".

320.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. For the purposes of this section define "discontinuation" as a "permanent cessation of business or profession with no intent to resume operations." Ambiguity in defining "discontinuation" leads to arbitrary assessments Assessments have been made which have struggled to distinguish between temporary closure and permanent discontinuation There have even been cases where business deductions were disallowed stating alleged discontinuance as a reason, when instead the business were only closed temporarily for reasons like strikes. Hence a definition is proposed.

2. Crux of the issue is the scope of the word 'discontinuation'. It is a matter of interpretation and can create litigation. Case laws to be examined whether related to this provision or related to old section 37. If the hotel closes temporarily for reconstruction for couple of years. However, it continues to pay rent and other expenses during the period. How can you treat that as dead, and if it reopens, treat it as a new business? You cannot say you don't know about the expenses when it resumes operation. Check related court cases and examine the issue.

320.5 Examination by the Committee:

320.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission :-

> *"The suggestion seeks to define "discontinuation" as a "permanent cessation of business or profession with no intent to resume operations." in clause 320(1) Discontinuance of Business, or dissolution. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The suggestion would in turn require to define cessation and intent. The word 'discontinuation' assumes its natural meaning and is required to be ascertained on facts of case. Definition is prone to litigation. Thus, the suggestion is not feasible".*

320.5.2 In this regard, the representative of the Ministry in his deposition has stated before the Committee as under:-

> *"The provision of clause 320 of the Bill are same as that of section 170 of the Act. At its core, "discontinuation of business" implies that the business activities have genuinely come to a halt. This means the enterprise is no longer carrying on its primary functions. Discontinuation can be voluntary (e.g., strategic decision by owners) or involuntary (e.g., insolvency, regulatory action). The legal formalities and implications of discontinuation vary depending on the business structure (sole proprietorship, partnership, company, LLP) which cannot be generalised in a standardised definition. Courts often look at the intent behind the cessation of activities. Was there a genuine intention to stop the business permanently, or was it merely a temporary suspension or a transfer of ownership? Discontinuation is generally not considered to have occurred if only a part of the business is stopped or if activities are merely scaled down. It usually implies the cessation of the entire business as a going concern. A critical distinction is between "discontinuation" and "succession" or "transfer" of business. If the business continues under a different ownership (e.g., sale of a business as a going concern, dissolution of a partnership and continuation by some partners), it might be treated as a succession rather than a discontinuation for certain legal purposes (especially tax). For incorporated entities (companies, LLPs), formal steps like winding up, dissolution, or striking off from the register of companies are usually required to legally discontinue the business. For proprietorships, the process is less formal but still involves winding up financial and operational aspects. The disposal of assets (selling off machinery, inventory, etc.) is often an indicator of business discontinuation, but merely selling assets without a complete cessation of the business might not be sufficient. Some of the related case laws have been examined and the crux of the decisions have been mentioned below:-*

O.R.M.M.S.P.S.V Meyyappa Chettiar v. The Commissioner Of Income-Tax, Madras (1943 Madras High Court): This case dealt with the interpretation of "discontinuance" in the context of Income-Tax when a joint family business dissolved and continued under a partnership. The court distinguished discontinuance from succession, emphasizing that mere dissolution of a firm doesn't necessarily mean discontinuance of the business if it continues.

Bachraj Naithani of Raipur (1946) (affirmed in 1972 by Supreme Court): This case, referenced by the Supreme Court in CIT vs. R Hanumathappa & Son, stated that whether there is succession or discontinuity of business is a mixed question of law and fact, and the decision turns on the specific facts. It held that succession implies continuity of the business as a whole, retaining its identity despite a change in ownership.

The phrase "discontinuation of business" is highly fact-dependent and context-specific. While it generally implies the complete cessation of all business activities, courts and statutes look at the intent, the nature of the cessation (temporary vs. permanent), the disposal of assets, and whether the business, as a going concern, has genuinely ceased or merely undergone a change in ownership or structure. Hence, the suggestion to provide a definition of the word "discontinuance" in clause 320 is not feasible".

320.5.3 He further added as follows:-

",…. the suggestion is that instead of discontinuation, we should use the phrase 'permanent cessation of business or profession with no intent to resume operations'. So, we have continued the provision as it was there in the Act. The same thing has been brought in the Bill".

320.6 Observations/Recommendations of the Committee:

The Committee note that Clause 320 of the Bill addresses the provisions for discontinued businesses, directly corresponding to Section 176 of the existing Income-Tax Act. The Committee observe that while there is no intended policy change, the provisions of the original section have been textually simplified and carried forward with the same core intent into this new clause. After extensive deliberation on the views of the stakeholders as well as the response of the Department, the Committee accept Clause 319 as proposed.

Clause 321 - Association dissolved or business discontinued

321.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(*2*) Regardless of the generality of sub-section (*1*), if the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(*3*) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(*4*) Where such discontinuance or dissolution takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the persons referred to in sub-section (*3*) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(*5*) Nothing in this section shall affect the provisions of section 302(*4*).

321.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Association dissolved or business discontinued.

177. (1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(2) Without prejudice to the generality of the foregoing sub-section, if the Assessing Officer or [56][the Joint Commissioner (Appeals)] or the Commissioner (Appeals) in the

course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

321.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 321 of the Bill deals with association dissolved or business discontinued. The clause corresponds to section 177 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

321.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

321.5 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 321, a simplified text of the existing Section 177, relating to association dissolved or business discontinued and involves no policy shift. The Committee, therefore, accept Clause 321 as proposed by the Department of Revenue.

Clause 322 - Company in liquidation

322.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Every person,—

(*a*) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company, (hereinreferred to as the liquidator),

shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Assessing Officer who is entitled to assess the income of the company.

(*2*) The Assessing Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(*3*) The liquidator—

(*a*) shall not, without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (*2*); and

(*b*) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands.

(*4*) The provisions of sub-section (*3*) shall not debar the liquidator from parting with such assets or properties for the purpose of—

(*a*) the payment of the tax payable by the company; or
(*b*) making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation; or
(*c*) meeting such costs and expenses of the winding up of the company,
as are in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, reasonable.

(*5*) If the liquidator fails to give the notice as per sub-section (*1*), or fails to set aside the amount as required by sub-section (*3*), or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he

shall be personally liable for the payment of the tax which the company would be liable to pay.

(*6*) In relation to sub-section (*5*), if the amount of any tax payable by the company is notified under sub-section (*2*), the personal liability of the liquidator under that sub-section shall be to the extent of such amount.

(*7*) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(*8*) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other law in force, except the provisions of the Insolvency and Bankruptcy Code, 2016.

322.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Company in liquidation.

178. (1) Every person—

(*a*) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Assessing Officer who is entitled to assess the income of the company.

(2) The Assessing Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator—

(*a*) shall not, without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (2) ; and

(*b*) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands :

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the purpose of the payment of the tax payable by the company or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date

of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay :

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force except the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

322.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 322 of the Bill deals with company in liquidation. The clause corresponds to section 178 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

322.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. In clause 322(5), replace the phrase "If the liquidator fails to give the notice" with "If the liquidator, without reasonable cause, fails to give the notice" If liquidators, as fiduciaries, are held personally liable for company's tax dues, they should at least be given an opportunity to demonstrate reasonable cause.

2. In clause 322(7), after the phrase "the obligations and liabilities attached to the liquidator under this section", insert the phrase ", except for the obligations and liabilities

attached under sub-sections (5) and (6),." Joint and several liability of a group of liquidators should only extend to jointly held company assets Personal liability under (5) and (6) arises in situations of non-compliance by an individual liquidator and should not extend to other liquidators if they act responsibly Such provisions would discourage professionals from taking up liquidator roles.

322.5 Examination by the Committee:

322.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion seeks to replace the phrase "If the liquidator fails to give the notice" with "If the liquidator, without reasonable cause, fails to give the notice" in clause 322(5) Company in liquidation. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Adding the phrase "without reasonable cause" will add an element of discretion which would be subject to unnecessary litigation and harassment of the taxpayer. Thus, the suggestion is not feasible".

2. "The suggestion seeks to insert the phrase ", except for the obligations and liabilities attached under sub-sections (5) and (6)," after the phrase "the obligations and liabilities attached to the liquidator under this section" in clause 322(7) Company in liquidation. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Joint liability ensures there is fixed accountability and all involved act responsibly leading to protection of the interest of the Revenue. Any deviation from this position will open avenues for bypassing the system and there would not be a logical end to the liquidation proceedings. Thus, the suggestion is not feasible".

322.5.2 The representative of the Ministry has added in his deposition before the Committee during the 31st sitting of the Committee held on 10 June, 2025 as under:-

> *"Here the liquidator is required to give a 30-day notice period. Then there are other provisions. The request is that if some reasonable cause is there and because of that he is not able to give a notice, then all the liabilities which attach upon the liquidator should not come into force. We are saying that when somebody is appointed as liquidator, he is required to intimate to the Department that this company has gone into liquidation and he is the liquidator. This is a very basic intimation and it cannot be dispensed with".*

322.6 Observations/Recommendations of the Committee:

Clause 322 of the Bill specifies provisions concerning a company in liquidation. The Committee note that this Clause is simplified textual version of existing Section 178 of the Income-Tax Act, 1961 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 322 as proposed.

Clause 323 - Liability of directors of private company

323.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Irrespective of anything contained in the Companies Act, 2013, where any tax due from—

(*a*) a private company in respect of any income of any tax year; or
(*b*) any other company in respect of any income of any tax year during which such other company was a private company,

cannot be recovered, then, every person, who was a director of the private company at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(*2*) Where a private company is converted into a public company and the tax assessed in respect of any income of any tax year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (*1*) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any tax year commencing before the 1st April, 1961.

(*3*) In this section, "tax due" includes penalty, interest, fees or any other sum payable under the Act.

323.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Liability of directors of private company.

179. (1) Notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), where any tax due from a private company in respect of any income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) Where a private company is converted into a public company and the tax assessed in respect of any income of any previous year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax

due in respect of any income of such private company assessable for any assessment year commencing before the 1st day of April, 1962.

Explanation.—For the purposes of this section, the expression "tax due" includes penalty, interest, fees or any other sum payable under the Act.

323.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 323 of the Bill deals with liability of directors of private company. The clause corresponds to section 179 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

323.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

Redraft clause 323(1) in the following manner: "(1) Irrespective of anything contained in the Companies Act, 2013, where any tax is not recoverable from—(a) a private company in respect of any income of any tax year; or (b) any other company in respect of any income of any tax year during which such other company was a private company, then, every person, who was a director of the private company at any time during the relevant tax year, shall be liable for the payment of such tax, unless he proves that the non-recovery cannot be attributed to any gross neglect or fraud on his part in relation to the affairs of the company If more than one such persons are found to have acted in a grossly negligent or fraudulent manner, they shall be jointly and severally liable under this sub-section. Further, no proceedings shall be initiated against any person under this section after three years from the end of the tax year in which the the tax was determined to be not recoverable from the company by the specified income-tax authority." Personal recovery of a private company's tax dues from its directors is an onerous liability Our recommendations are intended to ensure it applies only in grave situations of personal wrongdoing by directors.

323.5 Examination by the Committee:

323.5.1 On the above-mentioned suggestions, the Ministry of Finance has stated the following in their written submission:-

> *"directors of companies so that director of the company is not jointly and severally liable for any taxes due and unrecoverable from the company. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. This is an anti-abuse provision where the form may be abused by the owners. Suggestion is not feasible as it seeks to eliminate the "deterrence" out of the provision. The clause deals with the liability of directors of private company. Affairs of a private company are fairly controlled and managed by the directors and it is not an onerous responsibility if they are made liable for recovery of dues from the private company".*

323.5.2 With regard to the suggestion received from the stakeholder, the representative of the Ministry has added further as follows in his deposition before the 31st Sitting of the Committee held on 10 June, 2025:-

> *"The suggestion is that directors of a company should not be made jointly and severally liable for any taxes which are recoverable from the company. This is a provision which has continued from the Act to the Bill and it is kind of anti-abuse".*

323.5.3 Clause 323(2) reads : "Where a private company is converted into a public company and the tax assessed in respect of any income of any tax year during which such company was a private company cannot be recovered, then, nothing contained in sub-section(1) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any tax year commencing before the 1st April, 1961. However, the mapping section of 179(2) of the Income-Tax Act, 1961 stated that commencing before the 1st day of April, 1962.

323.5.4 Considering that the Income-Tax Act, 1961 came into force on 1st April, 1962, when asked the Ministry to elaborate on the precise legal justification and intended effect of proposing to replace "1st day of April, 1962" with "1st April, 1961"; the potential for such a change to create retrospective application issues, conflicts with the erstwhile

Income-Tax Act, 1922, and its far-reaching implications for past assessments, settled legal positions, and ongoing litigation.

323.5.5 In this regard, the Ministry in their written replies stated that A.Y. before 01.04.1962 is same as tax year before 01.04.1961. There is no difference in interpretation. One is based on Assessment Year whereas other is based on Financial Year. Thus, no change is required.

323.6 Observations/Recommendations of the Committee:

The Committee note that Clause 323 deals with liability of directors of private company, aligns with the provisions of Section 179 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 323 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

14- Assessment of firms

Clause 324 - Charge of tax in case of a firm

324.1 Provision proposed in the Income-Tax Bill, 2025:

In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the rate as specified in the Finance Act of the relevant year.

324.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Charge of tax in the case of a firm.

167A. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the rate as specified in the Finance Act of the relevant year.

324.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

> *"Clause 324 of the Bill seeks to provide for the charge of tax in case of a firm. The clause corresponds to section 167A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

324.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

324.5 Observations/Recommendations of the Committee:

The Committee note that Clause 324 of the Bill pertains to charge of tax in case of a firm, aligns with existing Section 167A of the Income-Tax Act, 1961; but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 324 as it is.

Clause 325 - Assessment as a Firm

325.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) A firm shall be assessed as a firm for the purposes of this Act, if—

(*a*) the partnership is evidenced by an instrument; and
(*b*) the individual shares of the partners are specified in that instrument.

(*2*) A certified copy of the instrument of partnership referred to in sub-section (*1*) shall accompany the return of income of the firm of the tax year in respect of which assessment as a firm is first sought.

(*3*) For the purposes of sub-section (*2*), the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors), who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(*4*) Where a firm is assessed as such for any tax year, it shall be assessed in the same capacity for every subsequent year, if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(*5*) Where any such change had taken place in the tax year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for such tax year, and all the provisions of this section shall apply accordingly.

(*6*) Irrespective of anything contained in any other provision of this Act, where, in respect of any tax year, there is on the part of a firm any such failure as is mentioned in section 271,—

(*a*) the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession”; and

(*b*) such payment shall not be chargeable to income-tax under section 26(*2*)(*f*).

325.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment as a firm.

184. (1) A firm shall be assessed as a firm for the purposes of this Act, if—

(*i*) the partnership is evidenced by an instrument; and

(*ii*) the individual shares of the partners are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the previous year relevant to the assessment year commencing on or after the 1st day of April, 1993 in respect of which assessment as a firm is first sought.

Explanation.—For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(3) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(4) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

(5) Notwithstanding anything contained in any other provision of this Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (*v*) of section 28.

325.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

"Clause 325 of the Bill deals with the provisions of assessment of a partnership firm including compliances to certain conditions. The clause corresponds to section 184 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

325.4 Examination by the Committee:

Clause 325(6)(b) reads: "such payment shall not be chargeable to income-tax under section 26(2)(f)". However, the mapping section 184(5) mentions clause 5 of section 28 , which is corresponding to section 26(2)(g). Therefore, the words "section 26(2)(f) is to be replaced with words "section 26(2)(g)". The Committee when asked the Ministry to comment upon this, the Ministry in their written replies has accepted the same.

325.6 Observations/Recommendations of the Committee:

The Committee observe Clause 325 of the Bill (mirroring Section 184 of the 1961 Income-Tax Act) on partnership firm assessments. They note a discrepancy in Clause 325(6)(b), which incorrectly references "section 26(2)(f)" instead of the correct "section 26(2)(g)," as per the corresponding Section 184(5) of the 1961 Act. The Ministry of Finance has accepted this correction. The Committee, thus, advise amending Clause 325(6)(b) to rectify this, while accepting the rest of the clause.

Clause 326 - Assessment when section 325 not complied with

Provision proposed in the Income-Tax Bill, 2025:

326.1 Irrespective of anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 325 for any tax year,—

(*a*) no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing its income chargeable under the head "Profits and gains of business or profession"; and

(*b*) such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under section 26(*2*)(*g*) in the hands of partners of such firm.

326.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Assessment when section 184 not complied with.

185. Notwithstanding anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (*v*) of section 28.

326.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

"Clause 326 of the Bill deals with consequences in the assessment of a partnership firm in case of non-compliance to the conditions made by rules. The clause corresponds to section 185 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

326.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

326.5 Observations/Recommendations of the Committee:

Noting that Clause 326 of the Bill, dealing with consequences in the assessment of a partnership firm in case of non-compliance to the conditions made by rules, is a textual simplification of Section 185 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.

15 – Change in constitution, succession and dissolution

Clause 327 - Change in constitution of a firm

Provision proposed in the Income-Tax Bill, 2025:

327.1 (*1*) Where at the time of making an assessment under section 270 or 271, it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.

(*2*) For the purposes of this section, there is a change in the constitution of the firm—

(*a*) if one or more of the partners cease to be partners; or

(*b*) one or more new partners are admitted, subject to the condition that at least one person who was partner of the firm before the change continues as partner after such change; or

(*c*) where all the partners continue with a change in their respective shares or in the shares of some of them.

(*3*) The provisions of sub-section 2(*a*) shall not apply to a case where the firm is dissolved on the death of any of its partners.

327.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Change in constitution of a firm.

187. (1) Where at the time of making an assessment under section 143 or section 144 it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.

(2) For the purposes of this section, there is a change in the constitution of the firm—

(*a*) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change ; or

(*b*) where all the partners continue with a change in their respective shares or in the shares of some of them :

Provided that nothing contained in clause (*a*) shall apply to a case where the firm is dissolved on the death of any of its partners.

327.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

> *"Clause 327 of the Bill seeks to provide for assessment of a partnership firm in cases where there is a change in constitution of the firm. The clause corresponds to section 187 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

327.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

327.5 Observations/Recommendations of the Committee:

The Committee note that Clause 327 of the Bill addresses assessment of a partnership firm in cases where there is a change in constitution of the firm, aligns with the existing Section 187 and involves no policy shift. The Committee, therefore, accept Clause 327 as proposed by the Department of Revenue.

Clause 328 - Succession of one firm by another firm

328.1 Provision proposed in the Income-Tax Bill, 2025:

Where a firm carrying on a business or profession is succeeded by another firm, except in a case covered by section 327, separate assessments shall be made on the predecessor firm and the successor firm as per the provisions of section 313.

328.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Succession of one firm by another firm.

188. Where a firm carrying on a business or profession is succeeded by another firm, and the case is not one covered by section 187, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 170.

328.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

"Clause 328 of the Bill provides for taxation in the hands of the predecessor and successor in the case of succession of one firm by another firm. The clause corresponds to section 188 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

328.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

328.5 Observations/Recommendations of the Committee:

The Committee note that Clause 328 of the Bill prescribing provisions for taxation in the hands of the predecessor and successor in the case of succession of one firm by another firm, aligns with existing Section 188 of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 328 as it is.

Clause 329 - Joint and several liability of partners for tax payable by firm

329.1 Provision proposed in the Income-Tax Bill, 2025:

Every person who was, during the tax year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the tax year, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

329.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Joint and several liability of partners for tax payable by firm.

188A. Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

329.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

> *"Clause 329 of the Bill seeks to provide for joint and several liability of partners for tax payable by firm. The clause corresponds to section 188A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

329.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

329.5 Observations/Recommendations of the Committee:

Noting that Clause 329 of the Bill, dealing joint and several liability of partners for tax payable by firm, is a textual simplification of Section 188A of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.

Clause 330 - Firm dissolved or business discontinued

330.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where a firm is dissolved or any business or profession carried on by it has been discontinued, the Assessing Officer shall make an assessment of the total income of the firm, as if no such dissolution or discontinuance had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(*2*) Regardless of the generality of sub-section (*1*), if the Assessing Officer or Joint Commissioner (Appeals) or Commissioner (Appeals), in the course of any proceeding under this Act in respect of any such firm as referred to in that sub-section, is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(*3*) Every person who was at the time of such dissolution or discontinuance a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(*4*) Where such dissolution or discontinuance takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the person referred to in sub-section (*3*) from the stage at which the proceedings stood at the time of such dissolution or discontinuance, and all the provisions of this Act shall, so far as may be, apply accordingly.

(*5*) The provisions of this section shall not affect the provisions of section 302(*4*).

330.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Firm dissolved or business discontinued.

189. (1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the Assessing Officer shall make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Without prejudice to the generality of the foregoing sub-section, if the Assessing Officer or [57][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) in the

course of any proceeding under this Act in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.
Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

330.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision are as under :-

> *"Clause 330 of the Bill seeks to provide for assessment and liability in the hands of the firm even after its dissolution or discontinuance of the business. The clause corresponds to section 189 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

330.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

330.5 Observations/Recommendations of the Committee:

The Committee note that Clause 330 outlines the framework for assessment and liability in the hands of the firm even after its dissolution or discontinuance of the business, aligns with the existing Section189 of the extant Act and involves no policy shift. The Committee, therefore, accept Clause 330 as proposed by the Department of Revenue.

Clause 331 - Liability of partners of limited liability partnership in liquidation

331.1 Provision proposed in the Income-Tax Bill, 2025:

Irrespective of anything contained in the Limited Liability Partnership Act, 2008, where any tax including penalty, interest, fees or any other sum payable under the Act is due, and cannot be recovered, from—

(*a*) the limited liability partnership in respect of any income of any tax year; or
(*b*) any other person in respect of any income of any tax year during which such other person was a limited liability partnership,

then, in such case, every such person who was a partner of such partnership at any time during the relevant tax year, shall be jointly and severally liable for the payment of such due amount, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

331.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Liability of partners of limited liability partnership in liquidation.

167C. Notwithstanding anything contained in the Limited Liability Partnership Act, 2008 (6 of 2009), where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.
Explanation.—For the purposes of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act.

331.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision are as under :-

"Clause 331 of the Bill provides for joint and several liability of partners of a limited liability partnership in liquidation. The clause corresponds to section 167C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

331.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Onus of proving neglect, misfeasance, or breach of duty should be on the tax authorities and not on the individual partners in the firm. The current provision places burden on the individual partners to prove their innocence, often years after liquidation. This provision runs antithesis to the concept of limited liability and is in contradiction to the principles of natural justice.

2. Onus of proving neglect, misfeasance, or breach of duty should be on the tax authorities and not on the individual partners in the firm.

331.5 <u>Examination by the Committee:</u>

331.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025".

2. "The suggestion seeks that u/s 167C of the Act, where partner is made jointly and severally liable for payment of due amount of LLP in liquidation, the onus to prove negligence, misfeasance or breach of duty shall be on the tax authorities and not on the partners of the firm. The suggestion is in the nature of policy. Under the legal principle of Joint and Several Liability, partners are collectively liable for the debts and liabilities of the partnership firm. Section 25 of the Partnership Act also states that partners are jointly and severally liable for the firm's debts and liabilities, making each partner responsible for the full amount. The suggestion is not feasible".

331.5.2 In this regard, the representative of the Ministry has added as follows during the 31st Sitting of the Committee held on 10 June, 2025 :-

> *"In case of a partnership firm, the provision is that partners are jointly and severally liable for payments which are to be made when the LLP or the firm goes in liquidation". It was also stated that "They are trying to say that the Department should prove that there is negligence, misfeasance or breach of duty by the partners".*

331.6 Observations/Recommendations of the Committee:

Clause 331 of the Bill governs the conditions of liability of partners of limited partnership in liquidation. The Committee note that this Clause is simplified textual version of existing Section 167C of the Income-Tax Act, 1961 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 331 as proposed.

B- Special provisions for Registered non-profit organization

1 – Registration

Clause 332 - Application for registration

332.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

332. (*1*) The following persons may, for claiming benefits under this Part as a registered non-profit organisation, make an application for registration in such form and manner, as prescribed, to the Principal Commissioner or Commissioner:—

(*a*) a public trust;

(*b*) a society registered under the Societies Registration Act, 1860, or under any law in force in India;

(*c*) a company registered under section 8 of the Companies Act, 2013 or the companies registered under section 25 of the Companies Act, 1956 and deemed to have been registered in pursuance of section 465 (*2*)(*g*) of the Companies Act, 2013;

(*d*) a University established by law or any other educational institution affiliated thereto or recognised by the Government;

(*e*) an institution financed wholly or in part by the Government or a local authority;

(*f*) any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in Schedule VII (Table: Sl. No. 10) to (Table: Sl. No. 19) and (Table: Sl. No. 42); or

(*g*) any other person notified by the Board.

(*2*) A person referred to in sub-section (*1*) shall be eligible for registration, if—

(*a*) such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in section 2(*23*) or one or more public religious purposes, or both; and

(*b*) the properties of such person are held under an irrevocable trust for the benefit of the general public,—

(*i*) wholly for charitable or religious purposes; or

(*ii*) partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961.

(*3*) Every application in respect of the cases specified in column B of the Table below shall be made to the Principal Commissioner or Commissioner within the time provided in column C of the said Table, who shall, on receipt of such application, follow the procedure provided in sub-sections (*6*) and (*7*) and shall pass an order within the time specified in column D of the said Table, and registration, if granted, shall be valid for a period specified in column E thereof.

Table

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
A	B	C	D	E
1.	Where the activities of the applicant have not commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year beginning from which registration is sought.	Three months from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced and it has not been registered under any specified	At any time during the tax year, beginning from which registration is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.

	provision at any time before making the application.			
3.	Where the applicant has been granted provisional registration and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional registration of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

A	B	C	D	E
5.	Where the registration of the applicant is due to expire, other than cases mentioned at serial number 4.	At least six months prior to the expiry of the registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
6.	Where the	At any time during	Six months	Five tax years

	registration of the applicant has become inoperative due to switching over of regime under section 333.	the tax year beginning from which the registration is sought to be made operative.	from the end of the quarter in which application is made.	commencing from the tax year in which such application is made.
7.	Where the applicant, being a registered non-profit organisation, has adopted or undertaken modification of its objects.	Within thirty days of the date of such adoption or modification.	Six months from the end of the quarter in which application is made.	Five tax years commencing from commencement of the tax year in which such application is made.

(*4*) In case the application under sub-section (*3*) is made beyond the time allowed in column C of the Table specified in the said sub-section, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in furnishing the application, condone such delay and such application shall be deemed to have been made within time.

(*5*) In case the application is made under sub-section (*3*)(Table: Sl. Nos. 3 to 7), and the total income of such applicant, without giving effect to the provisions of this Part, does not exceed five crore rupees during each of the two tax years, preceding the tax year in which such application is made, the provisions of (Table: Sl. Nos. 3.E to 7.E) of the said sub-section, shall have effect as if for the words “five years”, the words “ten years” had been substituted.

(*6*) If any application for registration is not made within the time specified in sub-section (*3*)(Table: Sl. No. 3.C, 4.C, 5.C or 7.C) and the delay in filing such application is not condoned under sub-section (*4*), such person shall be liable to pay tax on accreted income under section 352.

(*7*) The Principal Commissioner or Commissioner shall, on an application made by an applicant in any of the cases specified in sub-section (*3*)(Table: Sl. Nos. 2 to 7), call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself as to the compliance of such requirements of any other law as are material for the purpose of achieving its objects, and the genuineness of activities and—

(*a*) if he is so satisfied about the objects and the genuineness of the activities and compliance of the requirements of any other law in force, shall pass an order granting registration; or

(*b*) if he is not so satisfied, after affording a reasonable opportunity of being heard to the applicant shall,—

(*i*) pass an order rejecting the application, where the application was made in the any of the cases specified in sub-section (*3*) (Table: Sl. No. 2 or 6); or

(*ii*) pass an order in writing rejecting the application and also cancelling the registration in any other case specified in sub-section (*3*)(Table: Sl. Nos. 3, 4, 5 or 7),

and send a copy of the said order to the applicant and the Assessing Officer.

(*8*) Where an application has been made in any of the cases specified in sub-section (*3*)(Table: Sl. No. 1), the Principal Commissioner or Commissioner shall grant provisional registration.

(*9*) Where the registration of a person, registered prior to the 1st April, 2021 under the specified provision of the Income-tax Act, 1961 has expired and such person makes an application for registration under this Part, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in making such application, condone such delay and grant registration to such person under this Part within three months from the end of the month in which the application is made, which shall be valid for five years from the commencement of the tax year 2021-2022.

(*10*) The order under sub-sections (*7*), (*8*) and (*9*) shall be passed in the form and manner, as prescribed.

332.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Conditions for applicability of sections 11 and 12.

12A. (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*a*) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the

Principal Commissioner or Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later and such trust or institution is registered under section 12AA :

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

(*i*) from the date of the creation of the trust or the establishment of the institution if the Principal Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(*ii*) from the 1st day of the financial year in which the application is made, if the Principal Commissioner or Commissioner is not so satisfied:

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

(*aa*) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;

(*ab*) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;

(*ac*) notwithstanding anything contained in clauses (*a*) to (*ab*), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,—

(*i*) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;

(*ii*) where the trust or institution is registered under section 12AB [or approved under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10] and the period of the said registration [or approval, as the case may be,] is due to expire, at least six months prior to expiry of the said period;

(*iii*) where the trust or institution has been provisionally registered under section 12AB [or provisionally approved under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10], at least six months prior to expiry of period of the provisional registration [or provisional approval, as the case may be,] or within six months of commencement of its activities, whichever is earlier;

(*iv*) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

(*v*) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;

[(*vi*) in any other case, where activities of the trust or institution have—

(*A*) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought;

(*B*) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,]

and such trust or institution is registered under section 12AB:

[**Provided** that where the application is filed beyond the time allowed in sub-clauses (*i*) to (*vi*), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time;]

(*b*) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

(*i*) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and

(*ii*) the accounts of the trust or institution for that year have been audited by

an accountant defined in the *Explanation* below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;

(*ba*) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under [90][sub-section (1) or sub-section (4) of] that section;

(*c*) [***]

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:

Provided that the provisions of sections 11 and 12 shall apply to a trust or institution, where the application is made under—

(*a*) sub-clause (*i*) of clause (*ac*) of sub-section (1), from the assessment year from which such trust or institution was earlier granted registration;

(*b*) sub-clause (*iii*) of clause (*ac*) of sub-section (1), from the first of the assessment year for which it was provisionally registered.

[***]
[***]
[***]

Procedure for fresh registration.

12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (*ac*) of sub-section (1) of section 12A, shall,—

(*a*) where the application is made under sub-clause (*i*) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(*b*) where the application is made under sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) or sub-clause (*v*) [or item (*B*) of sub-clause (*vi*)] of the said clause,—

(*i*) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(*A*) the genuineness of activities of the trust or institution; and

(*B*) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(*ii*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (*A*) and compliance of the

requirements under item (*B*), of sub-clause (*i*),—

(*A*) pass an order in writing registering the trust or institution for a period of five years; or

[(*B*) if he is not so satisfied, pass an order in writing,--

(*I*) in a case referred to in sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*v*) of clause (*ac*) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;

(*II*) in a case referred to in sub-clause (*iv*) or in item (*B*) of sub-clause (*vi*) of sub-section (1) of section 12A, rejecting such application,

after affording a reasonable opportunity of being heard;]

[(*c*) where the application is made under item (*A*) of sub-clause (*vi*) of the said clause or the application is made under sub-clause (*vi*) of the said clause, as it stood immediately before its amendment *vide* the Finance Act, 2023, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought,]

and send a copy of such order to the trust or institution:

[Provided *that where an application is made under sub-clauses (*i*) to (*v*) of the said clause, and the total income of such trust or institution, without giving effect to the provisions of* sections 11 *and* 12*, does not exceed rupees five crores during each of the two previous years, preceding the previous year in which such application is made, the provisions of this sub-section shall have effect as if for the words "five years", the words "ten years" had been substituted.***]**

(2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (*b*) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (*vi*) of clause (*ac*) of sub-section (1) of section 12A on that date.

[(3) The order under sub-section (1) shall be passed, in such form and manner as may be prescribed, within a period of,—

(*i*) three months calculated from the end of the month in which the application was received in case of clause (*a*);

(*ii*) six months calculated from the end of the quarter in which the application was received in case of sub-clause (*ii*) of clause (*b*); and

(*iii*) one month calculated from the end of the month in which the application was received in case of clause (*c*).]

(4) Where registration or provisional registration of a trust or an institution has been granted under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1) or clause (*b*) of sub-section (1) of section 12AA, as the case may be, and subsequently,—

(*a*) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

(*b*) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or

(*c*) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year,

the Principal Commissioner or Commissioner shall,—

(*i*) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(*ii*) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(*iii*) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(*iv*) forward a copy of the order under clause (*ii*) or clause (*iii*), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.—For the purposes of this sub-section, the following shall mean "specified violation",—

(*a*) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(*b*) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(*c*) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

(*d*) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(*e*) any activity being carried out by the trust or institution,—

(*i*) is not genuine; or

(*ii*) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(*f*) the trust or institution has not complied with the requirement of any other law, as referred to in item (*B*) of sub-clause (*i*) of clause (*b*) of sub-section (1), and the

order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality [; or]

[(*g*) the application referred to in clause (*ac*) of sub-section (1) of section 12A **[*****]** contains false or incorrect information.]

(5) The order under clause (*ii*) or clause (*iii*) of sub-section (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (*i*) of sub-section (4).

332.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 332 of the Bill provides for application for registration of non-profit organisation. The clause corresponds to section 12A and section 12AB of the Act. The said clause clearly classifies the persons who may apply for registration. The present Act uses different terms such as trust, institution, university, educational institution, hospital etc. in different provisions. A common term 'registered nonprofit organisation' has been used in this clause in line with international best practices. Section 10(23C) of the Act uses the term "approval" while section 12AB of the Act uses the term "registration". In order to avoid ambiguity, the term "registration" has been used in the Bill".

332.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Restriction on registration for mixed-object trusts (charitable and religious) established after 1961 will create problems; uncertainty exists regarding renewal of existing mixed- object trusts. No clarity on how already registered mixed-object trusts will be treated when seeking renewal under the new law.

2. Amend the provisions whereby delay does not attract tax on accreted income, but only failure does. The registration of a Charitable trust can be cancelled even due to a genuine procedural mistake such as not making application for renewal in time Cancellation of registration in such cases can attract tax on accreted income, wiping out more than 40% of the net assets of the trust, completely crippling its activities Bonafide delays by charitable institutions should be looked at leniently and not strictly The

punishment by way of tax on accreted income is completely disproportionate to the magnitude of mistake of delay in filing the application. It is, therefore, suggested that tax on accreted income should be levied only in cases of failure to make an application for renewal, and not for cases of delay in making such application.

3. Please simplify the requirements of renewal form as mentioned below:
1) Bank details are given in ITR every year so this requirement can be removed from the renewal form Even if we need to give details of all bank accounts kindly allow bulk uploading of bank account data through CSV/XML or provide a separate annexure utility for institutions having more than 50 accounts, (many institutions have thousands of bank accounts) in line with principles of proportional compliance and administrative efficiency.
2) Please maintain a “Register of Immovable Properties” on Income-Tax Portal for every NPO under their login The respective NPO will update this register from time to time for any change (addition, deduction etc.) Then there will be no requirement to give Immovable properties extensive details in renewal form Even if we need to give extensive details of all immovable properties kindly allow bulk uploading of immovable properties data through CSV/XML or provide a separate annexure utility for institutions having more than 50 immovable properties, (many institutions have thousands of immovable properties) in line with principles of proportional compliance and administrative efficiency Please permit manual data entry for NPOs having a few properties.
3) As above point No.2. And also Issue a clarificatory circular or amend the utility to accept: - Split entry for land and building. Multiple acquisition dates and modes. - Allow supporting note/annexure in such cases.
4) Please permit institutions to either: - Report last audited figures as on 31st March 2024 (for this renewal), or - Allow to submit provisional figures with declaration, with option to revise post-audit.
5) Please remove provision for renewal or automatic renewal on compliance satisfaction after every 5 years. Let the Renewal be an exception, not a rule. Renewal be enforced for non complaint NPOs. The current utility restricts inputs to only 50 bank accounts Upon attempting to add the 51st record, the “Add Details” button auto-fills the data of the 50th record record, preventing further data entry There is no provision for bulk upload or Excel-based submission.
2) After entering the PIN code number of the location where the immovable property is located, we need to select the ‘Post Office’, ‘Area/Locality’ and ‘District’ from the dropdown ‘PIN code number’ and ‘Post Office’ are being changed by the Govt from time to time Correct ‘Area/Locality’ is also not available in the dropdown Many valid locations, particularly in rural and newly developed areas, are not present in the dropdown, making it impossible to proceed. Even ‘Districts’ are also subject to change many times
3) There is no clear guidance for the following situations: a Whether to report only land area or land plus constructed area (especially in self-constructed properties). b In case of combined plots with different acquisition dates, which date of acquisition should be disclosed? c Where one plot is gifted and the other purchased, what is the mode of

acquisition? d Stamp value is often not printed on documents in many states. e Construction done by own funds may not have a determinable stamp value.
4) The utility mandates financial data “as on date of application”. - If Form 10AB is filed before the audit due date (e.g 30th September 2025), then audited figures for FY 2024–25 will not be available. - Entering unaudited figures may lead to discrepancies or possible rejection. 5) No judicial person (Company, LLP, Partnership Firm, Cooperative Society etc) is required to renew its registration except NPOs Renewal is:
● Logistically burdensome
● Legally inequitable Demotivating for volunteers and trustees.

4. Restriction on registration for mixed-object trusts (charitable and religious) established after 1961 will create problems; uncertainty exists regarding renewal of existing mixed- object trusts. No clarity on how already registered mixed-object trusts will be treated when seeking renewal under the new law.

5. NPOs should be allowed to file the application for change of objects before implementing those objects and if the Principal commissioner or commissioner accepts the change, the NPO can pursue the object. If the department feels that the change of object is not acceptable, then the NPO may be asked to drop the change in the object, but to continue with the existing object without the cancellation of the registration.

6. To make this provision more reasonable and implementation-friendly, we recommend:

(i) Materiality Thresholds o Define what kind of “other law” breaches are serious enough to invite cancellation (e.g., fraud, diversion of foreign funds, etc) — and exclude minor administrative lapses.

(ii) Graded Consequences to Introduce alternatives such as: Advisory notices, Corrective action plans, Temporary suspension before cancellation.

(iii) Safe Harbour for Bona Fide Compliance Gaps o Where the organisation can show good faith, effort to rectify, and no misuse of funds, a safe harbour clause may be added to prevent disproportionate cancellation. Closing Thought: For a country aspiring to become a Vishwaguru, we must build laws that mentor our non-profits, not just monitor them. A trust may err — but a law that guides it back on course is far more effective than one that simply throws it overboard.

332.5 Examination by the Committee:

332.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "There is no change in the policy or the intent. The registration of mixed object trusts (with charitable as well as religious objects) are covered by Clause 332(2)(b)(i) of the Bill. The phrase "wholly for charitable or religious purposes" covers the scenario where the object of the trust is either charitable or religious or both, however, does not have any non-charitable or non-religious objects. Thus, the mixed object trusts charitable or religious or both charitable and religious objects) registered or incorporated even after the date of commencement of the Income-Tax Act, 1961, continue to be eligible for registration under the provisions of the new bill. In view of the above reasons/justifications the objections raised do not have merits".

2. "Suggestion seeks that application of accreted income should not apply on rejected initial registration or when delayed application is not condoned. Sub-section (3) of section 115TD provides from situations where a trust or institution shall be treated to have converted into any other form not eligible for registration under section 12AA/12AB. Therefore, no new provisions have been inserted in the clause 352 relating to accredited income. If the initial registration application is rejected, there will be no charge of clause 352 to tax the accreted income. The charge of tax on accreted income is only on 'specified person', and the same is clarified in clause 355(l) as under:

> "Specified person means any person which is registered under any specified provision at any time since its incorporation or creation." Regarding the delay in filing the application for re- registration, the Commissioner is empowered to condone the delay in case of genuine hardships. In case of either the re-registration application itself not been filed, or when filed belatedly and the delay not been condoned by the Commissioner; the provisions of clause 352 (tax on accreted income) will get attracted. This is an anti-abuse provision to ensure that registered NPOs stay within the realm of public charity and not get out of the regulatory space after accumulating tax exempt income and assets. The provisions of clause 352 clarifies the same and ensures continuity of policy".

3. "The suggestion seeks certain changes in the registration Forms for NPOs and utility. The suggestion relates to rules and forms which is a matter of subordinate legislation. This being a matter of rules, does not come under the purview of Bill".

4. "**The clause will be redrafted to remove any ambiguity. The suggestion is acceptable**. Suggestion seeks clarity on registration or renewal of existing mixed-object trusts established after 1961. There is no change in the policy or the intent. The registration of mixed object trusts (with charitable as well as religious objects) are covered by Clause 332(2)(b)(i) of the Bill. The phrase "wholly for charitable or religious

purposes" covers the scenario where the object of the trust is either charitable or religious or both, however, does not have any non-charitable or non-religious objects. Thus, the mixed object trusts charitable or religious or both charitable and religious objects) registered or incorporated even after the date of commencement of the Income-Tax Act, 1961, continue to be eligible for registration under the provisions of the new bill".

332.5.2 In this regard, the representative of the Ministry has stated the following during the 27th Sitting of the Committee held on 27 May 2025:-

> *"Here, sir, the stakeholder's confusion was that we have mentioned only wholly for charitable or religious purpose. So, there is a problem that what about the mixed purpose? Whether mixed purposes are being considered or not? Here, our response was initially that there is no change in policy as such. Wholly for charitable' or 'religious purposes' contain both 'wholly religious', 'wholly charitable' or 'a mix of charitable or religious'. But because this confusion was prevailing, the Ministry has reconsidered, Sir, and now we will be adding 'or both'. So, this is acceptable. The suggestion of the stakeholder is acceptable. In order to clarify that, we will mention or both."*

5. The proposed provision under clause 332 (Table: Sl. No. 7) of the Income-tax Bill, 2025 are similar to the provisions u/s 12AB(1)(b)(ii)(B) of the Income-tax Act, 1961. The benefits of the exemption u/s 11 and 12 of the ITA are based on the nature of the objects of the trusts which needs to be for the charitable or religious purpose. In the case of modifications of the objects of the trust or the institution, such person needs to mandatorily apply for the fresh registration and if the PCIT/CIT is not satisfied, then the registration has to be cancelled along with the rejection of the application. The suggestion of the stakeholder, if accepted, would create a situation where the person would continue to enjoy the benefits of exemption u/s 11 and 12 of the ITA for the modified objects till the time the application for registration is rejected. Further, section 332(4) provides for condonation of delay in filing application of registration. And as per section 332(6), liability to pay tax on accreted income would not arise if such delay is condoned u/s 332(4). Therefore, there is no cause for any apprehension.

6. Suggestion seeks that in the section 332(7), the definition of other law breaches may be defined and graded consequences should be attracted for the default instead of cancellation of the trust or institution for any of the default. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Subject to certain conditions and compliances, the NPOs have been given exemption. This has been a policy decision to promote charitable activities for overall socioeconomic development of the nation. Further, essential safeguards have been built in with regard to penal consequences, such as provision of opportunity of being heard in almost all cases of default where an adverse view may be taken, providing for condonation of delay mechanism, where bonafide reasons could be the cause for non-compliance etc. Therefore, in bonafide and genuine

cases mechanism has been put in place to avoid undue hardship to the taxpayer. The suggestion is not feasible.

332.5.2 On being asked by the Committee about the feasibility of reducing the frequency of registration of NPOs, the representative of the Ministry during the sitting of the Committee held on 9.6.2025 has stated the following:-

> *"The provisions of NPOs have been rationalised. Vide Finance Act, 2025, the period of registration has been increased from 5 years to 10 years in case of smaller NPOs having turnover upto 5 crore".*

332.5.3 The Committee pointed out that the Ministry interprets "wholly for charitable or religious purposes" to include "both,"; however, the core ambiguity remains. The objective of the Bill is to make the Act concise, lucid, easy to read and understand. In order to achieve the objectives of the bill, the Committee asked the Ministry to clarify the following points as to whether:-

(i) the word "both" be included, as the stakeholders flagged that the proposed clause creates confusion which may lead to litigation;

(ii) the interpretation of "wholly" inadvertently exclude legitimate mixed-object trusts whose activities, while primarily charitable and religious, might have minor, related aspects that could be construed as falling outside these strict definitions and safeguards to prevent such exclusions;

(iii) It is also not clear as to how "wholly" will be defined and applied in practice for mixed-object trusts. Whether "wholly" mean that *all* objects must fall under these two categories, or can there be incidental activities that are neither strictly charitable nor religious;

(iv) the "wholly" criterion be applied if their activities have evolved over time and now include aspects that might be questioned under a stricter interpretation;

(v) a grandfathering clause or a mechanism be there to address such situations; and

(vi) the Ministry's interpretation of "wholly for charitable or religious purposes" align with existing legal precedents and judicial interpretations related to charitable and religious trusts under various laws.

332.5.4 In response to the above points, the Ministry has stated the following in their written submission:-

> "The clause will be appropriately redrafted to remove any ambiguity. The suggestion is acceptable"

332.6 Observations/Recommendations of the Committee:

332.6.1 The Committee notes that Clause 332 of the Bill, intended to simplify the registration of non-profit organizations by using consistent terminology, aligns with Sections 12A and 12AB of the existing Act. However, a significant concern has emerged among Non-Profit Organizations (NPOs), particularly those with mixed charitable and religious objectives, regarding the interpretation of "wholly for charitable or religious purposes" in Clause 332. Despite Ministry assurances that mixed-object trusts are intended to be included, the current wording creates confusion. This ambiguity could lead to uncertainty for existing trusts seeking renewal, issues for those established after 1961, and a heightened risk of litigation. Concerns also exist about the inadvertent exclusion of legitimate trusts with minor related activities, and a lack of clarity on how "wholly" will be defined and applied, especially for trusts with evolving activities.

332.6.2 The Committee acknowledge the Ministry of Finance's recognition of this confusion and its commitment to redraft Clause 332 to remove ambiguity, viewing this as a positive and necessary step. In view of this, the Committee recommend to redraft the Clause 332 suitably.

Clause 333 - Switching over of regimes

333.1 Provision proposed in the Income-Tax Bill, 2025:

333.(*1*) Nothing contained in section 11, other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for any tax year.

(*2*) The registration under section 332 shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45).

(*3*) A person, whose registration ceases to operate under sub-section (*2*), may apply for registration under section 332 subject to the condition that the notification granting exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

333.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

11(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[82][*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [83][*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [84][or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [85][*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [86][under [85][*clause (*23EA*) or*] clause (*23EC*) or [85][*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section,

as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.
Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

333.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 333 of the Bill seeks to provide for switching over of regimes by a registered non-profit organisation. The clause corresponds to section 11(7) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

333.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

333.5 Observations/Recommendations of the Committee:

Clause 333 of the Income-Tax Bill 2025, which provides for switching over of regimes by a registered non-profit organization, corresponding to Section 11(7) of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 333 as it is.

2-Income of registered non-profit organization

Clause 334 - Tax on income of registered non-profit organisation

334.1 Provision proposed in the Income-Tax Bill, 2025:

334. (*1*) The Income-tax payable by a registered non-profit organisation on its total income for any tax year shall be the aggregate of the amounts calculated—

(*a*) at the rate of 30% on specified income for such tax year; and

(*b*) at the rate applicable on taxable regular income and any residual income for such tax year under other provisions of this Act.

(*2*) The provisions of this Chapter shall apply irrespective of anything to the contrary contained in any other provision of this Act other than section 96 to 98.

334.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Anonymous donations to be taxed in certain cases.

115BBC. (1) Where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (*iiiad*) or sub-clause (*vi*) or any hospital or other institution referred to in sub-clause (*iiiae*) or sub-clause (*via*) or any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) of clause (*23C*) of section 10 or any trust or institution referred to in section 11, includes any income by way of any anonymous donation, the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of the higher of the following, namely:—

(*A*) five per cent of the total donations received by the assessee; or

(*B*) one lakh rupees, and

(*ii*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in sub-clause (*A*) or sub-clause (*B*) of clause (*i*), as the case may be.

(2) The provisions of sub-section (1) shall not apply to any anonymous donation received by—

(*a*) any trust or institution created or established wholly for religious purposes;

(*b*) any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

(3) For the purposes of this section, "anonymous donation" means any voluntary contribution referred to in sub-clause (*iia*) of clause (*24*) of section 2, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.

Specified income of certain institutions.

115BBI. (1) Where the total income of an assessee, being a person in receipt of income on behalf of any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*), of clause (*23C*) of section 10 or any trust or institution referred to in section 11, includes any income by way of any specified income, notwithstanding anything contained in any other provision of this Act, the income-tax payable shall be the aggregate of,—

(*i*) the amount of income-tax calculated at the rate of thirty per cent on the aggregate of such specified income; and

(*ii*) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of specified income referred to in clause (*i*).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the specified income referred to in clause (*i*) of sub-section (1).

Explanation.—For the purposes of this section, "specified income" means,—

(*a*) income accumulated or set apart in excess of fifteen per cent of the income where such accumulation is not allowed under any specific provision of this Act; or

(*b*) deemed income referred to in *Explanation 4* to the third proviso to clause (*23C*) of section 10, or sub-section (1B) or sub-section (3) of section 11; or

(*c*) any income, which is not exempt under clause (*23C*) of section 10 on account of violation of the provisions of clause (*b*) of the third proviso of clause (*23C*) of section 10, or not to be excluded from the total income under the provisions of clause (*d*) of sub-section (1) of section 13; or

(*d*) any income which is deemed to be income under the twenty-first proviso to clause (*23C*) of section 10 or which is not excluded from the total income under clause (*c*) of sub-section (1) of section 13; or

(*e*) any income which is not excluded from the total income under clause (*c*) of sub-section (1) of section 11.

164(2) In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, or which is of the nature referred to in sub-

clause (*iia*) of clause (*24*) of section 2, or which is of the nature referred to in sub-section (4A) of section 11, tax shall be charged on so much of the relevant income as is not exempt under section 11 or section 12, as if the relevant income not so exempt were the income of an association of persons :

Provided that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (*c*) or clause (*d*) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.

334.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 334 of the Bill seeks to provide taxability of income of a registered nonprofit organisation. The clause consolidates provisions contained in the Act. The clause clearly states the current position of law that if a registered non-profit organisation is not able to apply 85% of its regular income or accumulate the same, then income for such tax year as reduced by its application for charitable or religious purposes or accumulation thereof shall be its taxable income and chargeable to tax @30% as provided in section 115BBI of the Act".*

334.4 Examination by the Committee:

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

334.5 Observations/Recommendations of the Committee:

The Committee note that Clause 334 of the Bill consolidates provisions of the Income-Tax Act 1961 which provides for taxability of income of a registered non-profit organization. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.

Clause 335 - Regular income

335.1 Provision proposed in the Income-Tax Bill, 2025:

335. Regular income of any tax year of a registered non-profit organisation means—

(*a*) receipts from any charitable or religious activity, for which it is registered, carried out by such registered non-profit organisation in such tax year;

(*b*) receipts, other than those specified in clause (*d*), whether capital or revenue, derived from any property or investment held by such registered non-profit organisation in such tax year;

(*c*) voluntary contributions received by such registered non-profit organisation in such tax year; and

(*d*) gains of any commercial activity, other than the commercial activities restricted under sections 345 and 346, carried out by such registered non-profit organisation in such tax year, computed in such manner, as prescribed.

335.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

335.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> "Clause 335 of the Bill provides the meaning of regular income of a registered nonprofit organisation. The clause does not correspond to any particular section of the Act. The clause provides meaning of the 'regular income' and concept of 'regular income' has been inserted to streamline taxability of registered non-profit organization".

335.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Clause 335 (c) be substituted as follows: voluntary contributions received by such registered non-profit organisation in such tax year, not being anonymous donation as in [Table Sl.No. 1 Clause 337]

2. Amend the clause to refer to “income” instead of “receipts” to ensure that only net income is considered for taxation and for accumulation computation purposes.

The proposed clause taxes receipts, which can include capital recoveries (e.g., sale proceeds of property) or gross inflows without deduction of expenses Taxing receipts contravenes the principle of real Income-Taxation, wherein only surplus or profit is subject to tax For example, if an NPO sells an asset worth INR 10,00,000 (acquired at ₹9,50,000), taxing the entire INR 10,00,000 as receipt is incorrect — only the INR 50,000 gain should be taxable Furthermore, the 15% accumulation limit under current law (Section 11(1)(a)) is computed on income, not gross receipts Applying the limit on receipts unfairly reduces the amount that NPOs can retain and carry forward, hampering their long-term financial stability This change will also avoid interpretational disputes and align with the long-standing jurisprudence and spirit of exempting charitable entities from undue tax burdens.

3. There is a need for clarification as to whether the trust would be required to follow the cash basis of accounting. After perusing the clause 335, it appears that income of the trust would be taxable on the cash basis contrary to the existing provisions of accrual basis of taxation which is more scientific and in fact help in restricting tax avoidance It may also be relevant to point out that the then Companies Act, 1956 was amended making it mandatory for all companies to follow accrual method of accounting.

4. Regular Income u/s 335 should not include Capital Receipts and the same be treated similar to Corpus Donations. Alternatively, the investment in Bank FDR or Bank Deposit out of sale proceeds of capital assets be allowed as application as enumerated in CBDT Instruction number 883 dated 24/9/1975. Ensure consistency with earlier administrative guidance and judicial principles. - Avoid distortion of income computation and compliance burden for trusts. - Facilitate proper reinvestment of capital receipts in charitable infrastructure or corpus.

5. Regular income of any tax year of a registered non-profit organisation means— (a) receipts from .....; (b) receipts in the nature of income, other than those specified in clause (d), whether capital or revenue, derived from any property or investment held by such registered non-profit organisation in such tax year; Capital Receipts would include maturity proceeds of investments, reinvestment of which would not amount to application of income. Taxing such maturity proceeds would destroy the investments built up by the trusts over several decades.

6. There must be a provision that how the property or any item received in donation in kind be valued, because presently there is no such mechanism.

7. Clause 335 (c) be substituted as follows: Voluntary contributions received by such registered non-profit organization in such tax year, not being anonymous donation as in (Table Sl.No.1 Clause 337).

335.5 Examination by the Committee:

335.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025".

2. "Suggestion seeks to amend clause 335(a) and 335(b) to substitute the word 'receipts' with the word 'income'".

"The concept of receipts and application thereof has been clarified in the Bill. The provisions have been rationalised to that receipts from charitable activity become regular income and application is allowed against receipts. This will remove the complications in the assessment of NPOs. The amendment has been rightly made. the suggestion is not feasible".

3. "Suggestion seeks a clarification on accounting method to be followed for recognition of income by NPOs, as bare reading of clause 335 suggests that income may be required to be recognised on cash basis. Clause 335, essentially continues the policy of recognition of income and expenditure. Even though the word 'receipt' has now been used instead of 'income', the term income was used in the same manner earlier. Therefore, the manner of recognising receipts and payments continue to be the same except the fact that ambiguity has been removed. Further, application of income will be recognized on "paid" basis only and the same is clearly mentioned in clause 341(1)(a)(i), a continuation of policy as in Income-Tax Act, 1961. [Explanation to section 11(7)]. Since there is no policy change on the recognition of income".

4. "Suggestion seeks that regular income of NPOs should not include capital receipts and this may be treated as corpus donation. Under the I T Act, with respect to the income of trust or institution, there was no distinction between revenue or capital receipts. In order to simplify the provisions and remove ambiguity the treatment of regular receipts and corpus donation have been clearly classified. There is no rationale for subsuming corpus in regular receipts. It will also be detrimental to the protection of corpus. In view of the above, the suggested amendment is not feasible".

5. "The IT Bill has simplified the provisions relating to NPO and consolidated it in one single chapter. Under the I T Act, with respect to the income of trust or institution, there was no distinction between revenue or capital receipts. In order to simplify the provisions and remove ambiguity it has now clearly been classified. Clause 337 relates to specified income of NPO. There are 11 items listed as specified income. The apprehension expressed by the stakeholder is not included in the specified income. Therefore, the suggestion is not clear".

6. "Suggestion seeks a provision to provide valuation of the property or any item received in donation in kind, because presently there is no such mechanism. It is also in

nature of policy. The property received in donation forms part of regular income. The application of this income can be the immovable property itself as it is one of the specified modes of investment. Therefore, valuation is not required at the receipt stage. Valuation requirement at the stage of receipt does not serve any purpose and would only enhance compliance burden. The NPO would in any case record such receipt in the books of account on the basis of the value of such receipt. If it is an accepted mode of investment then the receipt can continue as such otherwise it will be converted to an acceptable mode".

7. "Suggestion seeks that clause 335(c) may be amended so that as per amended clause shall read as: 'Regular income' shall mean voluntary contributions received by such registered non-profit organisation in such tax year, not being anonymous donation. The rationale for suggested amendment has not been provided. Clause 355(a) defines 'anonymous donation' to mean any voluntary contribution whose records and prescribed particulars are not maintained. And under clause 337 'anonymous donation' above a specified limit [higher of 1 lakh or 5%], except in the case of NPOs created wholly for religious purposes, is treated as 'specified income'. Therefore, 'anonymous donation' beyond the specified limit [higher of 1 lakh or 5%] is taxed under the Act as well as Bill. Specific exclusion of 'anonymous donation' from definition of 'voluntary contribution' may lead to taxation of entire amount as specified income and may adversely affect the NPOs created wholly for religious purposes (as the anonymous donation received by them would also be treated as specified income)".

335.5.2 In this regard, the reprentative of the Ministry has added the following during the 31st Sitting of the Committee held on 10 June, 2025:

> *"I would like to give a brief background of what has been done. These issues will be coming up repeatedly in many clauses. Earlier in our Act, the issues related to trust were scattered in 5 chapters. The Sections related to trust and the name of the trust was also used in different terms like trust, institution, university educational institution, hospital etc. All these were used in the Act. It was spread over 5 chapters. It was very difficult to understand them. Some of the sections became so complicated. I will give you one example. There was one clause 23C in section 10 which was related to educational institutions and how their income will be exempted. It had 15 sub clauses, then it has 24 provisos and 3rd proviso had 7 explanations and explanation 2 to the 3rd proviso had again 8 provisos. You can go through the section. It became so complicated over the period that it was difficult for anybody to understand it. Similarly, in other sections many changes had been made. So when we started drafting the new IT Bill, this was the first to be taken off because this was the most complicated part of the Income-Tax Act. Committee went through the entire provisions. Our aim was to bring all the provisions related to trust at one place, simplify it. Four or five issues are there which are all listed in these clauses, we will be answering to them why we have done that, and then as per the learned opinion of the Committee we will again be putting it to consideration. This was thoroughly discussed at every stage what are the changes that we have made? First of all, a common name, non-*

profit organization was brought in the IT Bill. So, whatever was earlier being assessed under these trust provisions, they have been brought under non-profit organization. There were many redundant provisions which were no longer applicable. They were removed. Some of the provisions were tabulated. In tabular form we provided for better understanding of the things. We used only one language registration. Earlier somewhere it was written as registration, somewhere it was written as approval. So, registration was used. Lastly, taxability of all types of income of the registered non-profit organizations was provided in Part B of Chapter 17 itself instead of going to different sections. Now, all the provisions are together. At one go, any NPO can find out how it is to be registered".

335.5.3 The Ministry representative further stated as below:-

"Sir, in NPO organisations, generally there is no concept of a capital receipt or a revenue receipt, capital expenditure, revenue expenditure. That is why everything which comes in is a receipt. Everything which goes out is an application. That is how the accounts of a non-profit organisation in practical course are being maintained. So, the usage of the word 'income' in the chapter as it existed prior, in the 1961 Act was not so rational. It was better to use it as it is used practically including it in the receipt form and then the application form".

335.5.4 He also added as follows:-

"We can clarify. There are two parts of the funds of any charitable institution. One is corpus and the other is other than corpus. Now, if the doner gives donation with a specific direction that this shall form part of corpus – this is the only direction required, nothing else – then, it becomes a part of corpus. That can be held by the trust indefinitely or used immediately. That is the complete discretion of the trust. Now, with respect to the rest of the income, 85 per cent needs to be spent in a year. If they are not able to spend 85 per cent, they can accumulate it for five years. That provision is also there. Now, when they apply that income, then, the difference between capital and revenue is not there. They can buy asset for the use of charity or they can use it for revenue like giving away salary and all. So, that entire discretion is available".

335.5.5 Furthermore,he deposed as under:-

"Sir, there were two methods of accumulation. Again, some changes have taken place in that. So, earlier, one was for one year. Without specifying any purpose, they could have spent it till next year".

"Another was to accumulate it for five years. For that, the purpose was to be mentioned. So, separate forms were there. When Committee was going through it, through their practical experiences, because all the Committee Members had worked in this field, as CIT exemption, they found that this was creating many

times confusion and problem with the assessees also. Many times, they were having different type of forms. The wrong form was filled up and it was leading to administrative issues also. So, a call was taken to simplify it and provide for five years of period. For a total period of five years, you can accumulate it and the balance amount can be spent in the next five years and only single form for that. Only one change has taken place due to that which was earlier there. Now, it is not available. Earlier, within one year, the trust could have donated it to another trust also and that was treated as application of income".

"Sir, this process was also prone to misuse. So, earlier, one amendment was made in the only Act only, that when one trust gives it to another trust as donation, then only 85 per cent of that amount will be treated as application of income and not 100 per cent. So, that check was provided".

"Since this one year period of accumulation was not provided in the new Bill, this is not available now - the donation to another trust".

335.6 <u>Observations/Recommendations of the Committee:</u>

335.6.1 The Committee observe that Clause 335 of the Bill introduces the concept and meaning of "regular income" for registered non-profit organizations, a provision currently absent from the Income-Tax Act, 1961. This new concept is designed to streamline the taxability of such entities.

335.6.2 The Committee. during deliberations, carefully considered various suggestions from stakeholders and experts regarding this clause. Following a review of these suggestions and the Ministry's response, the Committee note that the Bill uses the term "receipts" where the existing Income-Tax Act, 1961, used "income." The Committee express strong concern that taxing "receipts" contravenes the principle of real Income-Taxation, as "receipts" can include capital recoveries or gross inflows, which do not necessarily represent net income. For the purposes of taxation and accumulation, the Committee firmly believe that rules should ideally apply to net income, not gross receipts.

Therefore, the Committee recommend the reintroduction of the term "income" in Clause 335. This amendment is critical to ensure that only the net income of a registered non-profit organization is considered for taxation and accumulation.

335.6.3 Subject to this amendment, the Committee approve Clause 335 of the Bill, underscoring the necessity for appropriate modifications to align with this recommendation.

Clause 336 - Taxable regular income

336.1 Provision proposed in the Income-Tax Bill, 2025:

336. The taxable regular income of a registered non-profit organisation for any tax year shall be—

(*a*) *nil*, where 85% or more of the regular income for such tax year has been applied or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and

(*b*) in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

336.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such

income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section

(5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [77][at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*)

of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[80][(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such

amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

336.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> "Clause 336 of the Bill seeks to deal with the taxable regular income of a registered non-profit organisation. The clause corresponds to section 11(1) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

336.4 Important Views/Suggestions given by Experts/Stakeholders:

Considering Clause 336 of the Income-Tax Bill, 2025 mandates that an NPO's 'regular income' is taxable if less than 85% is applied to charitable purposes, and given the Bill's stated objective of 'standardizing' the tax framework for NPOs, does clause 336, or any accompanying provision within the Bill, introduce a standardized two-year period for the assessment of reporting of the 85% application of regular income, or a consistent bi-annual cycle for the utilization of accumulated income, thereby potentially altering the current annual assessment of application or extending the time allowed for expenditure of accumulated funds for compliance purposes?

336.5 Examination by the Committee:

336.5.1 In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

336.5.2 In response to the assessment period of application, the Ministry of Finance in their written replies as follows:-

“The question on assessment of application or accumulation of income in not clear. However, it is mentioned that a NPO has to apply 85% of its receipts/income during the tax year for charitable activities. Where the NPO could not apply requisite amount, the same can be invested or deposited in the specified modes for a period upto 5 years.

336.6 <u>Observations/Recommendations of the Committee:</u>

The Committee observe that Clause 336 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 11(1) of the Act regarding the taxable regular income of a registered non-profit organization. After considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 336 as proposed.

Clause 337 - Specified Income

337.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

337. The specified income of a registered non-profit organisation shall mean the income as specified in column B of the Table below and shall be taxable in the year provided in the column C thereof:—

Table

Sl. No.	Specified income	Tax year
A	B	C
1.	Any anonymous donation received by a registered non-profit organisation (other than a registered non-profit organisation created or established wholly for religious purposes) excluding the anonymous donations up to ₹1,00,000 or 5% of the such donations received by it during the tax year, whichever is higher.	Tax year in which such anonymous donation is received.
2.	Any portion of income applied by it, directly or indirectly, for the benefit of any related person, computed in the manner, as prescribed.	Tax year in which such application is made.
3.	Any portion of income applied by it outside India in contravention to the provisions of section 338(*a*).	Tax year in which such application of income is made.
4.	Any investment made in contravention to the provisions of section 350 out of any income, accumulated income, deemed accumulated income, corpus, deemed corpus, or any other fund.	Tax year in which such investment is made.
5.	Any deemed corpus donation in respect of which any of the conditions specified in the section 340 is violated.	Tax year in which such violation is made.
6.	Any portion of accumulated income, if it is applied to purposes other than charitable or religious purposes for which it is accumulated or set apart.	Tax year in which it is so applied.

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A	B	C
7.	Any portion of accumulated income, if it ceases to be accumulated or set apart for application to such purposes as specified under section 342(*1*).	Tax year in which it ceases to be so accumulated or set apart.
8.	Any portion of accumulated income, if it is not utilised for the purpose, for which it is accumulated or set apart within the period for which it was accumulated or set apart as specified in section 342(*1*).	Last of the tax years for which income was so accumulated or set apart.
9.	Any portion of accumulated income, if it is credited or paid to any other registered non-profit organisation.	Tax year in which it is so credited or paid.
10.	Any income applied to purposes other than charitable or religious purposes for which it is registered.	Tax year in which it is so applied.
11.	Any income determined by the Assessing Officer under section 344 in excess of income shown in the books of account of such business undertaking.	Tax year to which such income relates.

337.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Specified income of certain institutions.

115BBI. (1) Where the total income of an assessee, being a person in receipt of income on behalf of any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*), of clause (*23C*) of section 10 or any trust or institution referred to in section 11, includes any income by way of any specified income, notwithstanding anything contained in any other provision of this Act, the income-tax payable shall be the aggregate of,—

(*i*) the amount of income-tax calculated at the rate of thirty per cent on the aggregate of such specified income; and

(*ii*) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of specified income referred to in clause (*i*).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the specified income referred to in clause (*i*) of sub-section (1).

Explanation.—For the purposes of this section, "specified income" means,—

(*a*) income accumulated or set apart in excess of fifteen per cent of the income where such accumulation is not allowed under any specific provision of this Act; or

(*b*) deemed income referred to in *Explanation 4* to the third proviso to clause (*23C*) of section 10, or sub-section (1B) or sub-section (3) of section 11; or

(*c*) any income, which is not exempt under clause (*23C*) of section 10 on account of violation of the provisions of clause (*b*) of the third proviso of clause (*23C*) of section 10, or not to be excluded from the total income under the provisions of clause (*d*) of sub-section (1) of section 13; or

(*d*) any income which is deemed to be income under the twenty-first proviso to clause (*23C*) of section 10 or which is not excluded from the total income under clause (*c*) of sub-section (1) of section 13; or

(*e*) any income which is not excluded from the total income under clause (*c*) of sub-section (1) of section 11.

337.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 337 of the Bill provides for specified income of a registered non-profit organisation. The clause corresponds to section 115BBI of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

337.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Change in anonymous donation taxation to 5% of anonymous donations (instead of exceeding 5% of total donations or ₹1 lakh) may increase the tax burden and could be a drafting oversight. Clause 337 of the Bill is intended to simplify provisions of 115BBC of the Income-Tax, 1961.

2. It is recommended to rationalize the rigorous provisions of proposed clause 337. The imposition of 30% tax on the value of investment seems cumbersome and can lead to huge tax implications. Further, while the non-profit institutions are allowed to divest

the investment within a period of 1 year, no tax liability can be envisaged till expiry of such period. Therefore, it is recommended to rationalize the proposed provisions accordingly.

3. Tax only income, not full corpus

4. Allow 1-year divestment period before taxing

5. Please extend its exemption scope to wholly religious and charitable NPOs and maintain Status QUO. Anonymous Donations through digital modes up to ₹5000 per case be exempted from anonymous donation taxation threshold to prevent penalising micro-donations. Performing charitable activities are part of majority religions and faiths. Exclusion may lead to unnecessary litigations and hence, status quo shall be maintained. It is difficult to get donors' full details in digital mode like UPI, IMPS mode transactions as the banks don't give any details of the transferee.

6. In addition to wholly religious trusts, **partly charitable and partly religious trusts** shall be covered in the exclusions in respect of donations received in the course of their religious activities. As per the current provisions of ITA, 1961 following entities are not liable to pay tax on anonymous donations received by them irrespective of the limit specified under section 115BBC -
(a) any trust or institution created or established wholly for religious purposes;
(b) any trust or institution created or established wholly for religious and charitable purposes However, exclusion mentioned in (b) above does not include any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

In the ITB, 2025 only the registered NPOs created or established wholly for religious purposes are excluded from the purview of taxability of anonymous donations.

Therefore, tax would be levied on anonymous donations received by partly charitable and partly religious trusts if it exceeds the limit specified.

There are number of primarily religious NPOs (most large temple trusts) which are applying the anonymous donations received in Hundi / donation boxes for various charitable purposes These are partly religious and partly charitable NPOs Due to the proposed change in the ITB, 2025, such NPOs would be taxed on such collections even though they are utilized for charitable purpose. To prevent the genuine hardship that may be caused to such NPO and to boost the amount available for utilization on charitable purposes in the hands of such NPOs, it is suggested to exclude the partly religious and partly charitable.

NPOs from the purview of anonymous donations, so long as such donations are received in the course of their religious activities.

7. Payment made from India outside India for serving charitable purpose in india or where beneficiaries are located in India should be treated as application in India.

Under current provisions of ITA, 1961 there is a controversy as to whether the income applied outside India for charitable purposes in India would be entitled for exemption or not. There are judicial precedents holding that the charitable purpose for which the income should be applied should be in India for claiming exemption under s 11(1)(a) If the income is applied for charitable purposes in India, the mere fact that the expenditure has been incurred out of India, does not disqualify the expenditure from exemption under s 11(1)(a). A trust may incur certain expenses that require payment to be made outside India, even though the beneficiaries are located in India For instance, a hospital in India might need to import equipment's for procedures being conducted on Indian patients in India, which necessitates a foreign remittance to purchase the required machinery Similarly, an Indian educational institution might make payment to a foreign university for foreign faculty to teach Indian students, or for conduct of part of a course (1 to 3 months) in a foreign country for students enrolled in the course in India, or for Indian students appearing for examinations conducted by the foreign university In all such cases, the benefit flows to the Indian patients and Indian students Just because a part of the expenditure has to be remitted outside India should not require prior approval of CBDT in all such cases, as there would be a large number of such applications which would unnecessarily increase the paperwork and administrative burden. In such cases, it should be made clear that application in India would include remittances made from India for the benefit of beneficiaries located in India or for charitable purposes in India.

8. "Religious purposes" shall include religious activities as well as charitable that form an integral part of the particular religion." This clarification will ensure alignment with the Constitution of India and address practical issues faced by religious trusts during assessments and renewals Many charitable activities—such as feeding the poor or providing medical aid— are essential expressions of religious practice Recognizing them within the definition of "religious purposes" will prevent arbitrary denials of exemption, reduce litigation, and uphold the rights of religious denominations to manage their affairs freely.

9. Any anonymous donation received by a registered non-profit organisation (other than a registered non-profit organisation created or established wholly for religious purposes or any trust or institution created or established wholly for religious and charitable purposes, except any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution) excluding the anonymous donations up to ₹1,00,000 or 5% of donations received by it during the tax year, whichever is higher.

(i) The exclusion should be for 5% of total donations, and not 5% of such donations, as in the existing provisions.

(ii) Secondly, religious-cum-charitable institutions should not be taxed unless such donations are received for a hospital or educational institutions Almost all large religious trusts in India do substantial charitable work, funded largely by hundi collections Such hundi collections would become taxable, reducing the ability to do charity.

10. Any portion of income applied by it for objects outside India in contravention to any provisions of section 338(a).

There is currently a divergence of view between High Courts as to whether CBDT approval is required for application outside India or for purposes outside India. The amendment that any application outside India would require CBDT approval would require NPOs to make application in a large number of cases - to illustrate, for payment to faculty visiting India to teach, for payment to foreign institutions for examinations or providing support to Indian institutions, such as colleges and hospitals, for import of medical equipment or software, etc Approval should be required only where the charitable purpose is outside India. There should be a separate simpler regime for small charitable and religious trusts with gross receipts of less than Rs 5 crore Currently, the only relief is a longer registration period of 10 years.

11. The table under section 337 in entry 1 should exclude N PO partly religious and partly charitable as provided under section 115BBC. The exclusion of the said mixed NPO would lead to great hardship as these mixed NPO's receive donations in Golaks and Dan pattis which is used for charitable purposes If the amount is taxed as anonymous donations would create a greater difficulty for such trust The intention was to not make any policy changes and hence the non inclusion of the mixed NPO is a major change in the policy This would create great difficulty for temple trust who have spend less than 5% for religious and spend majority for charitable purposes.

12. The smaller trust are given the relief of registration upto 10 years under S 337 if the total receipts are less than 5 crores The benefit should also be extended for registration under section 354 (erstwhile 80G). This will go a long way to help the smaller trusts who are doing an extensive charity work and is helping the government in its object of development of all.

13. Tax only income, not full corpus.

14. Reintroduce a provision akin to the explanation to Section 115BBC under the 1961 Act, recognising religious-cum-charitable trusts as a legitimate class eligible for anonymous donation concessions.

337.5 <u>Examination by the Committee:</u>

337.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Anonymous donation to be excluded should be 1 lakh or 5% of total donation. Instead it has got tagged to anonymous donation. Suggestion is acceptable as it is a drafting correction".

2. "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. The taxation of the assets mentioned in subclause (iia) of proviso to section 13(1) was provided in Income-Tax Act, 1961. The same provisions have been incorporated as clause 30 of the Schedule XVI of the Income-Tax Bill, 2025. In order to provide further clarity to the S. No. 04 in the clause 337; a new entry of S. No. 5 may be made below S. No. 4 of 337 taking the total number of entries in the table to 12 Hence, the suggestion given by the stakeholder is acceptable".

3. "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025".

4. As mentioned in sl.no. 2 above

5. "The suggestion seeks exemption for anonymous donations to NPOs created or established for wholly religious and charitable purposes. This provisions corresponds to section 115BBC of the IT Act. In the said provisions exemption on anonymous donations was available to any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution. The said provision was not incorporated in the Bill as it was found to be unworkable. Wholly religious trusts have been allowed exemption on anonymous donations. The rationalisation has been made in the Bill to provide certainty".

6. "Suggestion seeks payment made from India outside India for serving charitable purpose in India or where beneficiaries are located in India should be treated as application in India. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Clause 338(a) is a simplification of the provisions of section 11(1)(c) of the Act. The said provisions apply to certain specific NPOs (NPOs for charitable purposes which tends to promote international welfare and NPOs created before the 1st April, 1952 for charitable or religious purposes). Said clause also empowers the CBDT to direct by general or special order the non-inclusion of any application of income outside India in total income. Hence, the CBDT may always delegate such powers to lower authorities, if required. In view of the above, the suggested amendment is not feasible".

7. “Suggestion seeks clarification that “Religious purposes” shall include religious activities as well as charitable activities that form an integral part of the particular religion.” The term 'religious purpose' has not been defined under the I T Act or IT Bill. No specific instances have been highlighted where such a view has been taken during assessments. Therefore, the apprehension raised in the suggestion has no basis. The suggestion for expansion of the scope of “religious purpose” by including elements of charitable purposes is in the nature of significant policy change which is beyond the scope and objectives of Income-Tax Bill, 2025. Hence, the same is not acceptable”.

9. **Accepted:**
“Drafting error. May be corrected”.
(ii) Suggestion seeks that religious-cum-charitable institutions should not be taxed unless such donations are received for a hospital or educational institutions.” As mentioned in sl.no.5 above.

10. As mentioned in sl.no. 7 above.

11. As mentioned in sl.no. 5 above.

12. The suggestion seeks to enhance the time limit for expiration of approval for deduction under clause 133(1)(b)(ii) of the Bill [analogous to section 80G of the Income-Tax Act, 1961] from five years to ten years in the case of small trusts. And seeks vesting of the power to the commissioner to condone the delay in filing application of renewal of approval under clause 133(1)(b)(ii). Both the suggestions are in the nature of policy change, which is beyond the scope of I T Bill, 2025. The NPOs covered under clause 133(1)(b)(ii) not only are able to garner donations from individuals and corporates but tax benefits are also given to the donors. Therefore, stricter timelines for filing renewal and regulatory oversight at shorter time interval is more appropriate in the case of such NPOs.

13. Suggestion seeks that taxation of any investment made in contravention of section 350 should include only income and not the corpus. Clause 337 and related clauses (339, 340, 350, 351) establish a regime where ordinary charitable income is taxed normally (often effectively nil if 85% applied or accumulated), whereas corpus funds are taxed only upon misuse as a penal measure. This separate treatment traces directly to Sections 115BBI and 115TD of the current Act, maintaining legislative continuity.

If an NPO diverts any part of its income or corpus into investments that contravene the prescribed modes (e.g. investing in speculative ventures or non-approved assets in violation of Clause 350), then the amount of that investment is treated as taxable income for that year. By taxing the principal misused – not merely the income earned from it – the Trusts cannot evade consequence by risking corpus funds in improper avenues.

Allowing corpus to be invested in modes other than the specified modes taxing only income could result in a situation where the entire fund required to be applied for charity could be diverted for risky endeavours such as trading in futures and options. Taxing only income is therefore no solution.

14. This provisions corresponds to section 115BBC of the IT Act. In the said provisions exemption on anonymous donations was available to any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution. The said provision has been amended to restrict exemption to only wholly religious trusts. The exemption has been restricted to mixed object trust as it was found to be unworkable.

337.5.2 The Ministry in their written replies stated the followings:-

"The provisions relating to NPOs have been rationalised in the Bill.

Under the provisions section 115BBC exemption on anonymous donations was available to any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

The said provision was not incorporated in the Bill as it was not found to be workable. Wholly religious trusts have been allowed exemption on anonymous donations. The rationalisation has been made in the Bill to provide certainty".

337.5.3 With regard to suggestion sl.nos.1 and 2 of para 337.5.3, the representative of the Ministry stated the following during the 27th Sitting of the Committee held on 27 May 2025:-

"Sir, there was a drafting error. We have accepted it."
…..We have not made any policy change in the Act. It is the same as it was before. But now they are saying that you change the rate of tax when trust violates the conditions imposed upon it. Earlier also it was there. We are doing the same right now also."

337.5.4 The representative of the Ministry has deposed the following before the Committee during the 31st Sitting of the Committee held on 10 June, 2025:-

"Sir, this is the issue relating to anonymous donation received by the Trust. There is again some change from the old Act. I will point out it to you. Earlier, anonymous donation was taxable in the hands of the Trust. But we have

provided two exemptions. One exemption was to wholly religious trust, like temples and all, whatever they receive as anonymous donation, that cannot be taxed".
Another was for those trust which were wholly for religious and charitable purposes, mixed object trust. In that case, a condition was provided that if this anonymous donation is provided for the use of university, college or hospital run by such trusts, in that case, it will become taxable. Otherwise, it would not be taxable. This was there in the old Act. Now, in the new Act, again Sir, wholly religious trusts have been exempted but other type of exemption to the mixed trust has not been provided for anonymous donation. So, anonymous donation in the hands of the mixed trust have become taxable".

I will just give you the background of the original provision. The anonymous donation has to be taxed for all purposes. Section 115BBC tells that it has to be taxed. There was a problem that religious trusts keep on getting anonymous donations. Therefore. religious trusts were excluded from that

"The religious and charitable trusts were also excluded, but the problem which came was that educational institutions and medical institutions started taking up capitation fee in the name of anonymous donation. So, we provided a specific wording in that clause the anonymous donation received by a charitable and religious trust with a specific direction which is not for the purpose of medical services or education. It was further stated by Ministry officials that "So, there is a mutually contradictory provision that anonymous donation received with a specific direction that it will not be for educational purpose. This is a non-workable provision. How can an anonymous donation come with a specific direction that मैं इस को एजुकेशनल इंस्ट्रियूशन के लिए नहीं यूज़ करूंगा*?* इस वजह से वह अनवर्केबल था*,* जिसके कारण हमने उसे रिमूव कर दिया। हां*,* उस वजह से पॉलिसी में कुछ चेंजस टेन्ली आया है। जैसा किस रनेपॉइंट*-*आउट किया कि मिक्स्ड ट्रस्ट एनॉनिमस डोनेशन नहीं ले पाएगा*,* क्योंकि अब हमने उसको टैक्सेबल कर दिया है।*".*

337.5.5 The Committee asked the Ministry to clarify on two key points regarding the proposed legislation for charitable and religious trusts: first, whether to replace the rigid "30%" tax rate with a more adaptable "percentage of tax as notified by the Government from time to time" to avoid frequent amendments; and second, whether a full assessment has been conducted on the potential negative repercussions of a 30% tax on investment value, including reduced charitable activities, legal challenges, disincentivized financial management, and undermining the very objectives of these organizations. In response, the Ministry of Finance (Department of Revenue) has submitted written replies as under:-

"….Clause 337 keeps the 30 per cent rate exactly as it stands in Income-Tax Act, 1961. Sections 115BBI (inserted by Finance Act,2022) and 115BBC (inserted by Finance Act,2006) already fix a flat 30 per cent tax on problem receipts such as anonymous donations and other non-compliant income. The Bill merely preserves that figure into Clause 334(1)(a) and the definition of "specified income" in Clause 337. Swapping a clear statutory number for a future "percentage to be notified" would hand Parliament's rate-setting power to the executive and up-end settled tax practice. This goes against the grain of tax legislation practice – tax rates, especially penal or deterrent rates, are set by statute for certainty and legislative control. The exercise before the Select Committee is one of re-drafting, not resetting policy, so the figure should stay as 30 per cent.

….indeed considering the potential impacts of the 30% tax on charitable and religious trusts' specified incomes, it is emphasized that Clause 337 of the Bill introduces no new tax burden on the non-profit sector – it simply consolidates existing provisions (sections 115BBI and 115BBC of the 1961 Act) into a single, clearer framework. The policy of taxing certain default incomes at 30% was introduced as a reform to promote compliance. Historically, before these provisions, an assessing officer could deny an errant trust's entire exemption, leading to even harsher outcomes. The 30% tax on specified non-compliant income provides a measure of certainty and limited scope of tax exposure in lieu of total denial of exemption. Genuine charitable activities remain tax-exempt on their regular income, and Clause 337 does not affect any trust or institution that operates within the permitted norms. Only those funds that violate specified conditions (such as being applied for personal benefit, invested in prohibited modes, used outside India without approval, etc.) are carved out and subjected to tax at a uniform 30%. This deterrent rate is purposefully set high enough to discourage abuses (ensuring that contraventions are not rewarding financially) while still being a targeted levy rather than a broad-based tax on all charitable income

That continuing this regime will ***not stifle bona fide charitable work****. Trusts that manage their finances prudently and lawfully will* ***not incur any 30% levy at all*** *under Clause 337. There is thus no inherent disincentive for well-governed organizations – on the contrary, the provision incentivises compliance and good governance. The threshold exemptions for anonymous donations (₹1 lakh or 5% of donations) also remain, to exclude minor or unavoidable anonymous gifts. In sum,* ***Clause 337 represents continuity, not a new burden****. The* ***deterrence logic*** *behind the 30% tax is a deliberate policy choice of Parliament (affirmed through multiple Finance Acts) and remains integral to preventing the misuse of tax exemptions. Any proposal to dilute it (for example, by empowering executive notifications or lowering rates) is neither germane to the Bill's mandate nor advisable from a revenue and anti-abuse standpoint. No change is therefore proposed to the clause's language or rate.*

337.5.6 The Committee asked the Ministry on the inherent link between taxing NPO income and their foundational corpus, arguing that these two aspects cannot be entirely separated within an Income-Tax Bill, as both are intrinsically tied to the overall tax framework for such organizations. They further inquired whether the Ministry had considered international best practices, which often distinguish between taxing an organization's income and protecting its foundational corpus, and why aligning with such established norms would be deemed an extraneous policy change. In this regard, the Ministry has submitted written replies as below:-

"The objective is to tax certain incomes arising from violations or misuse of NPO funds.

(i) Deterrent Against Misuse: The separate taxation of corpus funds is grounded in deterrence – to prevent abuse of the charitable framework.

(ii) Corpus funds (being accumulated public donations exempt from the rules of mandatory application) often generate the income that fuel an NPO's activities and therefore it is required that all funds including corpus are deployed only in risk averse and specified assets or investments.

(iii) Clause 337 of the Bill enumerates several categories of "specified income" that attract taxation in the year of the misdeed, ensuring a direct and immediate deterrent. For example:

a. Anonymous donations: Any anonymous donation received by a charitable NPO (beyond a minimal threshold) is taxed in the year it is received. This continues the current Bill in clause 337 (Section 115BBC of the IT Act 1961) of taxing untraceable contributions at 30%, deterring the funneling of unaccounted money into nonprofit organisations

b. Prohibited investments of corpus: If an NPO diverts any part of its income or corpus into investments that contravene the prescribed modes (e.g. investing in speculative ventures or non-approved assets in violation of Clause 350), then the amount of that investment is treated as taxable income for that year. By taxing the principal misused – not merely the income earned from it – the Trusts cannot evade consequence by risking corpus funds in improper avenues.

(iv) In summary, Clause 337 and related clauses (339, 340, 350, 351) establish a regime where ordinary charitable income is taxed normally (often effectively nil if 85% applied or accumulated), whereas corpus funds are taxed only upon misuse as a penal measure. This separate treatment traces directly to Sections 115BBI and 115TD of the current Act, maintaining legislative continuity.

(v) Allowing corpus to be invested in modes other than the specified modes and taxing only income could result in a situation where the entire fund required to be applied for charity could be diverted for risky endeavours such as trading in futures and options. Taxing only income is therefore no solution.

Rationale in light of International practices ---

(vi) Across several OECD jurisdictions—such as the United Kingdom, United States, Canada, Australia, New Zealand, Ireland, Germany, France, Netherlands, Denmark, Sweden, Norway, Finland, Italy, Spain, Portugal, Austria, Switzerland, Japan and South Korea—the core endowment or “corpus” of a registered charity is not taxed. These countries draw a sharp line between taxing a charity’s operating income and leaving its capital funds untouched, provided the money stays within approved charitable uses. For example, both the UK and the US exempt recognised charities from income or corporation tax on grants, donations and even investment returns so long as those receipts are applied to charitable objects.

(vii) Likewise, in jurisdictions like the United States, bona fide donations and endowment incomes of tax-exempt nonprofits are not taxed; instead, regulatory oversight and targeted penalties (such as excise taxes on improper expenditures or revocation of tax-exempt status in egregious cases) are used to ensure compliance. The underlying philosophy in these countries is to “protect the organization’s foundational corpus” to further its charitable mission, intervening primarily through oversight bodies (e.g. Charity Commission in the UK or IRS regulations in the US) rather than upfront taxation of charitable assets.

(viii) India’s Context and Need for Corpus Taxation: India’s corpus taxation regime must be viewed in the context of our domestic legal and fiscal framework. Unlike some countries with long-established charity regulators and extensive public oversight, India has faced significant challenges with misuse of charitable trusts for private benefit, tax evasion, and money laundering in the past. The government has responded by embedding transparency and anti-abuse rules within the tax law itself to tightly regulate the fiscal conduct of NPOs. The

separate tax on corpus-related violations is central to this strategy, aimed at ensuring that tax exemptions for charities are not misused as a conduit for unaccounted funds or profit distribution or even terror financing. In effect, the Indian approach uses the tax mechanism as an enforcement tool to compel fiscal discipline and accountability in the NPO sector – a role that elsewhere might be played more by non-tax regulatory enforcement.

(ix) While international best practices offer valuable points of reference, merely aligning with global norms (by, for example, exempting corpus funds entirely from tax oversight regardless of misuse) would amount to a fundamental policy shift for India. It would entail moving away from a proven deterrent system and relying solely on trust law or external regulators to police NPO finances. Such a shift is neither contemplated by the present Bill nor warranted by the prevailing conditions in India.

(x) When Section 115BBC was introduced in 2006 to tax anonymous donations, or Section 115TD in 2016 to tax accreted assets, it was because lesser measures in line with other countries had proven inadequate to curb prevalent abuses. Diluting these measures in the name of global conformity would undermine the robust safeguards that protect the integrity of charitable funds in India.

(xi) Moreover, the international norm of not taxing corpus is premised on the assumption that charities will self-regulate or be closely regulated by authorities to prevent misapplication of funds. In India, tax authorities have a dual role – not only to collect revenue but also to ensure that tax-exempt entities adhere to the purposes for which they enjoy exemptions. The corpus taxation provisions in Clause 337 (and the stringent conditions in Clauses 339–340) reflect this philosophy. They do not tax genuine charitable activity; rather, they stand guard against aberrations – e.g. a shell charity accepting large anonymous donations (which could be black money), or a trust parking its corpus in private investments or sister concerns. In absence of such provisions, the law would be forced to either ignore these abuses or resort to the extreme step of cancelling registration in every case of violation. International practice shows that outright withdrawal of charitable status is a blunt instrument used sparingly; India's regime instead imposes calibrated fiscal consequences (tax on the offending amount) while usually allowing the NPO to continue if it returns to compliance. This is a nuanced policy choice that aligns with India's oversight capacity and enforcement priorities.

(xii) Hence, India's corpus taxation regime is necessary and contextual. It ensures that the generosity of donors and the tax foregone by the state (through charitable exemptions) are safeguarded by a layer of fiscal accountability.

(xiii) In conclusion, Clause 337 of the Income-tax Bill, 2025 (read with Clauses 338–340 and 350–352) continues the established policy of separately taxing certain NPO funds only in cases of misuse. This approach provides continuity from the 1961 Act (Sections 115BBI, 115TD, etc.) and implements a deterrent yet proportionate framework: legitimate corpus donations remain untaxed and inviolate, whereas misapplied or illicit funds are brought to tax at the appropriate stage. Internationally, while many jurisdictions do not ordinarily tax corpus funds, India's tailored regime fills the gap of oversight through fiscal measures suited to our context. Emulating overseas models wholesale would represent a major policy departure and could weaken the safeguards around charitable finances".

337.6 Observations/Recommendations of the Committee:

337.6.1 The Committee's examination of Clause 337 of the Bill, which pertains to the "specified income" of registered non-profit organizations (NPOs) and mirrors Section 115BBI of the existing Income-Tax Act, 1961, reveals a significant divergence in the treatment of anonymous donations. While the Bill's stated aim is textual simplification, the Committee observe a critical omission concerning religious-cum-charitable trusts, which could have substantial adverse impacts on a large segment of India's NPO sector.

337.6.2 Under the proposed Clause 337 (read with its "Table of Specified Income"), a flat 30% tax is imposed on anonymous donations received by *all* registered non-profit organizations, with a narrow exemption extended *only* to those established wholly for religious purposes. This marks a stark departure from the current Section 115BBC of the Income-tax Act, 1961. The existing law provided a more comprehensive exemption: anonymous donations were not taxed if received by any trust or institution created or established wholly for religious and charitable purposes, *unless* such a donation was specifically directed towards a university, educational institution, hospital, or medical institution run by that same trust or institution.

337.6.3 The Committee emphasize that the classification within the erstwhile Section 115BBC was highly pertinent to the Indian context, acknowledging the prevalent hybrid nature of numerous trusts that seamlessly blend religious and charitable activities. This previous provision legitimately recognized these

"religious-cum-charitable" entities as a distinct and valid class eligible for concessions on anonymous donations, understanding that such organizations often receive contributions through traditional means (like donation boxes) where donor identification is practically impossible.

337.6.4 Therefore, to maintain consistency with the historical understanding of NPO operations in India, prevent unintended taxation burdens on genuine organizations, and uphold the intent of supporting both religious and charitable endeavors, the Committee strongly urge the reintroduction of a provision analogous to the explanation found in Section 115BBC of the 1961 Act. This reintroduction would explicitly recognize religious-cum-charitable trusts as a legitimate category eligible for concessions on anonymous donations. Subject to this recommendation, the Committee approve Clause 337 as proposed.

Clause 338 - Income not to be included in regular income

338.1 Provision proposed in the Income-Tax Bill, 2025:

338. While computing the regular income of a registered non-profit organisation, the following income shall not be included:—

(*a*) income applied outside India, where the Board, by general or special order, directs that such income shall not be so included in its total income in case of a registered non-profit organisation—

(*i*) created before the 1st April, 1952 for charitable or religious purposes; or
(*ii*) created on or after the 1st April, 1952 for charitable purposes where such application of income outside India tends to promote international welfare in which India is interested;

(*b*) the corpus donation received by the registered non-profit organisation under section 339.

338.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [77][at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such

investment or [78][deposit:]

[79][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[79a][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where

application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[80][(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before

such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [81][at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution

referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State

Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[82][*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [83][*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [84][or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [85][*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [86][under [85][*clause (*23EA*) or*] clause (*23EC*) or [85][*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.
Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

338.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 338 of the Bill seeks to provide for income not to be included in regular income of a registered non-profit organisation. The clause corresponds to section 11(1)(c) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

338.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Substitution of Clause 339: Corpus donation means any donation including donation by a person, being a promoter or a person belonging to the promoter group of shares of a company listed on a recognised stock exchange, made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation where such donation, is invested or deposited in any of the modes permitted under clause 350 maintained specifically for such corpus.

Insertion of a new sub-clause in Clause 70 after sub-clause (b): "of a capital asset, being shares of a company listed on a recognised stock exchange, by a promoter or a person belonging to the promoter group of such company".

Insertion of definition of promoter in Clause 2 after sub-clause 86: "promoter" means a promoter as defined in section 2(69) of the Companies Act, 2013 and includes a person belonging to the promoter group".

2. The provisions of section 338 may be incorporated as a subsection of Section 335.

338.5 Examination by the Committee:

On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion seeks that donation by a person being a promoter or a person belonging to the promoter group of shares of a company listed on a recognised stock exchange be specifically included in the definition of 'Corpus donation'. The shares can be donated by promoters as corpus donation. There is no bar. As present the definition of 'corpus donation' does not make any distinction based on the 'donor'…….".

2. "Suggestion seeks that provisions of section 338(Income not be included in regular income) may be incorporated as a subsection of Section 335(Regular Income). The suggestion is in nature of drafting improvement. Clause 338(a) is simplification of the provisions of section 11(1)(c) of the Act. The said provisions apply to certain specific

NPOs (NPOs for charitable purposes which tends to promote international welfare and NPOs created before the 1st April, 1952 for charitable or religious purposes). Similarly, Clause 338(b) is simplification of the provisions of section 11(1)(d) of the Act. The said provision is in respect of corpus donation. As a rationalisation measure, the above provisions have been excluded from definition of 'Regular income'. Since application of income covered under aforementioned provisions are specific and differ from regular income, they have been separately classified. In view of the above suggested amendment is not feasible".

It may be mentioned here that during the 31st Sitting of the Committee held on 10 June, 2025 with regards to the Clause 338 the representatives of the Ministry submitted that

> *"The suggestion is that income which is not to be included in regular income, so that may be made as a sub-section of regular income. So, we are providing regular income. What is the regular income of an NPO? That these are the things. Four items are listed that this will be regular income that means receipts and then there is application out of it. And then the income which is not be included in the regular income, they are saying that you make it a sub-section of this regular income itself, which we have listed separately, that these are the items which are not to be included in regular income".*

338.6 Observations/Recommendations of the Committee:

The Committee note that Clause 338 of the Bill addresses the income categories that are specifically excluded from the "regular income" of a registered non-profit organization. This clause corresponds directly to Section 11(1)(c) of the existing Income-Tax Act, 1961. The Committee also note that the Bill has textually simplified the provisions of the corresponding existing section while retaining its original intent. After thoroughly considering the viewpoints presented by both stakeholders and the Department, the Committee accept Clause 338 as proposed.

Clause 339 - Corpus donation

339.1 Provision proposed in the Income-Tax Bill, 2025:

339. Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation where such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

339.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be*,* being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they

apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation*

2, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the

meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such

undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient

occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later[*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.

Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

339.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 339 of the Bill provides for the meaning of corpus donation of a registered non-profit organisation. The clause corresponds to section 11(1)(d) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

339.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Donation to corpus with specific directions be treated as receipts of the trust. As there is provision for accumulation of surplus by the trust independently. Hence separate deduction for corpus donations is not necessary. The exemption to corpus donation be deleted. As there is provision for accumulation of surplus by the trust independently. Hence separate deduction for corpus donations is not necessary. The exemption to corpus donation be deleted.

2. Substitution of Clause 339: Corpus donation means any donation including donation by a person, being a promoter or a person belonging to the promoter group of shares of a company listed on a recognised stock exchange, made with a specific direction by the donor that it shall form part of the corpus of the registered nonprofit organisation where such donation, is invested or deposited in any of the modes permitted under clause 350 maintained specifically for such corpus.

3. Insertion of a new sub-clause in Clause 70 after sub-clause (b): "of a capital asset, being shares of a company listed on a recognised stock exchange, by a promoter or a person belonging to the promoter group of such company".

339.5 Examination by the Committee:

339.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion seeks that donation to corpus with specific directions be treated as receipts of the trust. And exemption to corpus donation be deleted. As a rationalisation measure, the corpus donation has been specifically excluded from definition of 'Regular income' in clause 338(b). It is to protect the corpus of the trust that separate treatment is

provided in the Act as well as Bill for the corpus. In the Bill no change has been made in the manner in which 'corpus donation' was treated under the IT Act. Therefore, in respect of 'corpus donation' there is continuity in the policy . Hence, the suggested amendment is not feasible".

2. "Suggestion seeks that donation by a person being a promoter or a person belonging to the promoter group of shares of a company listed on a recognised stock exchange be specifically included in the definition of 'Corpus donation'.The shares can be donated by promoters as corpus donation. There is no bar. As present the definition of 'corpus donation' does not make any distinction based on the 'donor'. The suggestion is already addressed.

3. The suggestion seeks specific exemption from transfer for shares of listed company where they are donated to trust. No rationale has been provided by the stakeholder. The exemption is already provided where capital asset is given by gift, will or irrevocable trust. The suggestion is already addressed".

339.5.2 When a trust sells property to fund its institution's operations, can a portion of the proceeds be allocated to a capital fund (like a corpus fund), rather than being spent immediately, the representative of the Ministry has replied during the oral evidence on 9.6.2025 as under:-

> *"Corpus donation means any donation made with a specific direction by the donor that the donation shall form part of the corpus of the registered NPO. Such donation has to be deposited or invested in the specified modes maintained specifically for such corpus.*
>
> *Thus, corpus is not something which a registered NPO can generate on its own by sale of some assets like land etc. Therefore, where a property is sold for the needs of the NPO, the proceeds have to be applied in the regular manner. No part of it can be taken to the corpus".*

339.5.3 He has further clarified as under during the oral evidence held on 10.6.2025:-

> *"As explained earlier, there is a regular income of the trust and then there is corpus donation. The corpus donation is given a separate treatment and regular income is given a separate treatment. So, the suggestion is, differential treatment to corpus donation should not be done."*

339.6 Observations/Recommendations of the Committee:

The Committee note that Clause 339 of the Bill defines "corpus donation" for registered non-profit organizations, directly aligning with Section 11(1)(d) of the existing Income-Tax Act, 1961. The Committee also note that the Bill simplifies the language of the corresponding section while preserving its original intent. Having thoroughly reviewed the perspectives of both stakeholders and the Department, the Committee accept Clause 339 as proposed.

Clause 340 - Deemed corpus donation

340.1 Provision proposed in the Income-Tax Bill, 2025:

340. Where the property of a registered non-profit organisation includes any temple, mosque, gurdwara, church or other place notified under section 133(*1*)(*b*)(*vii*), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—

(*a*) maintains such corpus as separate identifiable;

(*b*) applies such corpus only for the purpose for which the contribution was made;

(*c*) invests or deposits such corpus in any of the modes permitted under section 350; and

(*d*) does not apply such corpus for making donation to any person.

340.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or

other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was

no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational

institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before

such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered

under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of

India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to,

anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.

Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

340.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 340 of the Bill provides for deemed corpus donation of a registered non profit organisation. The clause corresponds to section 11(1) Explanation 3A of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

340.4 Examination by the Committee:

340.4.1 The Committee asked numerous critical questions regarding the recent amendments to the Indian Income-Tax Act, 1961, concerning "corpus donations" for non-profit organizations (NPOs) seek clarification on several fronts. These include how India's stricter Section 11(5) investment requirements for corpus donations compare to more flexible global approaches, and whether other major jurisdictions mandate specific investment modes. Further inquiries pertain to the implications of differing international definitions of "corpus" on cross-border donations and recipient NPO taxability under existing tax treaties. The questions also delve into whether India's new provisions, particularly the 5-year reinvestment rule for applied corpus, align with global best practices in NPO governance, and if there are international models that incentivize corpus utilization without strict immediate restoration.

340.4.2 Additionally, the Committee desired to know how India's enhanced transparency and reporting requirements measure against global benchmarks for corpus funds, and what lessons can be drawn from other tax regimes regarding "double deduction" scenarios for continuous refinement of Indian tax law. The questions also aim to understand the impact of the new statutory investment requirements under Section 11(5) on the judicial interpretation of "specific direction" for corpus status, citing cases like R.B. Shreeram Religious & Charitable Trust.

340.4.3 The Committee further asked to explore the scope of judicial interpretation in situations where non-cmpliance with new rules deems corpus donations as "income," given the historical judicial view of them as capital receipts. Further questions address

anticipated judicial challenges regarding inter-trust corpus donations and the reconciliation of "application" for the donor with "corpus" status for the recipient. The Committee also sought specific judicial guidance on the tax treatment of income from Section 11(5) corpus investments and how past rulings on "specific direction" (e.g., oral vs. written) now inform NPOs' compliance strategies. Finally, the Committee desired to understand the legal and practical challenges for Indian NPOs receiving foreign corpus donations, considering the interplay of Indian and foreign tax laws, and asked whether an amendment to Clause 340(d) to include "any contribution" is necessary for clarity and to avoid litigation.

340.4.4 The Ministry of Finance (Department of Revenue) has submitted written replies as under:-

> *"Clause 337 and related clauses (339, 340, 350, 351) establish a regime where ordinary charitable income is taxed normally (often effectively nil if 85% applied or accumulated), whereas corpus funds are taxed only upon misuse as a penal measure. This separate treatment traces directly to Sections 115BBI and 115TD of the current Act, maintaining legislative continuity. It has been stated in earlier submission also that if an NPO diverts any part of its income or corpus into investments that contravene the prescribed modes (e.g. investing in speculative ventures or non-approved assets in violation of Clause 350), then the amount of that investment is treated as taxable income for that year. By taxing the principal misused – not merely the income earned from it – it is ensured that the trusts do not risk corpus funds in improper avenues. In summary, Clause 337 and related clauses (339, 340, 350, 351) establish a regime where ordinary charitable income is taxed normally (often effectively nil if 85% applied or accumulated), whereas corpus funds are taxed only upon misuse as a penal measure. This separate treatment traces directly to Sections 115BBI and 115TD of the current Act, maintaining legislative continuity.*
>
> *Across several OECD jurisdictions—such as the United Kingdom, United States, Canada, Australia, New Zealand, Ireland, Germany, France, Netherlands, Denmark, Sweden, Norway, Finland, Italy, Spain, Portugal, Austria, Switzerland,*

Japan and South Korea—the core endowment or "corpus" of a registered charity is not taxed. These countries draw a sharp line between taxing a charity's operating income and leaving its capital funds untouched, provided the money stays within approved charitable uses. For example, both the UK and the US exempt recognised charities from income or corporation tax on grants, donations and even investment returns so long as those receipts are applied to charitable objects.

Likewise, in jurisdictions like the United States, bona fide donations and endowment incomes of tax-exempt nonprofits are not taxed; instead, regulatory oversight and targeted penalties (such as excise taxes on improper expenditures or revocation of tax-exempt status in egregious cases) are used to ensure compliance. The underlying philosophy in these countries is to "protect the organization's foundational corpus" to further its charitable mission, intervening primarily through oversight bodies (e.g. Charity Commission in the UK or IRS regulations in the US) rather than upfront taxation of charitable assets.

India's Context and Need for Corpus Taxation: India's corpus taxation regime must be viewed in the context of our domestic legal and fiscal framework. Unlike some countries with long-established charity regulators and extensive public oversight, India has faced significant challenges with misuse of charitable trusts for private benefit, tax evasion, and money laundering in the past. The government has responded by embedding transparency and antiabuse rules within the tax law itself to tightly regulate the fiscal conduct of NPOs. The separate tax on corpus-related violations is central to this strategy, aimed at ensuring that tax exemptions for charities are not misused as a conduit for unaccounted funds or profit distribution or even terror financing.

In effect, the Indian approach uses the tax mechanism as an enforcement tool to compel fiscal discipline and accountability in the NPO sector – a role that elsewhere might be played more by non-tax regulatory enforcement.

While international best practices offer valuable points of reference, merely aligning with global norms (by, for example, exempting corpus funds entirely from tax oversight regardless of misuse) would amount to a fundamental policy shift

for India. It would entail moving away from a proven deterrent system and relying solely on trust law or external regulators to police NPO finances. Such a shift is neither contemplated by the present Bill nor warranted by the prevailing conditions in India.

When Section 115BBC was introduced in 2006 to tax anonymous donations, or Section 115TD in 2016 to tax accreted assets, it was because lesser measures in line with other countries had proven inadequate to curb prevalent abuses. Diluting these measures in the name of global conformity would undermine the robust safeguards that protect the integrity of charitable funds in India.

Moreover, the international norm of not taxing corpus is premised on the assumption that charities will self-regulate or be closely regulated by authorities to prevent misapplication of funds. In India, tax authorities have a dual role – not only to collect revenue but also to ensure that tax-exempt entities adhere to the purposes for which they enjoy exemptions. The corpus taxation provisions in Clause 337 (and the stringent conditions in Clauses 339–340) reflect this philosophy. They do not tax genuine charitable activity; rather, they stand guard against aberrations – e.g. a shell charity accepting large anonymous donations (which could be black money), or a trust parking its corpus in private investments or sister concerns. In absence of such provisions, the law would be forced to either ignore these abuses or resort to the extreme step of cancelling registration in every case of violation. International practice shows that outright withdrawal of charitable status is a blunt instrument used sparingly; India's regime instead imposes calibrated fiscal consequences (tax on the offending amount) while usually allowing the NPO to continue if it returns to compliance. This is a nuanced policy choice that aligns with India's oversight capacity and enforcement priorities.

Hence, India's corpus taxation regime is necessary and contextual. It ensures that the generosity of donors and the tax foregone by the state (through charitable exemptions) are safeguarded by a layer of fiscal accountability.

In conclusion, Clause 337 of the Income-tax Bill, 2025 (read with Clauses 338–340 and 350–352) continues the established policy of separately taxing certain

NPO funds only in cases of misuse or where it is kept in ineligible modes. This approach provides continuity from the 1961 Act (Sections 115BBI, 115TD, etc.) and implements a deterrent yet proportionate framework: legitimate corpus donations remain untaxed and inviolate, whereas misapplied or illicit funds are brought to tax at the appropriate stage. Internationally, while many jurisdictions do not ordinarily tax corpus funds, India's tailored regime fills the gap of oversight through fiscal measures suited to our context. Emulating overseas models wholesale would represent a major policy departure and could weaken the safeguards around charitable finance. Further, it may not be feasible to comment on how the judiciary is going to interpret the proposed rationalised provisions" .

340.5 Observations/Recommendations of the Committee:

The Committee note that Clause 340 of the Bill provides for deemed corpus donation of a registered non profit organisation, corresponding to directly aligning with section 11(1) Explanation 3A of the existing Income-Tax Act, 1961. The Committee also note that the Bill simplifies the language of the corresponding section while preserving its original intent. After examining the perspectives of both stakeholders and the Department, the Committee accept Clause 340 as proposed.

Clause 341 - Application of income

341.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

341. (*1*) The following sums shall be allowed as application of income to a registered non-profit organisation:—

(*a*) any sumapplied by it for charitable or religious purpose in India for which it is registered where such sum is,—

(*i*) paid during such tax year; and

(*ii*) such payment is allowable under sections 36(*4*), (*5*), (*6*) and (*7*) and 35(*b*)(*i*);

(*b*) 85% of the sum paid by way of donation made to any other registered non-profit organisation; and

(*c*) *nil*, with respect to any sum paid as a corpus donation to any other registered non-profit organisation.

(*2*) The application of income under sub-section (*1*) shall include the following:—–

(*a*) the amount invested or deposited back during the tax year, in the modes permitted under section 350 maintained specifically for such corpus, if—

(*i*) such investment or depositing back is made within five years from the end of the tax year in which such application of income was made from the corpus; and

(*ii*) the application of income from the corpus is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961with respect to such application;

(*b*) the amount repaid, during the tax year, towards any loan or borrowing where,—–

(*i*) such repayment is within five years from the end of the tax year in which such application of income was made from the loan or borrowing; and

(*ii*) the application of income from the loan or borrowing is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 with respect to such application.

(*3*) The following claims shall not be allowed as application of income under sub-sections (*1*) and (*2*):—

(*a*) the deduction or allowance by way of depreciation or otherwise claimed in respect of an asset acquisition of which has been claimed as an application of income in the same or any other tax year under this Part or under any corresponding provision of the Income-tax Act, 1961; or

(*b*) a claim of set off or deduction or allowance of any excess application of any of the years preceding the tax year.

(*4*) An application from corpus, loan or borrowing, accumulated income, specified income or deemed accumulated income shall not be considered as application for the purpose of sub-sections (*1*) and (*2*).

341.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be*,* being contribution with a specific direction that it shall form

part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[79][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause

(*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which

is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.

Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

341.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 341 of the Bill provides for application of income of a registered non-profit organisation. The clause corresponds to Explanation 4 and Explanation 5 to section 11(1) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

341.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. To treat the complete donation made by one registered non-profit organisation to another registered non-profit organisation as application of money for the purpose of clause 341 of the Income-tax Bill, 2025.

- CBDT vide circular no 3 / 2024 dated 6 March 2024, clarified that 85 per cent of the donation shall be treated as application of income for the purposes of section 11 of the present Act.

- The same reasoning is continued in the Income-tax Bill, 2025, however, what is missed to be appreciated is that there is no “income” element in the donation made by one non-profit organisation to another non-profit organisation. Thus, there is no reasonable justification to only consider 85 per cent of the donations as application of income for the purposes of clause 341 of the Income-tax Bill, 2025.

2. The following sums shall be allowed as application of income to a registered non-profit organisation:— (a) any sum applied by it for charitable or religious purpose in India for which it is registered where such sum is,— (i) paid during such tax year; and (ii) such payment is allowable under sections 36(4), (5), (6), (7) and 35(b)(i); (b) 85% of the sum paid by way of donation made to any other registered non-profit organisation; (c) nil, with respect to any sum paid as a corpus donation to any other registered non-profit organisation; and (d) amount of capital gain reinvested in a mode permissible under section 350.

Exemption currently available for reinvestment in a capital asset is deleted ostensibly on the ground that acquisition of a capital asset is allowable as application of income However, no deduction as application is allowed if the proceeds are invested in permissible investments. In such a case, the gains (or maturity or sales proceeds) would become taxable, eroding the asset base of the trust on account of a mere change in asset allocation. Hence, reinvestment of the gains should continue to qualify for exemption.

3. The period of five years for such replenishment be extended to ten years in respect of corpus and deemed accumulation. In the case of loans, the repayment period should be increased to at least Twenty years, in line with the long-term nature of infrastructure and institutional investments commonly undertaken by charitable and religious institutions.

- Charitable and religious trusts often undertake long-gestation projects— such as schools, hospitals, community centres, or public welfare infrastructure—financed partly through corpus and loans The current Five-year repayment window is impractical for such projects, leading to non-compliance risks and denial of application benefits, despite genuine charitable intent and lead to taxation of Income earned after Five Years which is utilised to repay such older loans. Extending the timeframe will- - Reflect ground realities of longterm project cycles - Reduce undue compliance pressure on trusts - Ensure substantive compliance without penalizing bona fide activities. - Eliminate the burden of taxation of Income which shall be used to repay such loans post Five Years.

4. The section 341 which gives the amounts allowed as application does not include amount set aside under section 342 as deemed application of income.

- Similarly, 342(1) does not state that the said amount would not included in income like the old Section 11(2) where the amount set aside was not to be included in income.

- The section 343 deducts, the application under section 341 and accumulation under section 342 for calculation of 15% deemed accumulation Inclusion of the statement that the said accumulation will not be included in income.

- The section 342 needs to include a statement that the accumulation will not included in income or is deemed to be application. so as to clarify the intended meaning`.

5. The new section on application of income does not provide for deemed application as under the old Act. There is a need to include the said deemed application as the same was for amount not received by the assessee or any other reason.

- The non inclusion of this clause is likely to create great difficulty as the NPO who do not receive the amount would not be able to apply the said amounts The other difficulty is when the amount is received at fag end for the objects of the NPO and not for a particular project The NPO would not be able to apply the amounts.

6. Accumulation should be permitted for any object of the trust. This will help reduce litigation.

7. It is recommended that the NPOs engaged in Yoga programs for long time and with good reputation should be allowed to operate outside India. Amount applied outside India for conducting yoga programs should be considered as application while calculating the income of the NPO. India is not just the origin of Yoga — it is its rightful custodian. Tax law must enable Indian NPOs to serve this role globally, aligned with India's international commitments, cultural vision, and Prime Minister's leadership.

341.5 <u>Examination by the Committee:</u>

341.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion seeks to treat the complete donation made by one registered non-profit organisation to another registered non-profit organisation as application of money for the purpose of clause 341 of the Income-tax Bill, 2025. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 had provided that eligible donations made by a trust/ institution shall be treated as application for charitable or religious

purposes only to the extent of 85% of such donations. It was intended to ensure that if 85 % of the amount, which is required to be applied by a trust/institution is donation to other trust / institution, the donation should not be towards corpus. This will ensure that the donations are applied by the done trust/ institution for charitable or religious purposes. Moreover, instances had come to the notice that certain trusts or institutions are trying to defeat the intention of the legislature by forming multiple trusts and accumulating 15% at each layer. By forming multiple trusts and accumulating 15% at each stage, the effective application towards the charitable or religious activities is reduced significantly to a lesser percentage compared to the mandatory requirement of 85%. In view of the above, the suggested amendment is not feasible".

2. "Suggestion seeks that investment of the capital gains should continue to qualify for exemption despite deletion of provision that for the purpose of considering application of income for the objectives of NPOs, capital gains shall be invested in capital assets. The gain on capital assets were required to invested in capital assets to claim as application of income. By removing such requirement, the gain is no longer required to be invested in capital assets. However, there is no restriction on investing such income for the objectives of the NPOs. Clause 337 relates to specified income of NPO. There are 11 items listed as specified income. The apprehension expressed by the stakeholder is not included in the specified income. Therefore, the suggestion is not clear"*.*

3. "Suggestion seeks that the period of five years for repayment/replenishment be extended to ten years in respect of corpus and deemed accumulation. In the case of loans, the repayment period should be increased to at least Twenty years. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The stipulation of five years for repayment back to the corpus is a continuation of the policy as in Income-Tax Act, 1961 and hence the suggestion is not acceptable".

4. "Suggestion seeks that like section 11(2) clarity be provided that accumulation shall not be included in income of NPO. Necessary clarity has already been provided in clause 343(2): "The deemed accumulated income under this section shall not be considered as accumulated income for the purpose of section 342." The concern of the stakeholder is adequately addressed by the provisions of clause 343(2)".

5. "Suggestion seeks that new section on application of income does not provide for deemed application as under the old Act. Consolidating the income accumulation regime into a single mode both alleviates administrative burdens and simplifies taxpayers' compliance obligations.
Under the previous framework, distinct procedures for one-year and five-year accumulation modes required the filing of separate forms and often resulted in denials of accumulation due to erroneous entries.
However, the suggestion has been noted for further consideration.

6. “The suggestion seeks that requirement of stating the purposes of accumulation should be deleted and NPOs may be allowed to accumulate for any of the objects of NPOs. Since, the income of a NPO has to be necessarily applied for the purposes for which it is created or established. Seeking the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart is imperative to prevent misuse of the beneficial provisions and keep a check on utilisation of fund. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961”.

7. The provisions of section 341(1)(a) relating to application of income for charitable or religious purposes in India is similar to the provisions of section 11(1) and 11(1)(b) of the ITA. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. As regard application outside India for Yoga, it may be noted that Clause 338(a) of the I T Bill is a simplification of the provisions of section 11(1)(c) of the Act. The said provisions apply to certain specific NPOs (NPOs for charitable purposes which tends to promote international welfare and NPOs created before the 1st April, 1952 for charitable or religious purposes). Said clause also empowers the CBDT to direct by general or special order the non-inclusion of any application of income outside India in total income. Therefore, any trust is free to apply to the CBDT for such exemption. Moreover, for expenditure made outside India, certain guardrails are required as it is not possible to verify genuineness of expenditure made outside. In view of the above, the suggestion is not feasible.

341.6 Observations/Recommendations of the Committee:

341.6.1 The Committee note that Clause 341 of the Bill, which deals with the application of income for a registered non-profit organization, corresponds to Explanations 4 and 5 of Section 11(1) of the existing Income-Tax Act, 1961. The Committee acknowledge that the Bill has textually simplified these provisions while intending to retain their original meaning.

341.6.2 During deliberations, the Committee considered various suggestions from stakeholders and experts, as well as the Department's responses. A significant concern raised by a stakeholder was that the new clause on the application of income does not provide for "deemed application" as was present under Explanation 2 of Section 11 of the Income-Tax Act, 1961. The stakeholder emphasized the critical need to include this deemed application provision, as it addressed situations where NPOs could not receive amounts (e.g., due to disputes) or received them very late in the financial year, making it impossible to "apply" such income within the prescribed timeframe. The absence of this clause, it was argued, would create significant practical difficulties for NPOs.

341.6.3 In response, the Department stated that the stakeholder's suggestion implies allowing registered NPOs to treat donations made to other registered NPOs out of accumulated income as applied, at least for the first year of accumulation. The Department highlighted that consolidating the income-accumulation regime into a single mode aims to reduce administrative burdens and simplify compliance. They further explained that the previous framework's

distinct one-year and five-year accumulation procedures often led to denials due to erroneous entries. However, the Department has noted the stakeholder's suggestion for further consideration. The Committee, therefore, recommend to retain the existing provision of Explanation 2 of Section 11 of the Income-Tax Act, 1961 related to deemed application in Clause 341. The Committee also recommend to omit the reference made to the proposed repealed Act ie. Income-Tax Act, 1961 in Clauses 341(2(ii) and 341(3)(a) and incorporate the same in Clause 536 which provides for Repeals and Savings. Apart from these drafting corrections, the Committee approve Clause 341 as proposed.

Clause 342 - Accumulated income

342.1 Provision proposed in the Income-Tax Bill, 2025:

342. (*1*) A registered non-profit organisation may accumulate or set apart any part of its regular income during any tax year by furnishing a statement to the Assessing Officer in such form and manner, as prescribed, on or before the due date specified in section 263(*1*) for furnishing the return of income for such tax year stating therein the purpose and period, not exceeding five years, for which the income is being accumulated or set apart.

(*2*) The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income.

(*3*) The period during which the income is not be applied for the purpose for which it is so accumulated or set apart pursuant to an order or injunction of any court, shall be excluded from said period of five years.

(*4*) The income accumulated or set apart under sub-section (*1*) shall be invested or deposited in any of the modes permitted under section 350, or applied for the purposes as stated in the prescribed form referred to in sub-section (*1*).

(*5*) The registered non-profit organisation may, for the change of purpose for which income has been accumulated or set apart, make an application to the Assessing Officer, in such form and manner, as prescribed.

(*6*) The Assessing Officer may, on an application under sub-section (*5*) and subject to sub-section (*2*), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects.

(*7*) Where a registered non-profit organisation is dissolved, the Assessing Officer may, on an application made by such registered non-profit organisation in such form and manner, as prescribed, allow application of such income to bemade to any other registered non-profit organisation for the year in which it is dissolved.

342.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to

such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following

the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently

any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [78][deposit:]

[79][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for

charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not

applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the

Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[82][*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [83][*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [85][*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.

Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

342.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

> *"Clause 342 of the Bill provides for accumulated income of a registered non-profit organisation. The clause corresponds to section 11(2)(a)/(b)/(c), its proviso and Explanation, section 11(3A) and its provisos. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

342.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. A registered non-profit organisation may accumulate or set apart any part of its regular income during any tax year by furnishing a statement to the Assessing Officer in such form and manner, as prescribed, on or before the due date specified in section 263(1) for furnishing the return of income for such tax year stating therein the period, not exceeding five years, for which the income is being accumulated or set apart.

- Whether accumulation can be for general objects of the trust or has to be for specific purposes within those objects has been the subject matter of litigation for almost four decades Further, the option to spend in the subsequent year is being deleted as accumulation is permitted Under the option, spending could be for any object and not necessarily for specified purposes.

- In any case, an NPO can spend only on its objects the requirement of stating the purposes of accumulation should therefore be deleted.

2. The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income, unless such amount is paid in the first year of accumulation.

- The option to spend in subsequent year is being deleted since accumulation is available In case of option, amount could be donated to another NPO. Therefore, such donation should now be permitted out of accumulation at least for the first year of accumulation.
-

3. Donation to another registered NPO may be permitted as utilisation in the first year following the year for which income is accumulated.

4. Clause 2 to the explanation 1 of Section 11(1) represented a fair and necessary flexibility that accounted for the realities of donation cycles, bank procedures, and accrualbased income. Its outright removal in the new Bill disregards the practical functioning of NPOs. Hence, Clause 2 to the explanation 1 of Section 11(1)(or an equivalent clause) should be reinstated in the new framework.

5. While the Income-Tax Bill 2025 aims to streamline NPO taxation and generally exempts explicitly documented corpus donations, does the Bill introduce any specific time limit (eg. 5 years) within which a registered NPO must spend or utilize a corpus donation for its charitable objects, or does it continue to allow such funds to be accumulated indefinitely without triggering tax liability, provided they are invested in specified modes?.

342.5 <u>Examination by the Committee:</u>

On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The suggestion seeks that requirement of stating the purposes of accumulation should be deleted. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Since, the income of a NPO has to be necessarily applied for the purposes for which it is created or established. Seeking such information is imperative".

2. "The suggestion seeks that where any registered NPO does not apply income and accumulates and set apart it to any other registered NPO, such donation be permitted out of accumulation at least for the first year of accumulation. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025.There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The said provisions correspond with the provisions of Explanation to section 11(2) of the I T Act. Since, the donor NPO has not applied but accumulated or set apart said income to another NPO, the question of treating such income as application in the case of donor NPO does not arise. The provision also provides that 85% of such donation shall be treated as application. In view of the above, the suggested amendment is not feasible".

3. "The suggestion seeks that where any registered NPO does not apply income and accumulates and set apart it to any other registered NPO, such donation be permitted out of accumulation at least for the first year of accumulation".

- Consolidating the income-accumulation regime into a single mode both alleviates administrative burdens and simplifies taxpayers' compliance obligations.

- Under the previous framework, distinct procedures for one-year and five-year accumulation modes required the filing of separate forms and often resulted in denials of accumulation due to erroneous entries.

4. NPOs are expected to apply their income for charitable purposes within the year in which income is derived. However, in a case where requisite application of 85% of the income could not be applied, the short fall was allowed to be deemed as application in the Income-tax Act.

There were two situations,- (i) one where income is not received during the relevant previous year; and (ii) another where for any other reasons. In both cases assessee could exercise the option and such income was deemed as application in the previous year in which income is derived.

Further, such income was not taken into account for the purposes of application,- (i) in the previous year or immediately following previous year in the first situation mentioned above; and (ii) in the previous year immediately following the relevant previous year in the second situation mentioned above.

Therefore, one year period was available in the situation (ii), where shortfall in application was on account of "any other reasons". However, where shortfall was on account of "income not received", indefinite period was available for application till it is received. Clause 342 of the Income-tax Bill, 2025, consolidates and simplifies the accumulation regime for non-profit organisations (NPOs) to reduce compliance burden and bring administrative efficiency. Consolidating the income-accumulation regime into a single mode both alleviates administrative burdens and simplifies taxpayers' compliance obligations. Under the previous framework, distinct procedures for one-year and five-year accumulation modes required the filing of separate forms and often resulted in denials of accumulation due to erroneous entries. Income which is not accrued will not form part of regular income of NPO. Therefore, deemed application concept is not applicable in respect of such income. When such income is received, it is either applied to the extent of 85% or accumulated for a period of 5 years. Indefinite carry over of accrued income thus continues in the Bill as the requirement of application only starts when the income is received. As far as income which is received but can not be spent due to any reason is concerned, the trust can keep it in the specified mode in the year of receipt and thereafter spent it in next five year. This is a better proposition than the provision of the Act where the Trust was required to apply the amount not spent in the year of receipt as application in the subsequent year failing which it would have been treated as income.

5. As per clause 342(1) of the Bill, the limit of 5 years for accumulation or setting apart of income applies to "regular income" of the NPO and as per clause 338 "corpus donation" shall not be included in "regular income" of NPOs. Therefore, the Bill continues the same policy towards corpus donation as it was in the IT Act.

342.6 Observations/Recommendations of the Committee:

The Committee note that Clause 342 of the Bill, which pertains to the accumulated income of a registered non-profit organization, aligns with Section 11(2) and Section 11(3A) of the existing Income-Tax Act, 1961. The Bill aims to simplify these provisions while retaining their original intent. Given the views of stakeholders and response of the the Ministry of Finance (Department of Revenue), the Committee accept the clause as proposed.

Clause 343 - Deemed accumulated income

343.1 Provision proposed in the Income-Tax Bill, 2025:

343. (*1*) The regular income, as reduced by the application of income and accumulated income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income and shall be invested or deposited in any of the modes permitted under section 350. (*2*) The deemed accumulated income under this section shall not be considered as accumulated income for the purposes of section 342.

343.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes. 11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes. *Explanation 3.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession". *Explanation 3A*.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2)

of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place. *Explanation 4.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be

treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year. (1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is

utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded. *Explanation.*—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter. (3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose

specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business. (5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central

Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year. (7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[82][*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [83][*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [84][or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [85][*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses. *Explanation.*—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

343.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 343 of the Bill provides for deemed accumulated income of a registered non-profit organisation. The clause does not correspond to any particular section of the Act. However, the provisions to set apart or accumulate income derived from property held under trust to the extent of 15 percent of such income, as was

contained in section 11(1)(a) and 11(1)(b) of the Act have been consolidated in the clause".

343.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. "In cases where 100% of the income is applied by way of payment to another trust registered under the Act, the balance 15%, which is not treated as application due to the statutory 85% limit, shall also not be treated as deemed accumulation, since no income remains physically or economically available with the trust." It is recommended that the provisions and clarifications contained in CBDT Circular No 3/2024 dated 06.03.2024 be retained in full and continue to apply under the framework of the proposed Income-Tax Bill, 2025. Under the current framework, even when 100% of income is applied (e.g., transferred to another registered trust), only 85% is recognized as application, and the remaining 15% is treated as deemed accumulation This creates a mismatch between legal form and economic reality, as the trust retains no actual funds Treating the unrecognized 15% as "deemed accumulation" imposes an unrealistic compliance obligation and may lead to unjustified taxation or disallowance The proposed clarification ensures fairness and reflects the genuine absence of funds.

2. Sub-section (1) to be reworded as follows - (1) The regular income, as reduced by the application of income and accumulated income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income ~~and shall be invested or deposited in any of the modes permitted under section 350~~. There should be no requirement to invest 15% of regular income, in any modes permitted under section 350. Also, section 337 provides that if the same is not so invested, it would constitute specified Income-Taxable@ 30%. 15% of income which has been exempted unconditionally should not be required to be invested in the modes specified in section 350, the contravention of which would attract tax@30%.

3. Please make 15% deemed accumulation exempted without any investment condition. This is a practically Impossible clause because it is not necessary that the 15% deemed accumulation fund is always available as a fund for investment 15% deemed accumulation funds includes cash in hand, TDS receivable from the department, advances in the nature of working capital, various security and rental deposits, advances for procurement of immovable properties/assets etc are not classified as permitted modes of investment under section 350 This provision will: ● Erodes liquidity of NPOs. ● Forces artificial deposit and withdrawal cycles, as cash is not an approved mode of investment. Creates non-utilitarian compliance without serving any revenue or governance objective.

343.5 <u>Examination by the Committee:</u>

343.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion seeks to treat the complete donation made by one registered non-profit organisation to another registered non-profit organisation as application of money for the purpose of clause 341 of the Income-tax Bill, 2025. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 had provided that eligible donations made by a trust/ institution shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. It was intended to ensure that if 85 % of the amount, which is required to be applied by a trust/institution is donation to other trust / institution, the donation should not be towards corpus. This will ensure that the donations are applied by the donee trust/ institution for charitable or religious purposes. Moreover, instances had come to the notice that certain trusts or institutions are trying to defeat the intention of the legislature by forming multiple trusts and accumulating 15% at each layer. By forming multiple trusts and accumulating 15% at each stage, the effective application towards the charitable or religious activities is reduced significantly to a lesser percentage compared to the mandatory requirement of 85%. In view of the above, the suggested amendment is not feasible".

2. "Suggestion seeks there should be no requirement to invest 15% of regular income, in any modes permitted under section 350 and consequential treatment under the provisions of the Bill. The provisions relating to accumulation of income has been consolidated under the I T Bill. Consolidating the income-accumulation regime alleviates administrative burdens and simplifies taxpayers' compliance obligations. Under section 13(d)(i) of the I T Act, it was provided that exemption under section 11 or 12 shall not be available if the funds of trust/institution are invested or deposited otherwise than in any forms or modes specified under section 11(5) of the I T Act. Hence, even 15% of the income was to be applied for the objectives of the Trust/institution or invested or deposited in the specified forms or modes u/s 11(5) of the I T Act. Moreover, in order to safeguard public money in the custody of the registered NPOs, necessary provisions have been provided, requiring the NPOs to invest or deposit their funds in the specified modes only (Clause 350 r.w. Schedule XVI). Hence, the suggestion is not acceptable. In view of the above, the suggested amendment is not feasible".

3. As mentioned in sl.no.2 above.

343.5.2 The representative of the Ministry has further added as follows during the 31st Sitting of the Committee held on 10 June, 2025:-

"Sir, that 15 per cent which can be accumulated. So, they are saying that there is a requirement that they have to be invested in specified modes. So, that requirement should not be there".

343.6 Observations/Recommendations of the Committee:

The Committee note that Clause 343 of the Bill addresses "deemed accumulated income" for registered non-profit organizations. While not directly corresponding to a single section of the existing Income-Tax Act, 1961, this clause consolidates provisions previously found in Section 11(1)(a), 11(1)(b), and Section 13(1)(d), which allowed the setting aside or accumulation of up to 15% of income from property held under trust. The Bill aims to simplify this by retaining the original intent through textual simplification. After reviewing stakeholder and Department viewpoints, the Committee accept Clause 343 as proposed.

Clause 344 - Business undertaking held as property

344.1 Provision proposed in the Income-Tax Bill, 2025:

344. Where the property held by a registered non-profit organisation includes a business undertaking, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.

344.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961): Income from property held for charitable or religious purposes. 11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall

be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [77][at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes. *Explanation 3.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession". *Explanation 3A*.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or

other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place. *Explanation 4.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [78][deposit:]

[79][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that

year and to the extent of such repayment:

[79a][**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[80][(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year. (1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have

been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the

return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter. (3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose

specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business. (5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year. (7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [85][*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses. *Explanation.*—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

344.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 344 of the Bill provides for business undertaking held as property of a registered non-profit organisation. The clause corresponds to section 11(4) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

344.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. To insert a specific provision to deal with merger of charitable trust or institution. In the current regime, section 12AC allows merger of charitable trust or institutions, however, the said clause seems to have been inadvertently missed out. It is often seen that in the peculiar facts and circumstances it is very common for one non-profit organization to corroborate and merge with other non-profit organization engaged in similar activities which gives a beneficial edge on "scale of operation" to meet their overall objectives.

344.5 Examination by the Committee:

344.5.1 On the above suggestion, the Ministry of Finance has stated the following in their written submission :

1. "Suggestion seeks to insert a specific provision to deal with merger of charitable trust or institution. The provisions for merger of charitable trust or institution(now NPOs) are already provided in clause 352(5)[Table Sl. No.8]. In view of the above, the suggested amendment is already addressed".

344.5.2 In this regard, the representative of the Ministry has added as follows during the 31st Sitting of the Committee held on 10 June, 2025:-

"Sir, they are seeking a specific provision for merger of trusts and how two trusts can merge. In the 2024 Budget, we had brought in a Section 12AC where we had defined that two trusts having similar objects can merge subject to prescribed conditions. This has been carried forward. This is also available presently in the Bill but not as a separate section but in the part of the Cluase 352(5)[Table Sl. No. 8]. It is only repositioning the place and separate clause is not there for merger".

344.6 Observations/Recommendations of the Committee:

The Committee note that Clause 344 of the Bill provides for business undertaking held as property of a registered non-profit organisation. The clause corresponds to section 11(4) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 344 as proposed.

Clause 345 - Restriction on commercial activities by a registered non-profit organisation

345.1 Provision proposed in the Income-Tax Bill, 2025:

345. No registered non-profit organisation, other than a registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless— (*a*) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and (*b*) separate books of account are maintained for such activities.

345.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Income from property held for charitable or religious purposes. 11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [77][at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes. *Explanation 3.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession". *Explanation 3A*.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2)

of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place. *Explanation 4.*—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall

not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year. (1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application

to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded. *Explanation.*—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter. (3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved. (4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes. (4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business. (5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses. *Explanation.*—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year

in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):
Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

345.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under :-
"Clause 345 of the Bill provides for restriction on commercial activities of a registered non-profit organisation. The clause corresponds to section 11(4A) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

345.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Registered NPOs with objects other than general public utility (GPU) should be permitted to carry out commercial activity even if not incidental to the attainment of its objectives. Such business income should be taxed at 30% plus applicable surcharge and cess. In the existing provisions of section 11(4A) of ITA, 1961 states that exemption under section 11 does not apply to any income from a commercial activity if it is not incidental to attainment of its objects or if separate books of accounts are not maintained In such cases, income from such commercial activity is taxable. There is no distinction between Trusts having GPU as its object and not having GPU as its object. However, the similar provision in ITB, 2025 specifically prohibits registered NPOs not having GPU as part of their objects, from carrying out any commercial activity unless the activity is incidental to the attainment of its object and for which separate books of accounts are maintained. This is also a specified violation under section 351, which can result in cancellation of registration. Even the registered NPOs not having GPU as its object may carry out some activity which is not incidental to its objects but which may be regarded as a commercial activity Income from such activity should be taxed and not exempted, as under the existing law However, it should not be regarded as a specified violation resulting in cancellation of registration.

2. The opening portion of clause 345 be reworded as follows : No registered non-profit organisation, other than a registered non-profit Organization carrying out advancement of any other object of general public utility, shall carryout any commercial activity unless—(a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and (b) separate books of account are maintained for such activities.

345.5 Examination by the Committee:

345.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion inter alia seeks to allow NPOs with object other than GPU to carry out commercial activity even if it is not incidental to the attainment of its objectives. The suggestion is the nature of policy change, which is beyond the scope of IT Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The exemption provisions for registered non-profit organisations are intended to meet certain socio-economic objectives. It is never meant to allow such institution for commercial purposes. The income of NPOs with objects other than GPU, from business activities which were not incidental to the attainment of the objectives of the NPOs were not exempted as per

section 11(4A) of the I T Act. Clause 345 and 346 are similar to the provisions of section 11(4A) and proviso to section 2(15) of the Act. Further, under clause (b) of Explanation to section 12AB, such commercial activities by a trusts are treated as specified violation. Therefore, there is policy continuity. Hence, suggested amendment is not feasible".

2. **Accepted:** "It is a drafting error. May be corrected by removing "," after the phrase "other than a registered non-profit organisation".

345.5.2 The representative of the Ministry has added the following during the 31st Sitting of the Committee held on 10 June, 2025:-

> *"Sir, in this, the suggestion is that the NPOs with object other than general public utility may be allowed to carry out commercial activity even if it is not incidental to the objects of that trust".*

345.6 Observations/Recommendations of the Committee:

345.6.1 The Committee observe that Clause 345 of the Bill addresses restrictions on commercial activities for registered non-profit organizations, directly aligning with Section 11(4A) of the existing Income-Tax Act, 1961. The Bill aims to simplify the text of the existing section while maintaining its original intent.

345.6.2 In the course of examination of the Bill, the Committee considered stakeholders suggestions and the Department's response. One stakeholder proposed rewording the clause to state: "No registered non-profit organisation, other than a registered non-profit Organization carrying out advancement of any other object of general public utility, shall carryout any commercial activity unless—(a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and (b) separate books of account are maintained for such activities." The Department has acknowledged this drafting error in the original Bill, agreeing to remove the comma after "other than a registered non-profit organisation" to rectify it.

345.6.3 The Committee, therefore, recommend implementing this specific drafting correction. Aside from this amendment, the Committee approve Clause 345 as proposed.

Clause 346 - Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility

346.1 Provision proposed in the Income-Tax Bill, 2025:

346. No registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless,— (*a*) such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility; (*b*) the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and (*c*) separate books of account are maintained by such registered non-profit organisation for such activities.

346.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

2. In this Act, unless the context otherwise requires,—

(*15*) "charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(*i*) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(*ii*) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;

346.3 Reason/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 346 of the Bill provides for restriction on commercial activities of a registered non-profit organisation which has advancement of any other object of general public utility as any of its objects. The clause corresponds to section 13(8) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

346.4 <u>Examination by the Committee:</u>

In a reply to a specific query (inclusion or exclusion or replacement of words, etc., if any, between the provisions of the Clauses and existing section, the Ministry has furnished the following in their written response as follows:-

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

346.5 Observations/Recommendations of the Committee:

The Committee note that Clause 346 of the Income-Tax Bill, 2025, mapped to Section 13(8) of the Income-Tax Act, 1961, provides for restriction on commercial activities of a registered non-profit organisation which has advancement of any other object of general public utility as any of its objects. The Committee approve Clause 346 as proposed, noting its simplified approach to existing provisions.

Clause 347 - Books of account

347.1 Provision proposed in the Income-Tax Bill, 2025:

347. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as prescribed.

347.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Conditions for applicability of sections 11 and 12. 12A. (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*b*) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

(*i*) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and

347.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 347 of the Bill provides for books of account of a registered non-profit organisation. The clause corresponds to section 12A(1)(b) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

347.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the proposed Bill, suggestion as received from stakeholder / expert are summarised as follows:-

1. Name and Address of the person to whom any credit or payment is made is required for all cases It is suggested to exempt expenses below a certain limit (Say Rs 10000/-) from this harsh requirement. Practically it is not possible to maintain the name and address for each and every payment There are many expenses of petty nature like Auto, Rickshaw, Drinking water, refreshments in travelling and expenses of nature of purchase of regular pooja items (flowers, fruits) and expenses of Vegetables (From street vendors), milk for Annadhan etc.

347.5 Examination by the Committee:

347.5.1 On the above suggestion, the Ministry of Finance has stated the following in their written submission:-

1. "Suggestion seeks amendment in rule 17AA. The suggestion relates to matter of rule, which is part of delegated legislation. Amendment of rule is out of the purview of the Bill".

347.5.2 When the Committee asked a specific query as to how can the compliance burden of Rule 17AA on small non-profits be eased, ensuring they meet accounting requirements without jeopardizing their charitable work, the Ministry in their written replies stated as follows:-

> *"Under the Act/Bill, NPOs have been provided a special tax regime. The income of NPOs are exempted so that they may apply them for the purposes of charitable activities/stated objectives. However, it is also imperative that this beneficial regime may not be misused to introduce unaccounted income of the taxable persons/entities. The Income-tax department is consistently striving towards minimizing disputes, compliance burden and providing tax certainty. However, striking a fine balance to protect the interest of revenue is also equally important".*

347.6 Observations/Recommendations of the Committee:

The Committee note that Clause 347 of the Bill simplifies and maintains the intent of Section 12A(1)(b) of the Act, which governs the books of account for registered non-profit organizations. Stakeholders have raised concerns about the stringent requirement to record the name and address for every credit or payment, even for petty expenses below a suggested threshold of Rs. 10,000 (e.g., auto fares, water, small pooja items, vegetables from street vendors, milk for Annadhan). They argue that this is practically unfeasible. The Department clarifies that this suggestion pertains to Rule 17AA, a matter of delegated legislation and thus outside the Bill's purview. The Committee, therefore, accept the Clause 347 as proposed.

Clause 348 - Audit

348.1 Provision proposed in the Income-Tax Bill, 2025:

348. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as prescribed.

348.2 Provision of the Principal Act (Income-Tax Act, 1961):

Conditions for applicability of sections 11 and 12. 12A. (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*b*) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

(*ii*) the accounts of the trust or institution for that year have been audited by an accountant defined in the *Explanation* below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;

348.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 348 of the Bill provides for audit of a registered non-profit organisation. The clause corresponds to section 12A(1)(b) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

348.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. The limit set of maximum amount not chargeable to tax is very low and all trust get covered It is pleaded that the limit should be increased to Rs 1 crore so that the cumbersome compliance is avoided. The audit of smaller NPO is a big issue and can easily be done away with as the system today collects all information to monitor NPO's in the form donation list in form 10BD and TDS compliance Alos information under section 285BA & 285BB would also be available.

2. Where the total income of a registered non- profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non - profit organisation for that tax year shall be audited by a chartered accountant in practice or cost accountant in practice and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by a chartered accountant in practice or cost accountant in practice and setting forth such particulars, as prescribed.

348.5 <u>Examination by the Committee:</u>

348.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Stakeholder seek to enhance the income limit for carrying out audit by NPOs from amount not chargeable to tax to 1 crore. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. Under the Act/Bill, NPOs have been provided a special tax regime. The income of NPOs are exempted so that they may apply them for the purposes of charitable activities/stated objectives.

However, it is also imperative that this beneficial regime may not be misused to introduce unaccounted income of the taxable persons/entities. Therefore, the suggested amendment is not feasible".

2. "Suggestion seeks to provide that along with Chartered Accountant, Cost Accountant may be authorised to submit audit report". The parent legislations of cost accountants and chartered accountants are different and lay down specific functions. The functions mandated in the Income-tax Act related to audit and accounting, do not find a place in the domain of work specified for cost accountants in their Act. Whereas audit of books and financial transactions is specifically included in Chartered accountant's Act. Therefore the basic issue that a cost accountant can be or should be considered equivalent for the purposes of tax audit does not hold merit. It is principally limited by the respective Acts and till such demarcations exist the audit related function under the Income-tax Act have to be handled by Chartered Accountants only.

348.6 <u>Observations/Recommendations of the Committee:</u>

The Committee note that Clause 348 of the Bill provides for audit of a registered non-profit organisation. The clause corresponds to Section 12A(1)(b) of the Income-Tax Act, 1961. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 348 as proposed.

Clause 349 - Return of income

349.1 Provision proposed in the Income-Tax Bill, 2025:

349. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, it shall furnish the return of income for such tax year as per the provisions of section 263(*1*)(*a*)(*iii*), within the time limit allowed under sub-section (*1*)(*b*) of that section.

349.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Conditions for applicability of sections 11 and 12. 12A. (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*ba*) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under [sub-section (1) or sub-section (4) of] that section;

349.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 349 of the Bill provides for return of income of a registered non-profit organisation. The clause corresponds to section 12A(1)(ba) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

349.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Where during any tax year the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax, it shall furnish the return of income for that tax year as per the provisions of section 263(1)(a)(iii), within the time limit allowed under sub-section (1)(b) of that section, and in accordance with provisions of Section 263(2). Reference of section 263(2) is required so as to enable furnishing its return online and in the manner as prescribed under 263(2).

349.5 <u>Examination by the Committee:</u>

The Ministry of Finance has accepted the above suggestion and stated the following in their written submission:-~~:~~

"It is a drafting error. May be corrected by providing reference of section 263(2) in clause 349 of the Bill. Clause 263(2) inter alia provides for the form and manner in which the return in to be furnished. The corresponding section for filing return for NPOs does not specify the same as it was under section 139(4A) of the I T Act. This being a drafting error, may be considered".

349.6 Observations/Recommendations of the Committee:

The Committee note that Clause 349 of the Bill, which pertains to the return of income for registered non-profit organizations, aims to simplify the text of the existing Section 12A(1)(ba) of the Income-Tax Act, 1961 while maintaining its original intent. However, a stakeholder pointed out an omission: when a non-profit's income (prior to applying certain provisions) exceeds the tax-exempt threshold, its return should be furnished not only as per Section 263(1)(a)(iii) and within the timeline of Section 263(1)(b), but also in the manner prescribed by Section 263(2) to enable online filing. The the Ministry of Fiannce (Department of Revenue) has acknowledged this as a drafting error, confirming that Clause 263(2) specifies the form and manner of return submission, a detail missing in the current corresponding section for NPOs (formerly Section 139(4A) of the IT Act). Consequently, the Committee approve Clause 349 as proposed, with a specific recommendation to incorporate this necessary drafting correction.

Clause 350 - Permitted modes of investment

350.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

350. (*1*) The modes of investing or depositing the money under this Part, shall be such as specified in Schedule XVI.
(*2*) The modes of investing or depositing money under this Part, other than the modes specified in Schedule XVI, shall be specified by the Central Government, by notification.

350.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Income from property held for charitable or religious purposes. 11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(*c*) income derived from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1.—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised [77][at least two months prior to the due date specified] under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

Explanation 3.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*), the provisions of sub-clause (*ia*) of clause (*a*) of section

40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.—For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (*b*) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(*a*) applies such corpus only for the purpose for which the voluntary contribution was made;

(*b*) does not apply such corpus for making contribution or donation to any person;

(*c*) maintains such corpus as separately identifiable; and

(*d*) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of *Explanation 3A*, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said *Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.—For the purposes of determining the amount of application under clause (*a*) or clause (*b*),—

(*i*) application for charitable or religious purposes from the corpus as referred to in clause (*d*) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or [deposit:]

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;]

(*ii*) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

[**Provided further** that provisions of the first proviso shall apply only if there was no violation of the conditions specified—

(*a*) in clause (*c*) of this sub-section;

(*b*) in *Explanations 2, 3* and *5* of this sub-section;

(*c*) in the *Explanation* to this section; and

(*d*) in clause (*c*) of sub-section (1) of section 13,

at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and]

[(*iii*) any amount credited or paid, other than the amount referred to in *Explanation 2,* to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.]

Explanation 5.—For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year

shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year. (1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(1B) Where any income in respect of which an option is exercised under clause (*2*) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(*a*) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(*c*) the statement referred to in clause (*a*) is furnished [at least two months prior to] the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.
Explanation.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter. (3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section,

(*d*) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or

other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,

shall be deemed to be the income of such person of the previous year,—

(*i*) in which it is so applied or ceases to be so accumulated or set apart under clause (*a*); or

(*ii*) in which it ceases to remain so invested or deposited under clause (*b*); or

(*iii*) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (*c*); or

(*iv*) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (*d*).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer under clause (*a*) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the

trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*xii*) any other form or mode of investment or deposit as may be prescribed.

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year. (7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [[*other than clause (*1*), clause (*23C*), clause (*23EA*), clause (*23EC*), clause (*23ED*), clause (*46*), clause (*46A*) and clause (*46B*) thereof*]] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (*23C*) of section 10 or [*is notified under clause (*23EA*) or clause (*23EC*) or clause (*23ED*) or clause (*46*)*] [or clause (*46A*)] of

the said section, as the case may be, or the date on which this proviso has come into force, whichever is later [*, or, the 1st day of April of the previous year relevant to the assessment year for which the exemption is claimed under clause (*46B*) of the said section*]:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (*23C*) of section 10 or notification [under [*clause (*23EA*) or*] clause (*23EC*) or [*clause (*23ED*) or*] clause (*46*) or clause (*46A*)] of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses. *Explanation.*—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

350.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

> "Clause 350 of the Bill provides for permitted modes of investment. The clause corresponds to section 11(5) of the Act. The modes of investing or depositing the money has been specified in Schedule XVI of the Bill. This Schedule consolidates modes of investing or depositing appearing in section 11(5), rule 17C, section 13(1)(d) and section 10(23C) of the Act. Further, the provisions of the existing section have been textually simplified and retained with the same intent in this clause".

350.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Section 11(5) lists the forms and modes of investing or depositing the money. Any other form or mode of investment or deposit must be prescribed. Insertion of a new sub-clause in Clause 70 after sub-clause (b): "of a capital asset, being shares of a company listed on a recognised stock exchange, by a promoter or a person belonging to the promoter group of such company".

2. Section 11(5) lists the forms and modes of investing or depositing the money. Any other form or mode of investment or deposit must be prescribed. Insertion of a new sub-clause in Clause 70 after sub-clause (b): “of a capital asset, being shares of a company listed on a recognized stock exchange, by a promoter or a person belonging to the promoter group of such company”.

350.5 <u>Examination by the Committee:</u>

350.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. Clause 350 of the Bill seeks to provide provision related to permitted modes of investment. The clause corresponds to section 11(5) of the Act. The modes of investing or depositing the money has been specified in Schedule XVI of the Bill. The said Schedule consolidated modes of investing or depositing which were earlier appearing in section 11(5), rule 17C, section 13(1)(d) and section 10(23C) of the Act. Therefore, the modes which were prescribed by way of Rules are already provided in the Bill. Any other specification is a matter of Rules to be framed at appropriate time. The suggestion is already taken care of.

2. “Suggestion seeks inclusion of following sub- clause in Clause 70 after sub-clause (b): “of a capital asset, being shares of a company listed on a recognised stock exchange, by a promoter or a person belonging to the promoter group of such company". The suggestion seeks specific exemption from transfer for shares of listed company where they are donated to trust. No rationale has been provided by the stakeholder. The exemption is already provided where capital asset is given by gift, will or irrevocable trust. The suggestion is already addressed.

350.5.2 The Committee further examined the Clause of the proposed Bill and suggested/Commented as under:

> *“With specific reference to Clause 350: Permitted modes of Investment within the proposed Income-Tax Bill, 2025, are investments in gold and silver bars (distinguished from gold ornaments) considered a specified mode of investment permissible for non-profit organizations (NPOs?”*

350.5.3 The Ministry in their written replies stated that under Schedule XVI read with clause 350, at present investment in jewellery is treated as permitted modes of investment .

350.6 Observations/Recommendations of the Committee:

The Committee note that Clause 350 of the Bill provides for permitted modes of investment. The clause corresponds to section 11(5) of the Act. The modes of investing or depositing the money has been specified in Schedule XVI of the Bill. This Schedule consolidates modes of investing or depositing appearing in section 11(5), rule 17C, section 13(1)(d) and section 10(23C) of the Act. Further, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 350 as proposed.

Clause 351 - Specified violation

351.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

351. (*1*) The following shall constitute specified violation by a registerednon-profit organisation:—

(*a*) where any income of the registered non-profit organisation has been applied, other than for its objects; or

(*b*) it carries out any commercial activity in contravention of the provisions of section 345; or

(*c*) where it has applied any part of its total income for private religious purposes, which does not enure for the benefit of the public; or

(*d*) where a registered non-profit organisation, created or established after the commencement of this Act for charitable purpose, has applied any part of its income for the benefit of any particular religious community or caste other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children; or

(*e*) where any activity being carried out by the registered non-profit organisation is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(*f*) the registered non-profit organisation has not complied with the requirements under section 332(*7*) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality; or

(*g*) the application referred to in section 332(*1*) contains any false or incorrect information.

(*2*) Where during any tax year,—

(*a*) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations;

(*b*) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under section 270(*13*) for any tax year; or

(*c*) a registered non-profit organisation has been selected as per the risk management strategy formulated by the Board,

the Principal Commissioner or Commissioner shall—

(*i*) call for such documents or information from the registered non-profit organisation, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

(*ii*) pass an order,—

(*A*) either cancelling the registration of such registered non-profit organisation, after affording a reasonable opportunity of being heard, for such tax year during which such specified violation took place and all subsequent tax years, if he is satisfied that one or more specified violations have taken place; or

(*B*) not cancelling the registration of such registered non-profit organisation, if he is not satisfied about the occurrence of any specified violation; and

(*iii*) forward a copy of the order passed under clause (*ii*) to the Assessing Officer and such registered non-profit organisation.

(*3*) The order under sub-section (*2*)(*ii*), shall be passed before the expiry of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, calling for any document or information, or for making any inquiry, under clause (*i*) of the said sub-section.

351.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Procedure for fresh registration. 12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (*ac*) of sub-section (1) of section 12A, shall,—

(*a*) where the application is made under sub-clause (*i*) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(*b*) where the application is made under sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) or sub-clause (*v*) [or item (*B*) of sub-clause (*vi*)] of the said clause,—

(*i*) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(*A*) the genuineness of activities of the trust or institution; and

(*B*) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(*ii*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (*A*) and compliance of the requirements under item (*B*), of sub-clause (*i*),—

(*A*) pass an order in writing registering the trust or institution for a period of five years; or

[(*B*) if he is not so satisfied, pass an order in writing,--

(*I*) in a case referred to in sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*v*) of clause (*ac*) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;

(*II*) in a case referred to in sub-clause (*iv*) or in item (*B*) of sub-clause (*vi*) of sub-section (1) of section 12A, rejecting such application,

after affording a reasonable opportunity of being heard;]

[(*c*) where the application is made under item (*A*) of sub-clause (*vi*) of the said clause or the application is made under sub-clause (*vi*) of the said clause, as it stood immediately before its amendment *vide* the Finance Act, 2023, pass an

order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought,]

and send a copy of such order to the trust or institution: **[Provided** *that where an application is made under sub-clauses (*i*) to (*v*) of the said clause, and the total income of such trust or institution, without giving effect to the provisions of* sections 11 *and* 12*, does not exceed rupees five crores during each of the two previous years, preceding the previous year in which such application is made, the provisions of this sub-section shall have effect as if for the words "five years", the words "ten years" had been substituted.***]** (2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (*b*) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (*vi*) of clause (*ac*) of sub-section (1) of section 12A on that date. [(3) The order under sub-section (1) shall be passed, in such form and manner as may be prescribed, within a period of,—

(*i*) three months calculated from the end of the month in which the application was received in case of clause (*a*);

(*ii*) six months calculated from the end of the quarter in which the application was received in case of sub-clause (*ii*) of clause (*b*); and

(*iii*) one month calculated from the end of the month in which the application was received in case of clause (*c*).]

(4) Where registration or provisional registration of a trust or an institution has been granted under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1) or clause (*b*) of sub-section (1) of section 12AA, as the case may be, and subsequently,—

(*a*) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

(*b*) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or

(*c*) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year,

the Principal Commissioner or Commissioner shall,—

(*i*) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(*ii*) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(*iii*) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(*iv*) forward a copy of the order under clause (*ii*) or clause (*iii*), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.—For the purposes of this sub-section, the following shall mean "specified violation",—

(*a*) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(*b*) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(*c*) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

(*d*) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(*e*) any activity being carried out by the trust or institution,—

(*i*) is not genuine; or

(*ii*) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(*f*) the trust or institution has not complied with the requirement of any other law, as referred to in item (*B*) of sub-clause (*i*) of clause (*b*) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality [; or]

[98][(*g*) the application referred to in clause (*ac*) of sub-section (1) of section 12A **[*******]** contains false or incorrect information.]

(5) The order under clause (*ii*) or clause (*iii*) of sub-section (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (*i*) of sub-section (4).

351.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 351 of the Bill provides for specified violations of a registered non-profit organisation. The clause corresponds to section 12AB(4), Explanation to section 12AB(4) and section 12AB (5) of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause".

351.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Clause (b) should be deleted Since the definition of "commercial activity" in section 355(e), which is similar to existing proviso to section 2(15), now applies to both GPU and non-GPU trusts, non-GPU trusts are worse off since carrying on such activity results in cancellation of registration, while in case of GPU trusts, this results in only taxability of net income under section 353(1) For non-GPU trusts also, the consequence should be taxability of income under section 353(1).

2. Carrying on commercial activity by a non-GPU(non-General Public Utility) Trust, in respect of which section 345 contains specific restrictions, may attract tax, but should not be a specified violation resulting in cancellation of registration.

3. Section 351 be restructured with the following principles in mind:
   - **(i)** Proportionality and Intent o Apply the doctrine of mens rea (intent) where appropriate — not all errors are frauds.
   - **(ii)** Graduated Compliance Framework o Introduce Tier I (minor), Tier II (moderate), and Tier III (major) violations with matching penalties, showcause stages, or administrative remedies.
   - **(iii)** Reform and Rehabilitation Path o Create a framework for compliance coaching, mandatory training, or corrective filing timelines for first-time or unintentional violations.
   - **(iv)** Recognition of Track Record and Contribution o Organisations with 10+ years of clean audit history, active social contribution, or government recognition should be considered for lenient remedial paths, not immediate deregistration. Closing Thought: A vibrant non-profit ecosystem thrives not on fear of cancellation, but on faith in fairness. A law that embraces education over elimination will build enduring institutional strength and foster mutual respect between the regulator and the regulated.

351.5 Examination by the Committee:

On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion *inter alia* seeks to allow NPOs with object other than GPU to carry out commercial activity even if it is not incidental to the attainment of its objectives. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The exemption provisions for registered non-profit organisations are intended to meet certain socio-economic objectives. It is never meant to allow such institution for commercial purposes. The income of NPOs with objects other than GPU, from business activities which were not incidental to the attainment of the objectives of the NPOs were not exempted as per section 11(4A) of the I T Act. Clause 345 and 346 are similar to the provisions of section 11(4A) and proviso to section 2(15) of the Act. Further, under clause (b) of Explanation to section 12AB, such commercial activities by a trusts are treated as specified violation. Therefore, there is policy continuity. Hence, suggested amendment is not feasible.

2. Suggestion inter alia seeks to allow NPOs with object other than GPU to carry out commercial activity even if it is not incidental to the attainment of its objectives. The exemption provisions for registered non-profit organisations are intended to meet certain socio-economic objectives. It is never meant to allow such institution for commercial purposes. The income of NPOs with objects other than GPU, from business activities which were not incidental to the attainment of the objectives of the NPOs were not exempted as per section 11(4A) of the I T Act. Clause 345 and 346 are similar to the provisions of section 11(4A) and proviso to section 2(15) of the Act. Further, under clause (b) of Explanation to section 12AB, such commercial activities by a trust are treated as specified violation. Therefore, there is policy continuity".

3. Suggestion states that in the section 351, the penal consequences are harsh for the specified violation as there is no scope for proportionality or rehabilitation or graduated compliance system. There is no change in the IT Bill, 2025 vis-a-vis IT Act, 1961. Penal provisions for specified violations are not harsh. Only tax is charged without any liability for prior period interest or any penalty which is the situation for non-trust cases. Subject to certain conditions and compliances, the NPOs have been given exemption. This has been a policy decision to promote charitable activities for overall socioeconomic development of the nation. Further, essential safeguards have been built in respect of penal consequences, such as provision of opportunity of being heard in almost all cases of default where an adverse view may be taken, providing for condonation of delay mechanism, where bonafide reasons could be the cause of non compliance etc. Therefore, in bonafide and genuine cases mechanism has been put in place to avoid undue hardship to the taxpayer. The suggestion is not feasible.

351.6 Observations/Recommendations of the Committee:

The Committee note that Clause 351 of the Bill addresses specific violations by registered non-profit organizations. It simplifies and retains the original intent of sections 12AB(4), the Explanation to section 12AB(4), and section 12AB(5) of the Income-Tax Act, 1961. After reviewing stakeholders inputs and the Department's response, the Committee approve Clause 351 as proposed.

Clause 352 - Tax on accreted income

352.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

352. (*1*) Every specified person shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate in any of the cases specified in column B of the Table in sub-section (*5*).

(*2*) The Assessing Officer shall compute the accreted income on the date, specified in column C of the Table in sub-section (*5*) and after affording a reasonable opportunity of being heard to the assessee, pass on order that such income shall be charged to tax under sub-section (*1*).

(*3*) The accreted income referred to in sub-section (*1*) shall be computed using the following formula:— A=B-C where,— A= Accreted income; B= Aggregate fair market value of the total assets of the specified person, as on the date specified, in column C of the Table in sub-section (*5*), computed in accordance with such method of valuation, as prescribed; C= Total liability of such specified person, as on the date specified in column C of the said Table, computed in accordance with such method of valuation, as prescribed.

(*4*) The accreted income, computed as per the provisions of sub-section (*3*) shall be reduced by such amount of accreted income as is attributable to specified assets, and liabilities, if any, related to such assets.

(*5*) The specified person and the principal officer or trustee of such specified person shall be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from the due date specified in column D of the Table below, or the date of order passed under sub-section (*2*).

Table

Sl. No.	Case		Specified date	Due date for the payment of tax on accreted income
A	B		C	D
	(i)	(ii)		
1.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has preferred an appeal against the order of cancellation.	The date of the order cancelling the registration.	Date of receipt of the order in any appeal, confirming the cancellation of the registration, by the specified

				person.
2.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has not preferred an appeal against such order of cancellation.	The date of the order cancelling the registration.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.
3.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax year; and (*b*) such modified objects do not conform to the conditions of registration.	The specified person has not applied for fresh registration under any specified provision in such tax year.	The date of adoption or modification of any object.	The end of such tax year.
A	B		C	D
	(i)	(ii)		
4.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax	The specified person has applied for fresh registration under any specified	The date of adoption or modification of any object.	The date of receipt of the order in any appeal, confirming the cancellation of the

	year; and (*b*) such modified objects do not conform to the conditions of registration.	provision in such tax year and where such application has been rejected and appeal has been preferred against such order of rejection.		registration by the specified person.
5.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax year; and (*b*) such modified objects do not conform to the conditions of registration.	The specified person has applied for fresh registration under any specified provision in the said tax year and where such application has been rejected and no appeal has been preferred against such order of rejection.	The date of adoption or modification of any object.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.
6.	The specified person fails to make an application as per the provisions of—	The period specified in the respective clause or sub-clauses or Table, as the case may be, expires in	The last date for making an application for registration.	The end of such tax year.

		the tax year in which the said application is to be made.		
A	B		C	D
	(i)	(ii)		
	(*a*) sub-clause (*i*) or (*ii*) or (*iii*) of the first proviso to section 10 (*23C*) of the Income-tax Act, 1961 (43 of 1961); or (*b*) sub-clause (*i*) or (*ii*) or (*iii*) of section 12(*1*)(*ac*) of the Income-tax Act, 1961 (43 of 1961); or (*c*) as specified in section 332(*3*) (Table: Sl. No. 3, 4, 5 or 7).			
7.	Where a specified person converts itself into a form which is not eligible for grant of registration during any tax year.		The date of such conversion.	The end of such tax year.
8.	The specified person has merged with any other entity other than a		The date of merger.	The date of merger.

	registered non-profit organisation having the same or similar objects and the said merger does not fulfil such conditions, as prescribed.		
9.	The specified person has failed to transfer upon dissolution, all its assets to any other registered non-profit organisation within twelve months from the end of the month in which the dissolution takes place.	The date of dissolution.	The date on which such period of twelve months expires.

(*6*) The payment of tax on the accreted income by the specified person under this section shall be deemed as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by, or any deduction be allowed to, the specified person or any other person in respect of the amount of tax so paid under any other provision of this Act.

(*7*) Where the specified person, or the principal officer or trustee of such specified person, fails to pay the whole or any part of the tax on the accreted income within the time allowed under sub-section (*5*), such specified person, principal officer or trustee shall be liable to pay simple interest, computed as per the following formula:— I= 1% of (T*P) where,— I=interest; T= tax on accreted income; and P= number of months beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid including part thereof.

(*8*) All the provisions of this Act shall apply for the collection and recovery of income-tax in respect of the amount of tax payable by the specified person, principal officer or trustee and the following persons shall be deemed to be assessee in default:—

(*a*) the specified person and principal officer or the trustee of such specified person;

(*b*) the person to whom any asset forming part of the computation of accreted income under sub-section (*3*) has been transferred, where the tax on accreted income is payable under the cases specified in sub-section (*5*)(Table: Sl. No. 9).

(*9*) Subject to the provisions of sub-section (*8*), the liability of the person referred to in clause (*b*) of the said sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.

352.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Tax on accreted income. 115TD. (1) Notwithstanding anything contained in this Act, where in any previous year, a specified person has—

(*a*) converted into any form which is not eligible for grant of registration under section 12AA or section 12AB, or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10;

(*b*) merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA or section 12AB or approved under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*c*) failed to transfer upon dissolution all its assets to any other specified person within a period of twelve months from the end of the month in which the dissolution takes place,

then, in addition to the income-tax chargeable in respect of the total income of such specified person, the accreted income of the specified person as on the specified date shall be charged to tax and such specified person shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income. (2) The accreted income for the purposes of sub-section (1) means the amount by which the aggregate fair market value of the total assets of the specified person, as on the specified date, exceeds the total liability of such specified person, computed in accordance with the method of valuation, as may be prescribed:

Provided that so much of the accreted income as is attributable to the following asset and liability, if any, related to such asset, shall be ignored for the purposes of sub-section (1), namely:—

(*i*) any asset which is established to have been directly acquired by the specified person out of its income of the nature referred to in clause (*1*) of section 10;

(*ii*) any asset acquired by the specified person during the period beginning from the date of its creation or establishment and ending on the date from which the registration under section 12AA or section 12AB or approval under clause (*23C*) of section 10 became effective, if the specified person has not been allowed any benefit of sections 11 and 12 or sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 during the said period:

Provided further that where due to the provisions of the first proviso or the second proviso to sub-section (2) of section 12A or the eighth proviso to clause (*23C*)

of section 10, the benefit of sections 11 and 12, or sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 have been allowed to the specified person in respect of any previous year or years beginning prior to the date from which the registration under section 12AA or section 12AB or approval under clause (*23C*) of section 10 is effective, then, for the purposes of clause (*ii*) of the first proviso, the registration or approval shall be deemed to have become effective from the first day of the earliest previous year:

Provided alsothat while computing the accreted income in respect of a case referred to in clause (*c*) of sub-section (1), assets and liabilities, if any, related to such asset, which have been transferred to any other specified person within the period specified in the said clause, shall be ignored. (3) For the purposes of sub-section (1), a specified person shall be deemed to have been converted into any form not eligible for registration under section 12AA or section 12AB or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 in a previous year, if,—

(*i*) the registration or approval granted to it under section 12AA, or section 12AB, or sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, has been cancelled; or

(*ii*) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it—

(*a*) has not applied for fresh registration under section 12AA, or section 12AB, or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 in the said previous year; or

(*b*) has filed application for fresh registration under section 12AA, or section 12AB, or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10 but the said application has been [50][rejected; or]

[(*iii*) it fails to make an application in accordance with the provisions of clause (*i*) or clause (*ii*) or clause (*iii*) of the first proviso to clause (*23C*) of section 10 or sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) of clause (*ac*) of sub-section (1) of section 12A, within the period specified in the said clauses or sub-clauses, as the case may be, which expires in the said previous year.]

(4) Notwithstanding that no income-tax is payable by a specified person on its total income computed in accordance with the provisions of this Act, the tax on the accreted income under sub-section (1) shall be payable by such specified person. (5) The principal officer or the trustee of the specified person, as the case may be, and the specified person shall also be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from,—

(*i*) the date on which,—

(*a*) the period for filing appeal under section 253 against the order cancelling the registration expires and no appeal has been filed by the specified person; or

(*b*) the order in any appeal, confirming the cancellation of the registration, is received by the specified person,

in a case referred to in clause (*i*) of sub-section (3);

(*ii*) the end of the previous year in a case referred to in sub-clause (*a*) of clause (*ii*) [clause (*ii*), or clause (*iii*),] of sub-section (3);

(*iii*) the date on which,—

(*a*) the period for filing appeal under section 253 against the order rejecting the application expires and no appeal has been filed by the specified person; or

(*b*) the order in any appeal, confirming the cancellation of the application, is received by the specified person,

in a case referred to in sub-clause (*b*) of clause (*ii*) of sub-section (3);

(*iv*) the date of merger in a case referred to in clause (*b*) of sub-section (1);

(*v*) the date on which the period of twelve months referred to in clause (*c*) of sub-section (1) expires.

(6) The tax on the accreted income by the specified person shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the specified person or by any other person in respect of the amount of tax so paid. (7) No deduction under any other provision of this Act shall be allowed to the specified person or any other person in respect of the income which has been charged to tax under sub-section (1) or the tax thereon. *Explanation*.—For the purposes of this section,—

(*i*) "date of conversion" means,—

(*a*) the date of the order cancelling the registration under section 12AA or section 12AB, or approval under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, in a case referred to in clause (*i*) of sub-section (3); or

(*b*) the date of adoption or modification of any object, in a case referred to in clause (*ii*) of sub-section (3); [or]

[52][(*c*) the last date for making an application for registration under sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) of clause (*ac*) of sub-section (1) of section 12A or for making an application for approval under clause (*i*) or clause (*ii*) or clause (*iii*) of the first proviso to clause (*23C*) of section 10, as the case may be, in a case referred to in clause (*iii*) of sub-section (3);]

(*ii*) "specified date" means,—

(*a*) the date of conversion in a case falling under clause (*a*) of sub-section (1);

(*b*) the date of merger in a case falling under clause (*b*) of sub-section (1); and

(*c*) the date of dissolution in a case falling under clause (*c*) of sub-section (1);

(*iia*) "specified person" means—

(*a*) any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*b*) a trust or institution registered under section 12AA or section 12AB;

(*iii*) registration under section 12AA or section 12AB shall include any registration obtained under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996).

Interest payable for non-payment of tax by specified person. 115TE. Where the principal officer or the trustee of the specified person and the specified person fails to pay the whole or any part of the tax on the accreted income referred to in sub-section (1) of section 115TD, within the time allowed under sub-section (5) of that section, he or it shall be liable to pay simple interest at the rate of one per cent for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

Explanation.—For the purposes of this section, "specified person" shall have the same meaning as assigned to in clause (*iia*) of the *Explanation* to section 115TD.

When specified person is deemed to be assessee in default. 115TF.

(1) If any principal officer or the trustee of the specified person and the specified person does not pay tax on accreted income in accordance with the provisions of section 115TD, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

(2) Notwithstanding anything contained in sub-section (1), in a case where the tax on accreted income is payable under the circumstances referred to in clause (*c*) of sub-section (1) of section 115TD, the person to whom any asset forming part of the computation of accreted income under sub-section (2) thereof has been transferred, shall be deemed to be an assessee in default in respect of such tax and interest thereon and all the provisions of this Act for the collection and recovery of income-tax shall apply:

Provided that the liability of the person referred to in this sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.

Explanation.—For the purposes of this section, "specified person" shall have the same meaning as assigned to in clause (*iia*) of the *Explanation* to section 115TD.

352.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision:</u>

The justification furnished by the Ministry for the proposed provision is as under:-

"Clause 352 of the Bill provides for tax on accreted income of a registered non-profit organisation. The clause corresponds to section 115TD, 115TE and 115TF of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause. Further, the provisions have

been rationalised to inter alia clearly specify chargeability of such income, due dates for payment of liable tax and applicability of proceedings relating to collection and recovery in such cases".

352.4 <u>Important Views/Suggestions given by Experts/Stakeholders:</u>

During the course of the examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Remove provision to Tax on Accreted Income Even Rejected or Delayed Applications Unlike Section 115TD of the Income-tax Act, 1961, which levied tax on accreted income only in cases of voluntary deregistration, conversion, or misuse of funds, the new Section 352 imposes tax even if:

- Initial registration is rejected, or
- Delay in application is not condoned. This leads to an inherent contradiction and double taxation, as such entities are first taxed as unregistered organisations and then subjected to accreted Income-Tax on net assets without being accorded the status of a charitable institution. This provision is punitive rather than corrective, especially when delays are procedural or administrative in nature.

2. *R*econsider Section 352(7) and (8) and introduce:
• A safe harbor clause protecting *bona fide* trustees acting in good faith;
• Personal liability to apply only where trustees are involved in fraud, wilful default, or misappropriation;
• Provisions mirroring the Companies Act's protection to independent directors under Section 149(12), where they are not penalized unless involved. Such safeguards would uphold the integrity and sustainability of trusteebased governance, which is foundational to India's charitable landscape.

352.5 <u>Examination by the Committee:</u>

352.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "Suggestion seeks that application of accreted income should not apply on rejected initial registration or when delayed application is not condoned. Sub-section (3) of section 115TD provides from situations where a trust or institution shall be treated to have converted into any other form not eligible for registration under section 12AA/12AB. Therefore, no new provisions have been inserted in the clause 352 relating to accreted income. If the initial registration application is rejected, there will be no charge of clause 352 to tax the accreted income. The charge of tax on accreted income is only on 'specified person', and the same is clarified in clause 355(l) as under:

"Specified person means any person which is registered under any specified provision at any time since its incorporation or creation."

Regarding the delay in filing the application for re- registration, the Commissioner is empowered to condone the delay in case of genuine hardships. In case of either the re- registration application itself not been filed, or when filed belatedly and the delay not been condoned by the Commissioner; the provisions of clause 352 (tax on accreted income) will get attracted. This is an anti-abuse provision to ensure that registered NPOs stay within the realm of public charity and not get out of the regulatory space after accumulating tax exempt income and assets. The provisions of clause 352 clarifies the same and ensures continuity of policy.

352.5.2 In this regard, the representative of the Ministry has stated the following during oral evidence held on 10 June, 2025:-

", ……there is a provision in the statute which speaks about when the asset value of the trust is going to be taxed. There are defaults which the trust may commit, and on committing default, the net asset value of the trust is going to be taxed at 30 per cent. There is one provision where he fails to file an application for re-registration. This provision comes into picture in case of delayed application, and then it is taxed". The stakeholder has thought that this may be excluded from the issue of chargeability under 115 TD. But after the recent amendment in the Finance Act, we have given the Commissioner the power to condone delayed applications. Once the application is condoned, it is treated as an application filed in time. In that case, TD will not kick in because the delay is condoned. So, this problem will not occur".

352.5.3 He further added as under:-

"सर, हम डबल टैक्सेशन नहीं लगाते हैं, यह पहले भी डिस्कस हो चुका है। ट्रस्ट चैरिटेबल पर्पज के लिए बनता है। हम उसको टैक्स से हर साल एग्जम्शन देते हैं। वह टैक्स जनता और सरकार का ड्यू टैक्स है जो हम फोर गो कर रहे हैं, वह इसलिए कि आपके पास जो इनकम हो रही है, आप उसे चैरिटेबल पर्पज के लिए लगाएं। सर, अगर वह चैरिटेबल पर्पज के लिए नहीं लगाता है तो पहले तो उसका पूरा रजिस्ट्रेशन कैंसिल हो जाता था, लेकिन बाद में बोला गया कि जहां तक टैक्स नहीं लगा, वहां तक टैक्स कर देंगे, उसके प्रोविजंस थे। तीसरा, वह केस आता है जहां ट्रस्ट चाहता है कि मैं प्राइवेट प्रॉपर्टी बन जाऊं। यह भी डिमांड आती है। लोग कहते हैं कि आप हमें इसे प्राइवेट प्रॉपर्टी बना लेने दो। उस समय कहते हैं कि आप केवल मामूली टैक्स लो, कैपिटल गैन टैक्स लो। हमारा एक्ट बोलता है कि उस दिन जो भी आपकी प्रॉपर्टी है, उसका जो भी फेयर मार्केट वेल्यू है, एज ऑन डेट, उसमें से आप अपनी लाइबेलिटी घटाओ, बाकी पर आप हमें 30 प्रतिशत टैक्स दे दो। सर, वह बिल्कुल जायज टैक्स है। वह प्रॉपर्टी जनता के पैसों से बनी हुई है, जिस पर हमने टैक्स नहीं लिया है। लोगों ने उसको इस पर्पज से डोनेट किया कि इसका यूटिलाइजेशन चैरिटेबल पर्पज के लिए होगा। अगर उसको कोई कन्वर्ट करता है, मिसयूज करता है तो इतना टैक्स तो उस पर होना ही चाहिए"

2. The proposed provision under clause 352(1) of the Income-tax Bill, 2025 are similar to the provisions u/s 115TD of the Income-tax Act, 1961(ITA) where the tax on

accreted income has to be charged on the maximum marginal rate. Further, the proposed provisions under clause 352(7) of the ITB are similar to the provisions u/s 115TE of the ITA wherein it is mentioned that if tax on accreted income is not paid within the specified time, the specified person, principal officer, or trustee shall be liable to pay 1% simple interest per month on the unpaid tax. Also, the proposed provisions under clause 352(8) of the ITB are similar to the provisions u/s 115TF of the ITA wherein it is mentioned that if tax on accreted income is not paid within the specified time, the specified person, principal officer, or trustee shall be deemed to be assessee in default. Where any default is there in the payment of taxes, liability has to be fastened upon specific persons and interest liability is also required to be provided. These are very normal provisions and are required in any law for its implementation. Otherwise machinery provisions will become unimplementable leading to loss of revenue. The suggestion is not feasible.

352.5.1 Clause 352 of the proposed Income-Tax Bill, 2025, seems to expand 'accreted income' taxation to situations where an NPO's registration is rejected or significantly delayed, potentially taxing even accumulated charitable assets. The Committee asked the Ministry to clarify on two fronts: firstly, how global tax regimes typically handle tax implications for non-profits during such periods of registration uncertainty or rejection, and what international precedents exist for imposing "exit taxes" or similar levies without a clear finding of malfeasance or diversion of funds. Secondly, they inquired about the scope of judicial interpretation in India, given its historical emphasis on bona fide charitable intent and the actual application of funds, and how courts might mitigate the impact of Clause 352 on NPOs facing legitimate procedural delays or administrative rejections to prevent double taxation and penalizing entities for circumstances beyond their immediate control. In this regard, the Ministry has responded in written replies as follows:-

> *"Sub-section (3) of section 115TD provides from situations where a trust or institution shall be treated to have converted into any other form not eligible for registration under section 12AA/12AB. Therefore, no new provisions have been inserted in the clause 352 relating to accredited income. If the initial registration application is rejected, there will be no charge of clause 352 to tax the accreted income. The charge of tax on accreted income is only on 'specified person', and the same is clarified in clause 355(l) as under: "Specified person means any person which is registered under any specified provision at any time since its incorporation or creation." Regarding the delay in filing the application for re-registration, the Commissioner is empowered to condone the delay in case of genuine hardships. In case of either the re-registration application itself not been filed, or when filed belatedly and the delay not been condoned by the Commissioner; the provisions of clause 352 (tax on accreted income) will get*

attracted. This is an anti-abuse provision to ensure that registered NPOs stay within the realm of public charity and not get out of the regulatory space after accumulating tax exempt income and assets. The provisions of clause 352 clarifies the same and ensures continuity of policy"

352.6 Observations/Recommendations of the Committee:

The Committee note that Clause 352 of the Bill addresses the tax on "accreted income" of registered non-profit organizations, consolidating and simplifying the provisions of Sections 115TD, 115TE, and 115TF of the existing Income-Tax Act, 1961. The Bill retains the original intent while rationalizing provisions to clearly specify chargeability, due dates for payment, and applicability of collection/recovery proceedings for such income. After considering stakeholders' and Department's viewpoints, the Committee accept Clause 352 as proposed.

Clause 353 - Other violations

353.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

353. (*1*) Where any registered non-profit organisation—
(*a*) fails to maintain books of account under section 347; or (*b*) fails to get books of account audited under section 348; or
(*c*) fails to furnish its return of income under section 349; or
(*d*) any registered non-profit organisation, carrying out advancement of any other object of general public utility, carries out any commercial activity in contravention of the provisions of section 346,
during any tax year, its regular income for such tax year as reduced by the expenditure referred to in sub-section (*3*) shall be taxable regular income which shall be chargeable to tax as per the provisions of section 334.
(*2*) In addition to the tax referred to in sub-section (*1*), the specified income and residual income of the registered non-profit organisation shall also be chargeable to tax under the provisions of section 334, to the extent not covered under taxable regular income under the said sub-section, and the provisions of section 338 shall not apply.
(*3*) The expenditure referred in sub-section (*1*) shall be computed subject to the following conditions:—
(*a*) capital expenditure shall not be allowed;
(*b*) such expenditure shall be incurred in India;
(*c*) such expenditure shall be for the objects of the registered non-profit organisation;
(*d*) such expenditure is not made from the corpus standing to the credit of the registered non-profit organisation as on the end of the tax year immediately preceding the tax year for which income is being computed;
(*e*) such expenditure is not out of any loan or borrowing;
(*f*) the claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other tax year; (*g*) such expenditure is not in the form of any contribution or donation to any person;
(*h*) such expenditure is not on account of a payment or aggregate of payments made to a person in contravention to the provisions of sections 36(*4*), (*5*), (*6*) and (*7*);
(*i*) such payment is allowable under section 35(*b*)(*i*); and
(*j*) set off or deduction or allowance of any application or expenditure other than those referred to in clauses (*a*) to (*i*) shall not be allowed.

353.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 11 not to apply in certain cases. 13. (1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(*a*) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

(*b*) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust

or institution is created or established for the benefit of any particular religious community or caste;

(*bb*) [***]

(*c*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(*i*) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(*ii*) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3), such part of income as referred to in sub-clauses (*i*) and (*ii*):

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution :

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970;

(*d*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(*i*) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(*ii*) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

(*iii*) any shares in a company, other than—

(*A*) shares in a public sector company;

(*B*) shares prescribed as a form or mode of investment under clause (*xii*) of sub-section (5) of section 11,

are held by the trust or institution after the 30th day of November, 1983, to the extent of such deposits or investments referred to in sub-clauses (*i*), (*ii*) and (*iii*):

Provided that nothing in this clause shall apply in relation to—

(*i*) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973;

(*ia*) any accretion to the shares, forming part of the corpus mentioned in clause (*i*), by way of bonus shares allotted to the trust or institution;

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

(*iia*) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1993, whichever is later;

(*iii*) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation.—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (*iii*) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business;

[2][(*iv*) any asset referred to in sub-clauses (*i*), (*ia*) and (*ii*) of clause (*b*) of the third proviso to clause (*23C*) of section 10 or any accretion to the shares, forming part of the corpus mentioned in the said sub-clauses (*i*) and (*ia*) and voluntary contributions referred to in sub-clause (*iv*) of clause (*b*) of the said proviso.]

Explanation.—For the purposes of sub-clause (*ii*) of clause (*c*), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (*ii*) of clause (*a*) thereof] of the Finance Act, 1972.

(2) Without prejudice to the generality of the provisions of clause (*c*) and clause (*d*) of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(*a*) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

(*b*) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other

compensation;

(*c*) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(*d*) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(*e*) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(*f*) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

(*g*) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;

(*h*) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

(3) The persons referred to in clause (*c*) of sub-section (1) and sub-section (2) are the following, namely :—

(*a*) the author of the trust or the founder of the institution;

[3]**[**(b) *any person whose total contribution to the trust or institution, during the relevant previous year exceeds one lakh rupees, or, in aggregate up to the end of the relevant previous year exceeds ten lakh rupees, as the case may be;***]**

(*c*) where such author, founder or person is a Hindu undivided family, a member of the family;

(*cc*) any trustee of the trust or manager (by whatever name called) of the institution;

(*d*) any relative of any such author, founder, **[*******]** member, trustee or manager as aforesaid;

(*e*) any concern in which any of the persons referred to in clauses (*a*), **[*******]** (*c*), (*cc*) and (*d*) has a substantial interest.

(4) Notwithstanding anything contained in clause (*c*) of sub-section (1) but without prejudice to the provisions contained in clause (*d*) of that sub-section, in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the

trust or the institution from such investment, by reason only that the funds of the trust or the institution have been invested in a concern in which such person has a substantial interest.

(5) Notwithstanding anything contained in clause (*d*) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.

(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (3).

(7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.

(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (*15*) of section 2 become applicable in the case of such person in the said previous year.

(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(*i*) the statement referred to in clause (*a*) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or

(*ii*) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.

(10) Where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified under clause (*b*) or clause (*ba*) of sub-section (1) of section 12A, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:—

(*a*) such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed;

(*b*) such expenditure is not from any loan or borrowing;

(*c*) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and

(*d*) such expenditure is not in the form of any contribution or donation to any person.

Explanation.—For the purposes of determining the amount of expenditure under this sub-section, the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis,* apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(11) For the purposes of computing income chargeable to tax under sub-section (10), no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act. *Explanation 1.*—For the purposes of sections 11, 12, 12A, 12AA, 12AB and this section, "trust" includes any other legal obligation and for the purposes of this section "relative", in relation to an individual, means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) any lineal ascendant or descendant of the individual;

(*v*) any lineal ascendant or descendant of the spouse of the individual;

(*vi*) spouse of a person referred to in sub-clause (*ii*), sub-clause (*iii*), sub-clause (*iv*) or sub-clause (*v*);

(*vii*) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

Explanation 2.—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (*b*) of sub-section (1).

Explanation 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

353.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :-

"Clause 353 of the Bill provides for other violations of a registered non-profit organisation. The clause corresponds to section 13(10) and section 13(11) of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause".

353.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Incorrect referencing in Clause (28) and limited scope of Clause (30) Modify Clause (28) to refer to Clause (26) and Clause (27). Modify Clause (30) to refer to Clause (1) to Clause (29). The correct clause of the Bill is 350 and not 353. The proposed provisions are similar to the provisions of the Income-tax Act.

2. Creates ambiguity with multiple due dates. Delete the reference to the 14- day period or include "whichever is later" to avoid ambiguity. The correct clause is 352. The proposed provisions have been introduced for the purpose of simplification, reducing litigation and for bringing greater clarity in the Income-Tax Provisions.

3. Use "whichever is later" to fix.

4. Avoid penalty.

5. We urge reconsideration of this clause and allow the capital expenditure as application to calculate the regular taxable income as being done in all other provisions of NPO.

353.5 Examination by the Committee:

On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "The correct clause of the Bill is 350 and not 353". It is a drafting correction and therefore, acceptable".

2. “The suggestion is acceptable for clarity, although the suggestion states it to be section 353(5), but it is a typographical error hence Section 352(5) should be the appropriate section wherein it needs to be accepted”.

3. As mentioned in sl.no. 2 above.

4. As mentioned in sl.no. 2 above.

5. The proposed provisions under clause 353(3)(a) of the ITB are similar to the provisions u/s 13(10) of the Income-Tax Act wherein it is mentioned that reduction for capital expenditure shall not be allowed. Further, aforesaid provisions apply only where the NPOs violates the conditions specified in said provisions. Therefore, the suggestion made by the stakeholder is not feasible.

353.6 Observations/Recommendations of the Committee:

The Committee note that Clause 353 of the Bill provides for other violations of a registered non-profit organizations, aligns with Section 13(10) and Section 13(11) of the Income-Tax Act, 1961. Stakeholders have suggested incorrect referencing in Clause (28) and a limited scope in Clause (30, leading to recommendations for modifications to refer to Clauses (26) and (27) and Clauses (1) to (29) respectively. The Ministry has accepted this, clarifying the correct clause in the Bill is 350 and not 353. Furthermore, the stakeholder suggested either deleting the 14-day period reference or adding "whichever is later" to remove the ambiguity created by multiple due dates. The Ministry has also accepted this for clarity, noting the correct clause in question is Section 352(5). The Committee, therefore, recommend implementing these amendments and approve Clause 353 subject to these changes.

Clause 354 - Application for approval for purpose of section 133(*1*)(*b*)(*ii*)

354.1 Provision proposed in the Income-Tax Bill, 2025:

354. (*1*) A registered non-profit organisationor a person referred to in Schedule III (Table: Sl. No. 1) may, for the purpose of section 133(*1*)(*b*)(*ii*), make an application for approval in such form and manner, as prescribed, to the Principal Commissioner or Commissioner, subject to the following conditions:—
(*a*) it is not expressed to be for the benefit of any particular religious community or caste;
(*b*) it is established in India for a charitable purpose and does not incur any expenditure of an amount being 5% or more of its total income during a tax year which is of a religious nature;
(*c*) the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;
(*d*) it maintains regular accounts of its receipts and expenditure;
(*e*) it prepares such statement for such period, as prescribed, and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time, as prescribed;
(*f*) it delivers to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under clause (*e*) in such form and verified in such manner, as prescribed; and
(*g*) it furnishes a certificate to the donor specifying the amount of donation within such period from the date of receipt of the donation containing the requisite particulars in the manner, as prescribed.

(*2*) The application under sub-section (*1*) shall be made in respect of the cases referred to in column B of the Table below within the time limit provided in column C of the said Table and the Principal Commissioner or Commissioner, on receipt of such application, shall follow the procedure provided in sub-sections (*3*) and (*4*), and shall pass an order in writing within the time limit provided in column D and approval, if granted, shall be valid for a period provided in column E of the said Table.

Table

Sl. No.	Case	Time limit for furnishing application	Time limit for passing the order	Validity of approval
A	B	C	D	E
1.	Where the activities of the applicant have not	At any time during the tax year from which approval is	One months from the end of the month in	Three tax years commencing from the tax

	commenced.	sought.	which application is made.	year in which such application is made.
2.	Where the activities of the applicant have commenced.	At any time during the tax year from which approval is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has provisional approval and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional approval of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the period for approval of a registered non-profit organisation is due to expire.	At least six months prior to the expiry of the said approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

(*3*) Where an application has been made in any of the cases specified under sub-section (*2*)(Table: Sl. No. 2) to (Table: Sl. No. 5), the Principal Commissioner or Commissioner shall call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself as to the compliance of such requirements of any other law in force, as are material for the purpose of achieving its objects, and the genuineness of activities and—

(*a*) if he is so satisfied about the objects and the genuineness of the activities and compliance of the requirements of any other law in force, he shall pass an order in writing approving it; or (

b) if he is not so satisfied, after affording a reasonable opportunity of being heard,—

(*i*) shall pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (*2*)(Table: Sl. No. 2); and (*ii*) in any other case, shall pass an order rejecting the application and also cancelling the approval, and send a copy of the order to the applicant and the Assessing Officer.

(*4*) Where an application has been made in any of the cases specified in sub-section (*2*)(Table: Sl. No. 1), the Principal Commissioner or Commissioner shall pass an order granting provisional approval.

354.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Deduction in respect of donations to certain funds, charitable institutions, etc.

80G. (5) This section applies to donations to any institution or fund referred to in sub-clause (*iv*) of clause (*a*) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely :—

(*i*) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (*23AA*) or clause (*23C*) of section 10 :

Provided that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of section 11 shall not apply in relation to such income, if—

(*a*) the institution or fund maintains separate books of account in respect of such business;

(*b*) the donations made to the institution or fund are not used by it, directly or indirectly, for the purposes of such business; and

(*c*) the institution or fund issues to a person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly, for the purposes of such business;

(*ii*) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;

(*iii*) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;

(*iv*) the institution or fund maintains regular accounts of its receipts and expenditure;

(*v*) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (1 of 1956), or is a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University established by law, or is an institution financed wholly or in part by the Government or a local authority;

(*vi*) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being approved by the Principal Commissioner or Commissioner;

(*vii*) where any institution or fund had been approved under clause (*vi*) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (*15*) of section 2, be deemed to have been,—

(*a*) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(*b*) approved under the said clause (*vi*) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;

(*viii*) the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:

Provided that the institution or fund may also deliver to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and

(*ix*) the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed:

Provided that the institution or fund referred to in clause (*vi*) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

(*i*) where the institution or fund is approved under clause (*vi*) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;

(*ii*) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(*iii*) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier; [or]

[90][(*iv*) [***] where activities of the institution or fund have—

(*A*) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought;

(*B*) commenced [***] at any time after the commencement of such activities:]

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

(*i*) where the application is made under clause (*i*) of the said proviso, pass an order in writing granting it approval for a period of five years;

(*ii*) where the application is made under clause (*ii*) or clause (*iii*) [or sub-clause (*B*) of clause (*iv*)] of the said proviso,—

(*a*) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—

(*A*) the genuineness of activities of such institution or fund; and

(*B*) the fulfilment of all the conditions laid down in clauses (*i*) to (*v*);

(*b*) after satisfying himself about the genuineness of activities under item (*A*), and the fulfilment of all the conditions under item (*B*), of sub-clause (*a*),—

(*A*) pass an order in writing granting it approval for a period of five years; or

[93][(*B*) if he is not so satisfied, pass an order in writing, rejecting such application and cancelling its approval, if any, after affording it a reasonable opportunity of being heard;]

[94][(*iii*) where the application is made under sub-clause (*A*) of clause (*iv*) of the said proviso or the application is made under clause (*iv*) of the said proviso as it stood immediately before its amendment *vide* the Finance Act, 2023, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the approval is sought,]

and send a copy of such order to the institution or fund: [**Provided also** that the order under clause (*i*) and clause (*iii*) of the second proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months and one month, as the case may be, calculated from the end of the month in which the application was received:] [**Provided also** that the order under sub-clause (*b*) of clause (*ii*) of the second proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of six months from the end of the quarter in which the application was received:] **Provided also** that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

(*a*) clause (*i*) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

(*b*) clause (*iii*) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

(*c*) in any other case, from the assessment year immediately following the financial year in which such application is made.

354.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :- *"Clause 354 of the Bill provides for approval for purpose of exemption on donation. The clause corresponds to section 80G(5) of the Act. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause. The provisions have been tabulated for ease of comprehension".*

354.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. Incorrect referencing to Schedule III instead of Schedule VII. Modify Section 354 to refer to Schedule VII.

2. The Commissioner to have the power to condone any delay in filing of the application for renewal, if he considers that there is reasonable cause for delay in furnishing the application, and such application shall be deemed to have been made within time Approval may be granted for 10 tax years to small trusts. The power to condone delay may be vested in the Commissioner, as done in the context of registration under section 332(4). The period of validity of approval to be 10 tax years for small trusts, as is the case for registration under section 332(5).

3. Request for both registration and approval through a single application. The Form 10AB for application for renewal of registration u/s 12AB and renewal of approval u/s 80G is the same however the form requires a huge volume of data to be filled up and the form has to be filled up twice with the same data It is an unnecessary burden for the assessee as well as for the department.

354.5 Examination by the Committee:

354.5.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. This is a drafting correction and may be accepted. Corresponding cross-reference in clause 354(1) shall be corrected accordingly.

2. The suggestion seeks to enhance the time limit for expiration of approval for deduction under clause 133(1)(b)(ii) of the Bill [analogous to section 80G of the Income-Tax Act, 1961] from five years to ten years in the case of small trusts. And seeks vesting of the power to the commissioner to condone the delay in filing application of renewal of approval under clause 133(1)(b)(ii). Both the suggestions are in the nature of policy change, which is beyond the scope of I T Bill, 2025. The NPOs covered under clause 133(1)(b)(ii) not only are able to garner donations from individuals and corporates but tax benefits are also given to the donors. Therefore, stricter timelines for filing renewal and regulatory oversight at shorter time interval is more appropriate in the case of such NPOs.

3. Suggestion seeks amendment of rule/Forms. The suggestion relates to matter of rule, which is part of delegated legislation. Amendment of rule/Form is out of the purview of the Bill.

354.5.2 Regarding extension of validity period of registration of small NPOs, the representative of the Ministry has deposed the following during the 31st sitting of the Committee held on 10 June, 2025:-

> "…….. *If a registration is given, that applies up to five years. The stakeholder is saying that instead of five years, approval may be granted for 10 years. We feel five years is a reasonable enough period because some oversight for the Government has to be there. After five years, then again, he has to apply for it".*

354.5.3 He added further as follows:-

> *"Sir, we have already reduced it for small trusts. We have made that frequency to 10 years. Wherever applications come now on, and the receipts is below a certain threshold, I think Rs. 5 crore, it will get the registration for ten years ……...The deduction is available to the donor, if amount is paid to a charitable entity. There are entities on which 100 per cent deduction is available, and then there are other entities on which if I pay Rs. 100, then the deduction amount is restricted to 50 per cent. So, depending upon the entity, that distinction is there. That is a deduction available to the donor from his gross total income".*

354.5.4 He also added as under:-

“Sir, any trust which is registered under this, 100 per cent is not given. For PM CARES Fund, it is written on the statute only in Section 80G that these PM CARES Fund, PM National Relief Fund, CM National Relief Fund and some other earthquake-specific funds were granted 100 per cent by Parliament’s approval only. There is no discretion with the department at the lower stage to grant 100 per cent to somebody or 50 per cent to somebody. All trusts registered under Section 80G, sub-Section 4 have 50 per cent only”.

354.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 354, which pertains to exemption for donations and largely retains the intent of Section 80G(5) of the existing Act with textual simplification, has a drafting error in sub-clause (1) where Schedule III is incorrectly referenced instead of Schedule VII, an error the Department has acknowledged. Therefore, the Committee approve the Clause 354 subject to the aforesaid drafting correction.

7 - Interpretation

Clause 355 - Interpretation

355.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

355. In this Part,—

(*a*) "anonymous donation" means any voluntary contribution referred to in section 2(*49*)(*c*), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars, as prescribed;

(*b*) "approval" means an approval under the second proviso to section 80G(*5*) of the Income-tax Act, 1961 or section 354;

(*c*) "cancellation" includes withdrawal;

(*d*) "donation" means any voluntary contribution received by a registered non profit organisation from any person;

(*e*) "commercial activity" means any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;

(*f*) "registration" includes provisional registration, provisional approval or approval, as referred to in the second proviso to sections 10(*23C*) or 12AB(*1*) of the Income-tax Act, 1961 and under section 332, but shall not include approval under the second proviso to section 80G(*5*) of the said Act or section 354;

(*g*) "registered non-profit organisation" means any person having a valid registration under any specified provision and such registration has not been cancelled;

(*h*) "related person" means any of the following persons:—

(*i*) the author or the founder of the registered non-profit organisation;

(*ii*) any person whose total contribution to such registered non-profit organisation, during the relevant tax year exceeds one lakh rupees, or, in aggregate up to the end of the relevant tax year exceeds ten lakh rupees, as the case may be;

(*iii*) where such author, founder or person is a Hindu undivided family, a member of the family;

(*iv*) any trustee or manager (by whatever name called) of the registered non-profit organisation;

(*v*) any relative of any persons referred to in sub-clause (*i*), (*iii*) or (*iv*);

(*vi*) any concern in which any of the persons referred to in sub-clauses (*i*), (*iii*) or (*iv*) has a substantial interest;

(*i*) "relative", in relation to an individual, means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) any lineal ascendant or descendant of the individual;

(*v*) any lineal ascendant or descendant of the spouse of the individual;

(*vi*) spouse of a person referred to in sub-clause (*ii*), (*iii*), (*iv*) or (*v*);

(*vii*) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual;

(*j*) “residual income” means the total income, as reduced by regular income and specified income;

(*k*) “specified asset” means any asset which is established to have been directly acquired by the specified person—

(*i*) out of its income of the nature referred to in Schedule II (Table: Sl. No. 1);

(*ii*) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective, if the specified person has not been allowed any benefit under this Part or under sections 11 and 12 or section 10(*23C*)(*iv*) or (*v*) or(*vi*) or(*via*) of theIncome-tax Act, 1961 during the said period, where provisions of the first proviso or the second proviso to sub-section 12A(*2*) or the eighth proviso to clause 10(*23C*) of the said Act, are not applicable;

(*iii*) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective due to the provisions of the first proviso or the second proviso to section 12A(*2*) or the eighth proviso to section 10(*23C*), where provisions of the first proviso or the second proviso to section 12A(*2*) or the eighth proviso to section 10(*23C*), of the Income-tax Act, 1961, are applicable; and

(*iv*) which has been transferred to any other specified person within twelve months from the end of the month in which the dissolution takes place in respect of a case specifiedin section 352(*5*)(Table: Sl. No. 9);

(*l*) “specified person” means any person which is registered under any specified provision at any time since its incorporation or creation;

(*m*) “specified provision” means section 12A, 12AA or 12AB or section 10(*23C*) of the Income-tax Act, 1961 or section 332;

(*n*) “substantial interest”, in relation to a person in a concern, means—

(*i*) where the concern is a company, its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by such person or partly by such person and partly by one or more of the other related persons; or

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other related persons are entitled in the aggregate at any time during the tax year, to not less than 20% of the profits of such concern; and

(*o*) “value” means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person.

355.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):-

Clause 355 does not correspond to any specific provisions of the Act.

355.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under :- *"Clause 355 of the Bill provides for meaning of different terms used in Chapter XVII-B. The clause does not correspond to any specific provisions of the Act. In streamlining and consolidating the provisions relating to trust and institution (now registered non-profit organisation) the term used in the provisions relating to registered non-profit organisation have been defined and placed at one place".*

355.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:-

1. (j) "residual income" means the total income, as reduced by regular income, specified income and corpus donations.

2. (j) "residual income" means the total income, as reduced by regular income, Specified income and corpus donations. The definition of residual income to be modified to specifically exclude corpus donations, since it would otherwise be included in this category of income.

3. 355 (h), Please make it as an aggregate of donations of more than Rs.10 Lakhs in the last 3 Tax Years. There are many big NPOs working for the last many decades It is practically impossible for them to keep records since the inception of the NPO But the corresponding penal consequences are disproportionate and extremely harsh.

We recommend that this provision be reassessed and modernised in the following ways:

1. Introduce Inflation- Adjusted Thresholds o Consider revising the limits to tie them to income slabs / donation percentage of gross receipts, say someone donating a percentage of the total donations of the trust may be treated as related person.

2. Fix a Clear Timeframe for Aggregation o Define a retrospective cut-off (e.g., "aggregate since FY 2021–22 onwards") to ease practical compliance and systemisation. The cumulative may be considered as sum of donations made in last 3 or 5 years.

3. Clarify Scope of Control vs. Contribution o Distinguish between donors with decisionmaking control (who should be flagged) and high-value but passive donors, to avoid unnecessary complications in financial relationships**.**

355.5 Examination by the Committee:

355.4.1 On the above suggestions, the Ministry of Finance has stated the following in their written submission (mentioned correspondingly):

1. "No reason has been provided for the suggestion. The suggestion is not clear".

2. "Suggestion seeks to modify definition of 'residual income' to specifically exclude 'corpus donation' from it. Corpus donation has a specific exclusion as per the provisions of clause 338(b) of the Income-Tax Bill, 2025 which is a continuation of policy as provided in section 11(1)(d) of the Income-Tax Act, 1961. The concern of the stakeholder is adequately addressed by the provisions of clause 338(b) of the Bill. In view of the above, there is no ambiguity and suggested amendment is not feasible".

3. "Suggestion seeks that in the part related to NPO, definition of 'related person' in clause 355(h) be amended to make threshold contribution of more than Rs.10 Lakhs in the last 3 Tax Years. The suggestion is the nature of policy change, which is beyond the scope of I T Bill, 2025. There is no change in the IT Bill, 2025 vis-a-vis I T Act, 1961. The said provision has been rationalised vide Finance Act, 2025. Earlier it was Rs.50,000 upto the end of relevant tax year. Now The same has been amended to provide 1 lac upto the end of relevant tax year and Rs. 10 lac in aggregate upto the end of relevant tax year. Further, relaxation may result in abuse of the provision and defeat the very purpose for which exemption is granted to such NPOs. In view of the above, suggested amendment is not feasible".

355.4.2 In this regard, the representative of the Ministry has stated the following during oral evidence held on 10 June, 2025:-

> *"……. they are asking for definition of related person to be amended to make threshold contribution of more than Rs. 10 lakh in last three tax years. So, this is something which we have rationalized by Finance Act, 2025 itself".*

355.6 Observations/Recommendations of the Committee:

The Committee acknowledge that Clause 355, which defines various terms within Chapter XVII-B, does not have corresponding section in the Income-Tax Act, 1961. This new clause serves to centralize and streamline definitions pertinent to registered non-profit organizations. After careful deliberation of both stakeholder and Departmental perspectives, the Committee concur with the views of the Ministry of Finance (Department of Revenue). The Committee find references to the proposed repealed Act i.e the Income-Tax Act, 1961 have been menitoned in sub-clauses (b), (f), (m), K(ii) and k(iii) of Clause 355. The Committee, therefore, recommend to remove such references from Clause 355 and incorporate the same in Clause 356 which provides for Repeals and Savings. The Committee approve Clause 355 subject to this drafting correction.

CHAPTER XVIII

APPEALS, REVISIONS AND ALTERNATE DISPUTE RESOLUTIONS

A.—Appeals

I.—*Appeals to Joint Commissioner (Appeals) and Commissioner (Appeals)*

Clause 356: Appealable orders before Joint Commissioner (Appeals)

356.1 Provision proposed in the Bill, 2025:

(*1*) Any assessee, aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(*a*) an order being an intimation under section 270(*1*) or 399(*1*), where the assessee objects to the making of adjustments; or

(*b*) an order under section 270(*10*) or 271, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(*c*) an order of assessment, reassessment or recomputation under section 279; or

(*d*) an order under section 398; or

(*e*) an order imposing penalty under Chapter XXI; or

(*f*) an order under section 287 or 288 amending any of the orders or intimations in clauses (*a*) to (*e*).

(*2*) No appeal shall be filed before the Joint Commissioner (Appeals) if an order referred to in sub-section (*1*) is passed by or with the prior approval of, an authority above the rank of Deputy Commissioner.

(*3*) The Board or an authority so authorised by the Board in this regard, may transfer—

(*a*) any appeal filed against an order referred to in sub-section (*1*) and any matter arising out of or connected with such appeal, which is pending before the Commissioner (Appeals), to the Joint Commissioner (Appeals); or

(*b*) any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), regardless of anything contained in sub-sections (*1*) and

(*3*)(*a*), who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(*4*) Where an appeal is transferred under sub-section (*3*), the appellant shall be given an opportunity of being reheard.

(*5*) For the disposal of appeal under this section, the Central Government may notify a scheme, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Joint Commissioner (Appeals) and the appellant, to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of such appeals, shall not apply or shall apply with exceptions, modifications and adaptations.

(*6*) The Board may specify that any provisions of this section shall not apply to any case or class of cases.

(*7*) In this section, "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

356.2 Relevant Provision of the Principal Act (Act, 1961):

Section 246: Appealable orders before Joint Commissioner (Appeals)

(1) Any assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(*a*) an order being an intimation under sub-section (1) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(*b*) an order of assessment, reassessment or recomputation under section 147;

(*c*) an order being an intimation under sub-section (1) of section 200A;

(*d*) an order under section 201;

(*e*) an order being an intimation under sub-section (6A) of section 206C;

(*f*) an order under sub-section (1) of section 206CB;

(*g*) an order imposing a penalty under Chapter XXI; and

(*h*) an order under section 154 or section 155 amending any of the orders mentioned in clauses (*a*) to (*g*):

Provided that no appeal shall be filed before the Joint Commissioner (Appeals) if an order referred to in this sub-section is passed by or with the prior approval of, an authority above the rank of Deputy Commissioner.

(2) Where any appeal filed against an order referred to in sub-section (1) is pending before the Commissioner (Appeals), the Board or an authority so authorised by the Board in this regard, may transfer such appeal and any matter arising out of or connected with such appeal and which is so pending, to the Joint Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(3) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board or an authority so authorised by the Board in this regard, may transfer any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(4) Where an appeal is transferred under the provisions of sub-section (2) or sub-section (3), the appellant shall be given an opportunity of being reheard.

(5) For the purposes of disposal of appeal by the Joint Commissioner (Appeals), the Central Government may make a scheme, by notification in the Official Gazette, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Joint Commissioner (Appeals) and the appellant, in the course of appellate proceedings to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by the Joint Commissioner (Appeals), shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

(6) For the purposes of sub-section (1), the Board may specify that the provisions of that sub-section shall not apply to any case or any class of cases.

Explanation.—For the purposes of this section, "status" means the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.]

356.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:-

> *"Clause 356 of the Bill provides for appealable orders before Joint Commissioner (Appeals). Clause 356 of the Bill corresponds to Section 246 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

356.4 Important Views/Suggestions given by Experts/Stakeholders:

During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as follows:

(i) The Remand reports to be issued by the assessing officer during appeal proceedings need to be issued within a maximum stipulated period say 6 months which would result in quick disposal of appeals.

(ii) Time limit for Disposal of Appeals may be fixed. Justification: In the Income-Tax Bill, 2025 no time limit is prescribed for hearing of the appeal as well as for passing of the order. Even under the Income-Tax Act, 1961 no time limit was prescribed. The huge & heavy pendency of appeals before the First Appellate Authorities viz. the CIT (Appeals) and Jt. CIT (Appeals) needs no introduction. As per the latest figures of the Ministry of Finance, the all-India pendency of appeals before the First Appellate Authority, is over Five (5) Lakhs. Further, the significance & importance of timely disposal of appeals by such a crucial authority as the First Appellate Authority, cannot be overemphasized.

(iii) The Assessing Officers should be made accountable for their actions. If the percentage of demands not upheld by the Tribunals is higher than a reasonable figure, say 50 per cent, the officer should be given a blank mark and reprimanded. On the other hand, an Assessing Officer should be protected and defended if he has obeyed instructions of the Board and followed case laws even though an audit might raise concerns about his actions.

(iv) All orders of the Assessing Officer may be appealable. To avoid litigation on the issue of appealable orders, every order passed by the Income tax authority, i.e. Assessing Officer/tax recovery Officer, etc., which has the effect of adversely affecting an assessee in any manner may be made appealable before the Commissioner (Appeals). Under the present Income -Tax Act, 1961 there are a number of decisions which state that when an assessee denies his liability, it is an appealable order. Central

Provinces Manganese Ore Co. vs. CIT (1986) 160 ITR 961 (SC). To avoid such a situation, an appropriate amendment may be made in the Bill, 2025, which will save substantial time for Revenue as well as the judiciary.

(v) Remand report: In a number of matters, before the Commissioner of Income- tax (Appeals) the assessee files an additional evidence. In such a situation, the Commissioner of Income- tax (Appeals) has to call for a remand report. It has been observed that there is no time limit prescribed for forwarding the remand report so prepared to the Commissioner of Income- tax (Appeals). This can lead to delays in the appeal process. It is desired that a time limit for furnishing a remand report be prescribed in the Act.

(vi) The Commissioner (Appeals) may be trained by a Sitting Judge or retired Judge of the High Court, on the principle of natural justice, binding precedent, etc. from time to time. One will find that many of the Commissioners (Appeals) dismiss Appeals without deciding the issues involved on their merits. Various High Courts have held that the Commissioner (Appeals) have no power to merely dismiss the appeal; they have to decide issues on the merits.

(vii) When an Assessing Officer (AO) raises a demand on a taxpayer of more than 10% of the tax actually paid, it should be reviewed and approved by an officer to whom the AO does not report, and who is 2 levels above the AO to ensure independent review.

356.5 Examination by the Committee:

The Ministry of Finance in their written response pertaining to the above suggestions/views has submitted the following replies (mentioned correspondingly):

356.5.1 “The Remand report *per se* does not constitute a separate proceeding under the Act, it is part of the appellate procedure before the Commissioner Appeals which in turn is subjected to internal timelines and monitoring. It is further submitted that furnishing such reports requires examination of new evidences, third-party enquiries, physical verification including but not limited to recording of statements of witnesses on oath. Further, if no remand report is received and CIT Appeal is required to pass an order in its absence, the same may be detrimental to the interest of the assessee. Thus, suggestion has no merits.”

356.5.2 “There is no change in the provision of the Bill viz-a-viz the provisions of IT Act 1961 from the policy perspective. Further, necessary provisions are already in place to monitor disposal of pending appeals e.g. Central Action Plan, administrative reporting etc. Further, after disposal of appeal, in case there is a refund, the same is issued to

the assessee with interest for the entire period. It may also be mentioned that due to monetary thresholds of tax effect for filing appeal by the Department to ITAT (60 lakhs), HC (2 Crore) & SC (5 crore), the litigation comes to an early end in most of the cases where taxpayers get relief from lower appellate authorities and the tax effect is below the aforesaid thresholds. This is a substantial relief to taxpayers. Thus, the suggestion is not feasible."

356.5.3 "The suggestion seeks to make officer accountable for their actions. The suggestion is not feasible"

356.5.4 "The suggestion seeks to make all orders of Assessing Officer to be appealable. The suggestion is not feasible."

356.5.5 "Similar to suggestion (ii) above. The suggestion seeks to make remand report time bound. The suggestion is not feasible."

356.5.6 "The suggestion seeks to introduce training of CIT(A) by Sitting Judge or retired Judge of the High Court."

356.5.7 "The suggestion is already addressed."

356.5.8 During the oral evidence, a representative of the Ministry stated as follows:-

> *"All are similar demands except one they have given that in case of complex cases, the assessee should be given option to appear for a physical hearing. Now, we are in a faceless regime."*

356.5.9 On being asked to clarify the basis for transfer of the appeals by the Board, the Ministry in its written reply submitted as follows:-

> *"A negative list has been given as per 16 June 2023 notification by CBDT for JC Appeals. As per section 119, Board can issue order and also as per section 120, jurisdiction of any income tax authority can be changed by the Board. It is pertinent to mention that section 246(1) of the Act provides that which cases can be appealed to JCIT(A). Further, CBDT vide Notification dated 16.06.2023 has already defined the scope of JCIT(A) by restricting that following cases cannot be dealt by JCIT(A) (a) search/survey related assessment, (b) international taxation related cases (c) Assessment orders having disputed demand more than Rs. 10 lakhs (d) Assessments where addition is made on the basis of seized/impounded material (e) other cases as listed in CBDT notification. Therefore, scope of cases which can be dealt by the JCIT(A) and CIT(A) has been already defined. Thus, such provision of transferring the cases between JCIT(A) and CIT(A) can only e done under the ambit of scope of JCIT(A) and CIT(A). Therefore, there is no*

arbitrary power to the CBDT with reference to transferring the cases between JCIT(A) and CIT(A).”

356.6 Observations/Recommendations of the Committee:

The Committee note that Clause 356 of the Bill seeks to provide for appeals to Joint Commissioner (Appeals) against certain orders, aligns with the provisions of Section 246 of the Act, 1961. The Committee also note that the textual simplification of Clause 356 is as per the objectives of the Bill and retaining the same intent of existing Section. The Committee, after consideration of views of stakeholders and the Department’s responses, accept the Clause as proposed.

Clause 357: Appealable orders before Commissioner (Appeals).

357.1 Provision proposed in the Bill, 2025:

Any assessee or any deductor or any collector, aggrieved by any of the following orders, may appeal to the Commissioner (Appeals) against—

(*a*) an order passed by a Joint Commissioner under section 231(*4*)(*b*);

(*b*) an order against the assessee where the assessee denies his liability to be assessed under this Act; or

(*c*) an order being an intimation under section 270(*1*) or 399(*1*), where the assessee or the deductor or the collector objects to the making of adjustments; or

(*d*) any order of assessment under section 270(*10*), except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in

section 274(*12*) or 271, where the assessee objects to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(*e*) an order of assessment, reassessment or recomputation under Section 279 [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(*12*)] or 283; or

(*f*) an order made under section 169(*3*)(*a*); or

(*g*) an order made under section 287 or 288 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections except an order referred to in section 274(*12*); or

(*h*) an order made under section 306 treating the assessee as the agent of a non-resident; or

(*i*) an order made under section 313(*2*) or (*4*); or

(*j*) an order made under section 315; or

(*k*) an order made under section 398; or

(*l*) an order made under section 431; or

(*m*) an order made under section 434; or

(*n*) an order imposing or enhancing a penalty under Chapter XXI; or

(*o*) an order imposing a penalty under section 412; or

(*p*) an order passed under section 294(*1*)(*c*); or

(*q*) an order imposing a penalty under section 298(*2*); or

(*r*) an order made by an Assessing Officer under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

357.2 Relevant Provision of the Principal Act (Act, 1961):

Section 246A: Appealable orders before Commissioner (Appeals)

(1) Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(*a*) an order passed by a Joint Commissioner under clause (*ii*) of sub-section (3) of section 115VP or an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(*aa*) an order of assessment under sub-section (3) of section 115WE or section 115WF, where the assessee, being an employer objects to the value of fringe benefits assessed;

(*ab*) an order of assessment or reassessment under section 115WG;

(*b*) an order of assessment, reassessment or recomputation under section 147 except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA or section 150;

(*ba*) an order of assessment or reassessment under section 153A except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA;

(*bb*) an order made under sub-section (3) of section 92CD;

(*c*) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections except an order referred to in sub-section (12) of section 144BA;

(*d*) an order made under section 163 treating the assessee as the agent of a non-resident;

(*e*) an order made under sub-section (2) or sub-section (3) of section 170;

(*f*) an order made under section 171;

(*g*) an order made under clause (*b*) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(*h*) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

(*ha*) an order made under section 201;

(*hb*) an order made under sub-section (6A) of section 206C;

(*i*) an order made under section 237;

(*ia*) an order made under section 239A;

(*j*) an order imposing a penalty under—

(*A*) section 221; or

(*B*) section 271, section 271A, section 271AAA, section 271AAB, section 271F, section 271FB, section 272AA or section 272BB;

(*C*) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment years;

(*ja*) an order of imposing or enhancing penalty under **[***sub-section (2)***]** of section 275;

(*k*) an order of assessment made by an Assessing Officer under clause (*c*) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

[(*ka*) an order of assessment made by an Assessing Officer under clause (*c*) of sub-section (1) of section 158BC, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of September, 2024;]

(*l*) an order imposing a penalty under sub-section (2) of section 158BFA;

(*m*) an order imposing a penalty under section 271B or section 271BB;

(*n*) an order **[*******]** imposing a penalty under section 271C, section 271CA, section 271D or section 271E;

(*o*) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(*p*) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(*q*) an order imposing a penalty under Chapter XXI;

(*r*) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Explanation.—For the purposes of this sub-section, where on or after the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(1A) Every appeal filed by an assessee in default against an order under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 shall be deemed to have been filed under this section.

(1B) Every appeal filed by an assessee in default against an order under sub-section (6A) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day :

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.— For the purposes of this section, "appointed day" means the day appointed by the Central Government by notification in the Official Gazette.

357.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 357 of the Bill provides for appealable orders before Commissioner (Appeals). Clause 357 of the Bill corresponds to Section 246A of the Act. Section 246A(1)(j) of the existing Act list several sections pertaining to penalty imposed under the Act, which can be appealed before the CIT(Appeals). Further, section 246A(1)(q) provides that an order imposing a penalty under Chapter XXI may be appealed before the CIT (Appeals). As cases falling under section 246A(1)(j) was the sub-set of cases falling under section 246A(1)(q), section 246A(1)(j) has been omitted in the Bill".*

357.4 Important Views/Suggestions given by Experts/Stakeholders:

357.4 During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are encapsulated as follows:

357.4.1 An option may be given to the appellant that on fulfillment of certain criteria like high pitch assessments, high demands etc. where the appellant can opt for physical CIT appeal rather than faceless appeal for faster disposal of appeal. Currently, in search and seizure cases there is a system of disposal of appeal by physical commissioner of Income tax Appeals.

357.4.2 It is suggested that the faceless appeal scheme be replaced with e-appeals scheme where the officer conduct the hearings with their videos on as has been observed during JCIT(A), Tribunal and Court proceedings. Justification: While the Government's intention to introduce faceless appeal scheme is laudable, it cannot be ignored that its execution has its own pitfalls. One such issue is the instance of the officer to not switch-on their cameras during hearing. While this may be to protect their identities, it often leads to assessee wondering if their arguments are being heard or do their pleas fall on deaf ears. The proposed amendment will lead to a more collaborative hearing.

357.4.3 To add the definition of the term "status" which is missed in Section 357 but defined in section 356. Few clauses of the section providing separately for an appealable order may be clubbed. Justification: The word "status" is defined in section 356 in case of Appeal before JCIT(A). The same should be defined for Appeal before CIT(A) as well. There are multiple clauses for certain orders passed. These clauses are indicated in dark in the column for Bill, 2025. All such clauses maybe clubbed. Clauses (h) and (i) of the proposed provision combine all such provisions.

357.4.4 Deployment of Specialized Benches for High-Pitched Assessments – Constitution of Specialized Disposal Benches at the CIT(A) level for cases involving (a) additions above Rs. 10 crores, or (b) recurring issues with established jurisprudence. This will ensure faster disposal of impactful cases and reduce pendency in revenue-significant matters.

357.5 Examination by the Committee:

357.5 The Ministry of Finance in their written response with regards to the above suggestions/views has submitted as under (mentioned correspondingly):

357.5.1 “The faceless system is still in a nascent stage. In the present system of faceless appeals, there is a facility for video hearings. This can be considered to be made more efficient. Further, there has to be a detailed study for evaluating the faceless system of CIT(Appeal). Pending such study and its detailed consideration thereafter, it would be difficult to accept any knee-jerk solutions. Thus, suggestion has been noted. “

357.5.2 **“Accepted.** Repeated suggestion similar to (i) above. In the present system of faceless appeals, there is a facility for video hearings. This can be considered to be made more efficient. Further, there has to be a detailed study for evaluating the faceless system of CIT (Appeal).Thus, Suggestion has been noted**.”**

357.5.3 **“Partially accepted.** To align the provisions of clause 356 and clause 357 of the Bill, term "status" shall be defined in clause 357 as well in the line of clause 356. Further, with respect to clubbing the clause (h) to (i) may have serious cross-referencing issues.”

357.5.4 “The suggestion seeks to constitute Specialized Benches for High-Pitched Assessments – Constitution of Specialized Disposal Benches at the CIT(A) level for cases involving (a) additions above Rs. 10 crores, or (b) recurring issues with established jurisprudence. The suggestion is only with reference to the allocation of cases to specialized CIT(A). This does not require any change in the Provision as proposed. It is in the nature of administrative nature. Where a bench takes a decision, the efficiency of manpower utilisation comes down by 1/3rd. The suggestion is not feasible. Further Vivad se Vishwas scheme 24 as introduced, Constitution of DRC and

JC(Appeals), BAR, safe harbour rules, presumptive taxation are other measures to reduce appeals."

357.5.5 Further, on the suggestion of constitution of specialized benches, the representative of the Ministry deposed before the Committee as follows:-

"They are asking that constitution of specialised disposal benches at CIT(A) level for high pitched assessment. So, the suggestion is with reference to allocation of cases to specialised CIT(A). So, it does not require any change in the provision."

357.5.6 He further clarified as under:-

"……...an administrative mechanism is already in place where if a person says that it is a high-pitched assessment, then it is considered by the senior officers and then seen and a report is given. Accordingly, a remedial is done."

357.5.7 In response to, comparison of mapping section 246A of the Act, 1961 and omission of the orders mentioned in section 246A(g), (hb), (k) [in k- only section 132A is missing] in clause 357 of the Income-Tax Bill, 2025, the Ministry in their written submission stated as follows:-

"246A(g) refers to cases pertaining to AY on or before 01.04.1992 so it has not been included. 246(hb) is for order u/s 206C(6A) which is now in clause 357(k). 246A(k) refers to orders passed under section 158BC(1)(c) which is passed in case a search u/s 132 is initiated or requisition u/s 132A is made on or after 01.09.2024. Hence there is no need to separately mention the same in clause 357(p) which deals with appealable orders passed in consequence of search or requisition initiated on or after 01.09. 2024.At the commencement of the IT Bill 2025, all orders in consequence of any search u/s 132 or requisition made u/s 132A shall be passed under clause 294(1)(c) only, therefore, reference to section 132 or 132A is inconsequential."

357.6 Observations/Recommendations of the Committee:

The Committee note that Clause 357 of the Bill seeks to provide for appeals to Commissioner (Appeals) against certain orders, corresponding to Section 246A of the Act, 1961. The Clause has been textually simplified while retaining the intent. Some important suggestions on the Clause 357 have been received viz. option for physical CIT appeal rather than faceless appeal for faster disposal of appeal; facility for video hearings and a study for evaluating the faceless system of CIT (Appeal). The Ministry has noted these suggestions. The Committee also note that the Ministry has accepted the suggestion to define the term "status" in Clause 357 as well in the line of Clause 356. The Committee find merit in the suggestion that term "status" should be defined in Clause 357 for appeal before CIT(A). Therefore, the Committee recommend to amend the Clause as accepted by the Ministry. Apart from the above drafting correction, the Committee accept the Clause as proposed.

Clause 358: Form of appeal and limitation

358.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Every appeal under this Chapter shall be in such form and verified in such manner, as prescribed.

(*2*) An appeal, referred in sub-section (*1*), made to the Commissioner (Appeals) or to the Joint Commissioner (Appeals), shall be accompanied by a fee of—

(*a*) two hundred and fifty rupees, where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less;

(*b*) five hundred, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees;

(*c*) one thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(*d*) two hundred and fifty rupees, where the subject matter of an appeal is not covered under clauses (*a*), (*b*) and (*c*).

(*3*) The appeal shall be presented within thirty days,—

(*a*) from the date of service of the notice of demand where the appeal relates to any assessment or penalty; or

(*b*) in any other case, from the date on which intimation of the order sought to be appealed against is served.

(*4*) For the purposes of sub-section (*3*)(*a*), where an application has been made under section 440(*1*), the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded.

(*5*) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(*6*) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(*a*) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(*b*) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him.

(*7*) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of sub-section (*6*)(*b*) and on an application made by the appellant in this behalf, for reasons to be recorded in writing, exempt him from the operation of the provisions of that sub-section.

358.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 249: Form of Appeal and Limitation

(1) Every appeal under this Chapter shall be in the prescribed form and shall be verified in the prescribed manner and shall, in case of an appeal made to the Commissioner (Appeals) on or after the 1st day of October, 1998 [or to the Joint Commissioner (Appeals) on or after the 1st day of April, 2023,] irrespective of the date of initiation of the assessment proceedings relating thereto be accompanied by a fee of,—

(*i*) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one hundred thousand rupees or less, two

hundred fifty rupees;

(*ii*) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, five hundred rupees;

(*iii*) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one thousand rupees;

(*iv*) where the subject matter of an appeal is not covered under clauses (*i*), (*ii*) and (*iii*), two hundred fifty rupees.

(2) The appeal shall be presented within thirty days of the following date, that is to say,—

(*a*) where the appeal is under section 248, the date of payment of the tax, or

(*b*) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty:

Provided that, where an application has been made under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be excluded :

Provided further that where an application has been made under sub-section (1) of section 270AA, the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded, or

(*c*) in any other case, the date on which intimation of the order sought to be appealed against is served.

(2A) Notwithstanding anything contained in sub-section (2), where an order has been made under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 and the assessee in default has not presented any appeal within the time specified in that sub-section, he may present such appeal before the 1st day of July, 2000.

(3) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(*a*) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(*b*) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:

Provided that, in a case falling under clause (*b*) and on an application made by the appellant in this behalf, the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of that clause.

358.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 358 of the Bill provides for form of appeal and limitation. Clause 358 of the Bill corresponds to Section 249 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

358.4 Important Views/Suggestions given by Experts/Stakeholders:

358.4 During the course of the examination of the Bill, some important suggestions/comments provided by various stakeholders and experts are summarised as follows:

358.4.1 It is suggested to rationalize the provisions of Clause 358(3) of the Bill, 2025 to provide that an appeal before the CIT(A)/JCIT(A) may be filed within 1 month from the end of the month in which the order appealed against is passed. Justification: This is to bring parity with the provisions of section 253(3) of the Act, 1961 [corresponding to Clause 362(3) of the Bill, 2025]

358.4.2 Extend this 1st appeal time limit to a period of 3 months and stay provisions with a pre-deposit of 10% of the disputed tax. Justification: If aligned as exist with GST law, the mechanism will run smoothly, including stay proceedings.

358.4.3 With regards to sub-clause (3) “The appeal shall be presented within three months, (a) from the date of service of the notice of demand where the appeal relates to any assessment or penalty; or (b) in any other case, from the date on which intimation of the order sought to be appealed against is served.”Justification: Under the current provisions of the Act, the time limit for filing an appeal before the Commissioner of (Appeals) or the Joint Commissioner of (Appeals) is restricted to 30 days from the date of service of the order or two months in the case of appeals to Appellate Tribunal. With the advent of faceless assessments and e-proceedings, assessee may not always immediately notice the service of orders or demand notices. This is especially true for those who are not well-versed with digital communication or online procedural frameworks.

358.5 Examination by the Committee:

358.5 The Ministry of Finance, on being asked, in their written replies to the above suggestions/views has furnished the following (mentioned correspondingly):

358.5.1 “The suggestion seeks to increase the time line to file the appeal before CIT(A)/JCIT(A) whereby present time limit of one month is proposed for changing to one month from the end of the month. It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The filing of appeal before first appellate authority is to be aligned with the recovery proceeding which is usually 30 days of issuance of demand notice. In 30 days finality is arrived at whether the assessee is in appeal and what will be the amount of tax he will deposit. Disturbing this timeline will affect all the recovery proceedings. Thus, the suggestion is not feasible.”

358.5.2 “The suggestion seeks to increase the time limit to 3 months from existing 1 month. Further, it has been proposed to provide stay on demand with pre-deposit of 10%.
Regarding pre deposit of 10% tax, repeated suggestion as Sl. No. 216 of Batch-I. The existing administrative instruction for payment of demand provides that the AO may require the assessee for payment of certain percentage of the demand depending upon the facts of the case. Besides PCIT/CIT can also permit lower percentage of demand to be paid for granting stay. Thus, the suggestion is not feasible.”

358.5.3 “Similar to Sr. No. (ii) as above. The suggestion seeks to increase the time limit to 3 months from existing 1 month for filing appeal before JCIT(Appeals) and CIT(Appeals).
The suggestion in the nature of policy change. Thus, the suggestion is not feasible.”

358.5.4 When the Committee pointed out the omission of the word “rupees’ after the words “five hundred” in Clause 358(2)(b), the Ministry in its written reply has admitted to the omission stating that it is in the nature of Drafting Correction.”

358.6 Observations/Recommendations of the Committee:

The Committee note that Clause 358 of the Bill prescribes form of appeal and limitation, aligns with Section 249 of the existing Act. The Department justifies this as textual simplification, not a policy change. However, the drafting error i.e. omission of the word "rupees" after the words "five hundred" in Clause 358(2)(b), as pointed out by the Committee, has been accepted by the Department of Revenue. They, therefore, recommend the Department to carry out the aforesaid drafting correction. Apart from the above drafting correction, the Committee accept the Clause as proposed.

Cause 359: Procedure in appeal.

359.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Joint Commissioner (Appeals) or the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer against whose order the appeal is preferred.

(*2*) The following shall have the right to be heard at the hearing of the appeal:—

(*a*) the appellant, either in person or by an authorised representative;

(*b*) the Assessing Officer, either in person or by a representative.

(*3*) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may—

(*a*) adjourn the hearing of the appeal; or

(*b*) make such further inquiry as he thinks fit, before disposing of any appeal, or may direct the Assessing Officer to make further inquiry and report the result of the same; or

(*c*) allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(*4*) The order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(*5*) The Joint Commissioner (Appeals) or the Commissioner (Appeals), where it is possible, may hear and decide such appeal within one year from the end of the financial year in which such appeal is filed or transferred to him under section 356.

(*6*) On the disposal of the appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

359.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 250: Procedure in Appeal

(1) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal—

(*a*) the appellant, either in person or by an authorised representative;

(*b*) the Assessing Officer, either in person or by a representative.

(3) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) shall have the power to adjourn the hearing of the appeal from time to time.

(4) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Assessing Officer to make further inquiry and report the result of the same to the [Joint Commissioner (Appeals) or the] Commissioner (Appeals).

(5) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(6) The order of the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.

[(6A) In every appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals), as the case may be, where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him under sub-section (1) or transferred to him under sub-section (2) or sub-section (3) of section 246 or filed before him under sub-section (1) of section 246A, as the case may be.]

(6B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeal by Commissioner (Appeals), so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals).

(6C) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (6B), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by Commissioner (Appeals) shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022:

[Provided further that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2022, by notification in the Official Gazette.]

(6D) Every notification issued under sub-section (6B) and sub-section (6C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(7) On the disposal of the appeal, the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

359.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 359 of the Bill provides for procedure in appeal. Clause 359 of the Bill corresponds to Section 250 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."*

359.4 Important Views/Suggestions given by Experts/Stakeholders:

359.4 During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are outlined as under:

359.4.1 In case of non-disposal of appeal within one year by Commissioner Appeals, following consequences should be provided for: Refund of demand deposited regardless of status of appeal; or Higher interest rate @12% instead of 6%.

359.4.2 There is no provision for fixing the time limit for the disposal of matter remanded/set aside to the Commissioner (Appeals) therefore, it is suggested that provision should provide for such time limit.

359.4.3 A condition of recording reasons in case the appeal could not be disposed off within one year period should be added. A lot of cases are pending at the level of CIT(A) being the First Appellate Authority and as such, is considered as inefficient body under the Act, 1961. A specified timeframe for deciding the appeal by such Authority would justify expeditious and timely disposal of appeal.

359.4.4 The provisions of Clause 359(5) of the Bill, 2025 be amended to provide that the CIT(A)/JCIT(A) should be mandatorily pass their orders within 1 year from the end of the year in which the appeal is filed. In case, due to unavoidable circumstances, this period may be extended by another 6 months provided that prior written approval of the PCIT/CCIT/PCCIT is sought. Justification: This is to ensure that CIT(A)/JCIT(A) proceedings are conducted in a time bound manner.

359.4.5 To insert a new sub-section to prescribe a time period for disposal of pending appeals by the CIT(Appeals). Additional interest to be levied on relief given in case of appeals disposed after the prescribed time period. Justification: There are more than 5.40 lakh cases pending before the CIT(A) as on 31.03.2025. For faster disposal of cases, a time period for all pending appeals must be prescribed. An additional interest levied for delay in deciding the appeals may ensure faster disposal of the cases and may also provide relief to the assessee for delay not attributable to assessee.

359.4.6 In clause 359 of the bill/section 250(6A) of the Act, the words "*where it is possible, may"* be substituted with the word "*shall*" and the following proviso may be inserted in the said section.

"***Provided*** *that where for reasons attributable to the assessee, the appeal cannot be disposed off within the said period of one year from the end of the financial year in which the appeal is filed, the Commissioner/Jt. Commissioner may, for reasons to be recorded in writing, dispose off the appeal beyond a period of one year from the end of the financial year in which the appeal is filed*".

"***Provided*** *further that in no case shall the appeal be disposed off beyond a period of eighteen months from the end of the financial year in which the appeal is filed*."

359.4.7 Presence of assessing officers shall also be mandated during proceedings before the CIT(A) as this will ensure saving in time and efforts to seek time to time clarifications from them unless there is involvement of major issue as per the CIT(A).

359.4.8 Monthly dashboards to be published district-wise and made public, showing number of appeals filed, disposed, and pending, categorized by monetary value and legal complexity. This ensures administrative transparency and incentivizes appellate officers to improve disposal metrics.

359.5 Examination by the Committee:

359.5 With regards to the above suggestions/views, the Ministry of Finance in their written reply has made the submissions mentioned below (mentioned correspondingly):

359.5.1 There is no change in the provision of the Bill viz-a-viz the provisions of IT Act 1961 from the policy perspective. However, it is submitted that necessary administrative measures are already in place to monitor disposal of pending appeals e.g. Central Action Plan, administrative reporting etc. Some of the administrative measures are:-

(a) The annual targets of disposal of pending appeals by CIT appeal are determined by the Central Action Plan (CAP) of the Department.

(b) The Performance of CIT appeal is closely monitored by the CBDT in light of the targets prescribed by the CAP.

(c) Monthly Letters are issued to the Pr. CCITs detailing the disposals made by each CIT appeal and seeking explanation in cases of low performance.

(d) Regular review meetings are conducted by the Member (A&J) and the CIT(A&J) in various Pr. CCIT regions to emphasise the need for expeditious disposal of appeals and adherence to the targets fixed by CAP.

(e) The CAP for FY 2025-26 has set an ambitious target of disposal of over 2 Lakh appeals and about 10 Lakh Cr. of disputed demand. Emphasis has been laid on disposal of appeals filed before 1.10.2020 (“legacy appeals”)

(f) A 40% shortage of manpower exists at the First Appellate Level. The Department has tried to augment the manpower by assigning the additional charges of CIT(Appeals) to Pr. CITs and CIT(DR).

Further, after disposal of appeal, in case there is a refund, the same is issued to the assessee with interest. It may also be mentioned that due to monetary thresholds of tax effect for filing appeal by the Department to ITAT (60 lakhs), HC (2 Crore) & SC (5

crore), the litigation comes to an early end in most of the cases where taxpayers get relief from lower appellate authorities and the tax effect is below the aforesaid thresholds. This is a substantial relief to taxpayers. Thus, suggestion is administrative in nature."

359.5.2 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

359.5.3 to 6 "Repeated Suggestion similar to Para no. 359.5.1 above ..... Thus, the suggestion is not feasible."

359.5.7 "The suggestion seeks to mandate presence of assessing officers during proceedings before the CIT(A). In a faceless environment the AO and CIT(A) are faceless. Also, the assessment is done by unit and not an individual. Even otherwise, the suggestion is administratively cumbersome. There is already a mechanism of remand report through which CIT(A) may seek clarifications from AO. Further, not all cases require clarifications. In the non faceless system the AO is given an option to appear by the CIT(A)
Thus, suggestion is not feasible."

359.5.8 "The suggestion seeks to publicly display number of appeals filed, disposed, and pending, categorized by monetary value and legal complexity. The suggestion will not lead to any administrative efficiency. The central action plan collates the appeal statistics and all the Pr CCITs monitor the status which is centrally monitored through Member (A&J) and the CIT(A&J) in various Pr. CCIT regions to emphasise the need for expeditious disposal of appeals and adherence. There is no requirement of making this data public as it will not yield any benefit. The suggestion is administrative in nature."

359.5.9 Regarding the suggestion for demanding higher interest rate in case of non-disposal of appeal within one year, the representative of the Ministry of Finance deposed before the Committee as follows:-

> *"There are challenges in this. One is that, yes, we need to ramp up our mechanism so that we speed up the disposal of appeals. But, tweaking with this interest element, both on the reduction or in case of a refund on a higher side, it has its own challenges, sir. Because suppose the Commissioner (Appeals) gets it confirmed, and in ITAT, it gets deleted. In different forums, different decision is taken. This would add to more confusion rather than actually solving the problem. So, the issue has to be solved administratively, and seen that the appeals are disposed of within a reasonable time, rather than actually picking on them."*

359.5.10 When asked about changing the stipulated time limit mentioned in Clause 395(5) from "within one year from the end of the financial year in which such an appeal

is filed or transferred to him under Section 356" to "within one year from the date of filing an appeal", the Ministry in its written response furnished as under:-

> *"This will result in staggered time line where cases will be getting time-barred every day. In the case of transfer and posting of Officers, many times handing and taking over takes place for 10 to 15 days. Thus, many cases will be out as per proposed time limit. Thus, suggestion is not feasible."*

359.5.11 Further, on being asked about the possibility of making time line stipulated in sub clause (5) of Clause 395 mandatory in order to save the time and monetary resources of the taxpayers as well as fix greater accountability for the Tax Authorities, the Ministry in its written reply made the following submission:

> *"It may be mentioned that for any appellate level, whether it be SC, HC, ITAT or CIT(A), time limits have not been provided as appellate proceedings are judicial proceedings and fast-tracking the same without taking into account the complexity or facts of the case may not be desirable. Further, considerable relief has been provided to taxpayers by way of monetary limits below which Revenue does not file appeal in ITAT, HC or SC. In such cases, the Revenue forgoes its right to appeal which is a significant relief to the taxpayer."*

359.5.12 Furthermore, on being probed about the possibility to limit the number of times the hearing of the an appeal can be adjourned by the JCIT(A)/CIT(A) so as to ensure timely disposal of appeal, the Ministry in its written response mentioned as under:

> *"Section 119 of IT Act specifically bars interference of CBDT in functions of JC(Appeals) and CIT(Appeals). Therefore, it is not possible to limit the number of times the hearing of an appeal can be adjourned by the JCIT(A)/CIT(A)."*

359.5.13 Moreover, on being probed further with regard to the Ministry mulling upon developing and using modern technology for keeping records of the timelines of Tax Appeals, the number of adjournments during hearing along with written reasons, speedy disposals of litigations/appeals, the Ministry in its written submissions mentioned as under:

> *"Central Government has notified the Faceless Appeals Scheme for the purposes of disposal of appeal by Commissioner (Appeals), so as to impart greater efficiency, transparency and accountability by–*
>
> *(a) eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible;*

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

Thus, CIT(Appeal) is working in faceless mode so there is no interface between the assessee and CIT(A).”

359.5.14 The Committee further enquired about the prospect of introducing the facility to be provided to the assesse to file an “inactivity appeal” to CIT(A) in case of JCIT(Appeals) or to ITAT in case of CIT (Appeals) requesting them to set a deadline for pronouncement of decision with regards to appeal filed on lines of the mechanism of Tax Dispute Resolution being followed in Germany (termed ‘Untätigkeitsklage’), the Ministry in its written response made the following submissions:

“Under the German law, if a tax authority fails to decide on a taxpayer’s objection or application within a reasonable time - usually six months - without sufficient justification, the taxpayer may file a lawsuit in the Finance Court without waiting for the conclusion of the administrative appeal. Once such an Untätigkeitsklage (lawsuit for administrative inaction) is filed, the court may:

• Notify the tax appellate authority of the lawsuit and temporarily suspend the Untätigkeitsklage proceedings, allowing the authority time to act, or

• Order the tax appellate authority to issue a decision within a specifieddeadline.The German tax authorities do not publish separate statistics for Untätigkeitsklagen. However, according to the German Federal Ministry of Finance (Bundesfinanzministerium), only about 1.6%–2% of administrative tax appeals (Einsprüche) escalate to judicial proceedings/appeals of any kind.

This implies that over 98% of the disputes are resolved administratively, without any court involvement at any stage. Consequently, it may be observed that Untätigkeitsklagen is rarely used by taxpayers. Further, several German tax advisors have noted that Untätigkeitsklagen option is used infrequently.”

359.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 359 of the Income-Tax Bill, 2025, which outlines the procedure for appeals, largely mirrors Section 250 of the Income-Tax Act, 1961, with no substantive policy changes introduced beyond textual simplification. After extensive and in-depth deliberations, the Committee have considered various perspectives and proposals from stakeholders and experts, alongside justifications and clarifications provided by the Department of Revenue

regarding Clause 359 of the Bill. Accordingly, the Committee accept Clause 359 as originally proposed.

Clause 360: Powers of Joint Commissioner (Appeals) or Commissioner (Appeals).

360.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) In disposing of an appeal, the Commissioner (Appeals) or the Joint Commissioner (Appeals), shall have the following powers:—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(*b*) where such appeal is against an order of assessment made under section 271, the Commissioner (Appeals) may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;

(*c*) in an appeal against the order of assessment for which the proceeding before the Settlement Commission abates under section 245HA of the Act 1961, the Commissioner (Appeals) may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

(*d*) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(*e*) in any other case, he may pass such orders in the appeal as he thinks fit.

(*2*) The Joint Commissioner (Appeals) or the Commissioner (Appeals), shall not enhance an assessment or a penalty or reduce the amount of refund, unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

(*3*) The Joint Commissioner (Appeals) or the Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter was not raised before him by the appellant.

360.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 251: Powers of the [Joint Commissioner (Appeals) or the] Commissioner (Appeals)

(1) In disposing of an appeal, the Commissioner (Appeals) shall have the following powers—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment:

[**Provided** that where such appeal is against an order of assessment made

under section 144, he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;]

(*aa*) in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

(*b*) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(*c*) in any other case, he may pass such orders in the appeal as he thinks fit.

[(1A) In disposing of an appeal, the Joint Commissioner (Appeals) shall have the following powers—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(*b*) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(*c*) in any other case, he may pass such orders in the appeal as he thinks fit.]

(2) The [Joint Commissioner (Appeals) or the] Commissioner (Appeals) [, as the case may be,] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

Explanation.—In disposing of an appeal, the [Joint Commissioner (Appeals) or the] Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) [,as the case may be,] by the appellant.

360.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 360 of the Bill provides for powers of Joint Commissioner (Appeals) or the Commissioner (Appeals). Clause 360 of the Bill corresponds to Section 251 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."*

360.4 Important Views/Suggestions given by Experts/Stakeholders:

360.4 During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as under:

360.4.1 Appointment of more Junior Officers for quick disposal of smaller appeals.

360.4.2 Amend Section 251 of the Act to limit the CIT(A)'s powers and not to set aside any matters to the AO. This will promote finality at the first appellate level and avoid cyclical litigation. Power of set aside shall be recalled also considering that in respect of old cases which are pending from long time before CIT(A), it would also not be feasible for the revenue to conduct the fresh assessments again considering the cost factor and also taking into account that up to what extent assessee would be able to provide old details/documents which may be sought during fresh assessment.

360.4.3 Mandatory Classification of Additions as Frivolous or Non-Frivolous Introduce a statutory mandate requiring CIT(A) to record whether the addition made by the AO was frivolous or non-frivolous. In the case of frivolous additions, the appellate fee deposited may be refunded to the taxpayer. This will promote accountability in the AO's initial decision-making, discourage routine additions without legal merit, and enhance taxpayer trust. It also balances judicial propriety with taxpayer relief.

360.5 Examination by the Committee:

360.5 The Ministry of Finance, with regards to the above suggestions/views, has furnished the following written responses (mentioned correspondingly):

360.5.1 "Disposal of appeals is a priority vertical for the department, a separate appellate authority has been created at JCIT/Addl CIT(Appeals) level to dispose of appeal cases involving tax effect below specified limits. The suggestion has already been taken care of."

360.5.2 “The suggestion seeks to amend section 251 of the Act to limit the CIT(A)’s powers and not to set aside any matters to the Act. The CIT(A) may set aside only a case in which order has been passed u/s 144 of the Act. Thus, as a principle of natural justice, opportunity is given to the assessment said amendment has been brought by Finance Act no 2, 2024 for reducing the huge pendency of appeals and disputed tax demands at the Commissioner (Appeals) stage. Thus, suggestion is not feasible.”

360.5.3 In this regard, the representative of the Ministry further added during the oral evidence before the Committee as follows:-

> *“We had provided in July, 2024 Budget, specific power to CIT(A) to set-aside the cases, where initially the cases were done in a best judgement assessment. The tax payer had not appeared and then best judgement assessment was done. So, in those cases, to provide fresh opportunity, CIT(A) was given specific power. So, they are saying to limit this power of Commissioner (Appeal). That is the suggestion.”*

360.5.4 “The suggestion seeks to introduce a statutory mandate requiring CIT(A) to record whether the addition made by the AO was frivolous or non-frivolous. The merit of an order is decided after going through the complete appeal process. No higher authority makes recording of this type for their lower courts whether it be SC or HC or any other appellate body. Only where the order is perverse, the appellate authority can give finding of perversity. The suggestion is administrative in nature and does not require any statutory amendment. There exists the internal and external audit mechanism and power of review u/s 264 of Act by CIT. As AO is quasi-judicial authority so that if any addition is not sustained in higher appellate forum, then this cannot be ground of appellate fees to be repaid to the assessee. The provisions for penal interest resulting out of the delayed Order Giving Effects already exist in the present Act under section 244A(1A) and same have been incorporated in the clause 437(4). Thus, suggestion is not feasible.”

360.6 Observations/Recommendations of the Committee:

The Committee note that Clause 360 of the Income-Tax Bill, 2025, a textual simplification of Section 251 of the Income-Tax Act, 1961, deal with the powers of Joint Commissioner (Appeals) or Commissioner (Appeals). They also note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 360 as proposed by the Department of Revenue.

2.—Appeals to Appellate Tribunal.

Clause 361: Appellate Tribunal.

Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Central Government shall constitute an Appellate Tribunal consisting of as many Judicial and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(*2*) Irrespective of anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed,—

(*a*) after the commencement of the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act;

(*b*) before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of the Act, 1961 and the rules made there under, as if the provisions of section 184 of the Finance Act, 2017 had not come into force.

(*3*) The Central Government shall appoint—

(*a*) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(*b*) one of the Vice-Presidents of the Appellate Tribunal,

to be the President thereof.

(*4*) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, Vice-Presidents thereof.

(*5*) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

361.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 252: Appellate Tribunal

(1) The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(2) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the Indian Legal Service and has held a post in Grade II of that Service or any equivalent or higher post for at least three years or who has been an advocate for at least ten years.

Explanation.—For the purposes of this sub-section,—

(*i*) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law;

(*ii*) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held judicial office or the office of a member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(2A) An accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949), or as a registered accountant under any law formerly in force or

partly as a registered accountant and partly as a chartered accountant, or who has been a member of the Indian Service, Group A and has held the post of Additional Commissioner of or any equivalent or higher post for at least three years.

(3) The Central Government shall appoint—

(*a*) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(*b*) one of the Vice-Presidents of the Appellate Tribunal,

to be the President thereof.

(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, as the case may be, Vice-Presidents thereof.

(4A) [***]

(5) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

361.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 361 of the Bill deals with provisions relating to Appellate Tribunal. Clause 361 of the Bill corresponds to Section 252 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

361.4 Important Views/Suggestions given by Experts/Stakeholders:

361.4 During the course of the Examination of the proposed Bill, some important suggestions/comments provided by various stakeholders and experts are summed up as under:

361.4.1 Clause 361 provides that the Central Government shall constitute an Appellate Tribunal consisting of as many Judicial and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act. Clause 361(2) provides that the qualifications, appointment and conditions of service of the Members of the Appellate Tribunal appointed after the commencement of the Tribunals Reforms Act, 2021, shall be governed by the provisions of the said Act. As per the Tribunal (Conditions of Service) Rules, 2021, a person shall not practice be qualified for appointment as Accountant member, unless, inter alia, he has been in the practice of accountancy as a chartered accountant for 25 years. It may be noted that in case of a Judicial member, the period of experience required as an advocate is 10 years as per the said Rules. Therefore, the requirement for an accountant member may also be at least 10 years as a chartered accountant, as was the case earlier.

361.4.2 The age limit for appointment as member of ITAT should be fixed at 45 years for recruitment and 65 years for retirement.

361.4.3 The term of the members of ITAT must be increased. Justification: Section 5 of the Tribunals Reforms Act, 2021 states that the Chairperson or a member of the ITAT shall hold office for a term of 4 years. A tenure of 4 years could impact the fabric and ethos of justice. In a normal course, it would take four to five years to discern and decipher the tax laws. A tenure of 4 years for the members of the highest fact-finding authority is short. The tenure of the members of ITAT must therefore be increased. Otherwise, persons of merit may stay away from opting for a career at this ITAT.

361.4.4 As per Clause 361 of the Income-Tax Bill, 2025, Tribunal Reforms Act, 2021 will apply for appointment of tribunal members. Accordingly, the appointment of members shall be on tenure basis. It is humbly submitted that the Income tax appellate Tribunal cannot be compared with the other tribunals. ITAT is dealing with an expertise and complex subject and it takes a reasonably long period for a new member to get well versed with the subject. Hence the appointment of members on tenure basis may not be made applicable to the appointment of members of the Income tax Appellate Tribunal. The old provisions for appointment may be reintroduced and the Tribunal Reforms Act, 2021 may be made inapplicable.

361.4.5 The requirement for an accountant member may also be at least 10 years in the practice of accountancy as a chartered accountant, as was the case earlier. Suitable amendment be made in the Tribunal (Conditions of Service) Rules, 2021. Justification: As per the Tribunal (Conditions of Service) Rules, 2021, a person shall not be qualified

for appointment as Accountant member, unless, inter alia, he has been in the practice of accountancy as a chartered accountant for 25 years. It may be noted that in case of a Judicial member, the period of experience required as an advocate is 10 years as per the said Rules.

361.5 Examination by the Committee:

361.5 The Ministry of Finance in their written reply regarding the above suggestions/views has furnished the following response:

> *"There is no change in the provision of the Bill viz-a-viz the provisions of IT Act 1961 from the policy perspective. With reference to clause 361(2) of the Bill, it may be stated that the qualifications, terms and conditions of service of President, Vice-President and Member of the ITAT are not under the purview of the Act and are governed by the Tribunals Reforms Act, 2021. Thus, the issue does not emanate from any policy or provisions which are part of the Bill, 2025. The suggestion is outside the purview of the Bill.*
>
> *.....Suggestion seeks to change the requirement of experience of Accountant Member of the ITAT. There is no change in the provision of the Bill viz-a-viz Act....."*

361.5.1 With regard to the tenure of the judges of the ITAT, the representative of the Ministry further added as follows:-

> *"This tenure is now uniform, not only for ITAT but for CAT Members, for other Tribunals also. It is standardized for four years and the age has also now gone up to 67 years. So, basically, in case, reappointment is required, that provision also is there."*

361.6 Observations/Recommendations of the Committee:

The Committee note that Clause 361, a textual simplification of Section 252 of the Income-Tax Act, 1961, seeks to provide for constitution of Income-Tax Appellate Tribunal. After thorough deliberations, and having considered various suggestions from stakeholders and experts, as well as the rationales and clarifications submitted by the Department of Revenue, the Committee recommend accepting the Clause in its entirety without any changes.

Clause 362: Appeals to Appellate Tribunal

362.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Any assessee, aggrieved by any of the following orders, may appeal to the Appellate Tribunal against such order—

(*a*) an order passed under this Act, by a Commissioner (Appeals) or a Joint Commissioner (Appeals);

(*b*) an order passed by a Principal Commissioner or Commissioner under—

(*i*) section 332(*7*) or (*8*) or (*9*), 351(*2*)(*ii*) or 354(*3*); or

(*ii*) section 377 or 439 or 465; or

(*iii*) section 287;

(*c*) an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 377 or 465 or an order passed under section 287 amending any such order;

(*d*) an order passed by an Assessing Officer under section 270(*10*) or 279, in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 287 in respect of such order;

(*e*) an order passed by an Assessing Officer under section 270(*10*) or 279, with the approval of the Principal Commissioner or Commissioner as referred to in section 274(*12*) or an order passed under section 287 or 288 in respect of such order; or

(*f*) an order passed by an Assessing Officer under section 234(*4*).

(*2*) The Principal Commissioner or Commissioner may, if he objects to any order passed by the Joint Commissioner (Appeals) or the Commissioner (Appeals) under this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(*3*) Every appeal under sub-section (*1*) or (*2*) shall be filed within two months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner.

(*4*) The Assessing Officer or the assessee, on receipt of notice that an appeal against an order, has been preferred under sub-section (*1*) or (*2*) by the other party, may, irrespective of that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the manner, as prescribed, against any part of such order, and such

memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section(*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*6*) An appeal to the Appellate Tribunal shall be in such form and verified in such manner, as prescribed and shall, be accompanied by a fee of—

(*a*) five hundred rupees, where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one lakh rupees or less;

(*b*) one thousand five hundred rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees;

(*c*) 1% of the assessed income, subject to a maximum of ten thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(*d*) five hundred rupees, where the subject matter of an appeal relates to any matter, other than those specified in clauses (*a*), (*b*) and (*c*).

(*7*) No fee shall be payable for an appeal referred to in sub-section (*2*), or a memorandum of cross objections referred to in sub-section (*4*).

(*8*) An application for stay of demand shall be accompanied by a fee of five hundred rupees.

362.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 253: Appeals to the Appellate Tribunal

(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(*a*) an order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a Commissioner (Appeals) under section 154, [section 158BFA,] section 250, section 270A, section 271, section 271A [, section 271AAB, section 271AAC, section 271AAD], section 271J or section 272A; or

[(*aa*) an order passed by a Joint Commissioner (Appeals) under section 154, section 250, section 270A, section 271, section 271A, section 271AAC, section 271AAD or section 271J; or]

(*b*) an order passed by an Assessing Officer under clause (*c*) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or

(*ba*) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or

[(*c*) an order passed by,—

(*i*) a Principal Commissioner or Commissioner under section 12AA or section 12AB or under clause (*vi*) of sub-section (5) of section 80G or under section 263 or under section 270A or under section 271 or under section 272A or an order passed by him under section 154 amending any such order; or

(*ii*) a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 263 or under section 272A or an order passed by him under section 154 amending any such order; or]

(*d*) an order passed by an Assessing Officer under sub-section (3), of section 143 or section 147 or section 153A or section 153C in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order;

(*e*) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the Principal Commissioner or Commissioner as referred to in sub-section (12) of section 144BA or an order passed under section 154 or section 155 in respect of such order;

(*f*) an order passed by the prescribed authority under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10.

(2) The Principal Commissioner or Commissioner may, if he objects to any order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a [the Joint Commissioner (Appeals) or the] Commissioner (Appeals)

under section 154 or section 250, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(2A) [***]

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within [two months from the end of the month in] which the order sought to be appea-led against is communicated to the assessee or to the Principal Commissioner or Commissioner, as the case may be :

Provided that in respect of any appeal under clause (*b*) of sub-section (1), this sub-section shall have effect as if for the words "sixty days", the words "thirty days" had been substituted.

(3A) [***]

(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal [against an order], has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against [any part of such order], and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(*a*) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(*b*) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(*c*) where the total income of the assessee, computed as aforesaid, in the case to

which the appeal relates is more than two hundred thousand rupees, one per cent of the assessed income, subject to a maximum of ten thousand rupees,

(*d*) where the subject matter of an appeal relates to any matter, other than those specified in clauses (*a*), (*b*) and (*c*), five hundred rupees:

Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2), or, sub-section (2A) as it stood before its amendment by the Finance Act, 2016, or, a memorandum of cross objections referred to in sub-section (4).

(7) An application for stay of demand shall be accompanied by a fee of five hundred rupees.

(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of appeal to the Appellate Tribunal under sub-section (2), so as to impart greater efficiency, transparency and accountability by—

(*a*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*b*) introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

[***]

(10) Every notification issued under sub-section (8) and sub-section (9) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

362.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 362 of the Bill provides for appeals to the Appellate Tribunal. Clause 362 of the Bill corresponds to Section 253 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

362.4 Important Views/Suggestions given by Experts/Stakeholders:

362.4 During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are summed up and mentioned below:

362.4.1 The order under clause 281(3) passed with the prior approval of specified authority 284, before issuing the notice of reopening u/s 281(1) should be made appealable before the ITAT directly on the similar lime as 281(1)(d) and 281(1)(e).

362.4.2 Appeal to Income tax Appellate Tribunal. There are a number of orders of the Commissioners of Income tax against which no appeal is provided. The only remedy available to the assessee is to file a Writ Petition before the High Court. E.g. orders under section 264, 273A, waiver of interest charged under sections 234A, 234B, and 234C, orders under section 179, denial of approval u/s. 10(23C) and other approvals by the Chief Commissioner, denial of condonation of delay in filing various forms, etc. A simple amendment in the Act may be made stating that all orders of the Chief Commissioner or, Commissioner are appealable to the Tribunal. This would save substantial time for the High Court and the taxpayers would get speedy justice from the Tribunal. The sub clause (3) may be amended as under: "Every appeal under sub-section (1) or (2) shall be filed within three months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner." Justification: To bring uniformity and conformity as in the provisions of the C/S/UTGST Act/s, 2017.

362.4.3 Extend this Higher appeal time limit to a period of 3 months and stay provisions with a pre-deposit of 20% of the disputed tax. Justification: If aligned as exist with GST law, the mechanism will run smoothly, including stay proceedings.

362.4.4 It is suggested that a simple inclusion in the Bill may be made stating that all orders of the Chief Commissioner, Commissioner are appealable to the Tribunal. Justification: This would save substantial time of the higher judiciary and the taxpayers would get speedy justice from the Tribunal. There are a number of orders of the Commissioners of against which no appeal is provided. The assessee has only remedy is to file writ before the High Court. E.g. orders passed in revision, orders passed for waiver of interest etc.

362.4.5 Sub-sections (6) and (8) be redrafted as given below -

(6) An appeal to the Appellate Tribunal shall be in such form and verified in such manner, as prescribed ~~and shall be accompanied by~~ and shall be furnished after depositing a fee of….

Justification: Since the appeals are also furnished online, therefore, the phrase "and shall be accompanied by a fee" may be replaced with the phrase "and shall be furnished after depositing a fee of ……".

(8) An application for stay of demand shall be furnished after depositing ~~accompanied by~~ a fee of five hundred rupees.

Justification: A similar amendment has to be made in sub-section (8) for application for stay of demand. The words "accompanied by" to be replaced by "furnished after depositing".

362.4.6 Appeal to Appellate Tribunal. An appeal can be filed before the Income Tax Appellate Tribunal within 60 days of receipt of an appealable order. In case of delay, the Tribunal can condone delay. In case the delay is not condoned and the appeal is dismissed. In V. K. Sreenivasan v. CIT (2013) 213 Taxman 17 (Mag)(Ker.)(HC), the Kerala High Court held that an appeal under section 260A is not maintainable against an order passed by the Tribunal declining condonation of delay. The court also observed that, even though a statutory appeal under section 260A is not maintainable against the orders of the Tribunal declining to condone the delay, the aggrieved person can probably invoke the jurisdiction of the High Court under Articles 226 and 227 of the Constitution and probably, in appropriate cases, the High Court can grant relief. To avoid litigation, a provision may be made in the Act making all orders of the Appellate Tribunal are appealable.

362.5 Examination by the Committee:

362.5 The Ministry of Finance in their written response pertaining to the above suggestions/views has submitted the following (mentioned correspondingly):

362.5.1 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

362.5.2 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

362.5.3 "The suggestion seeks to increase the time limit of filing appeal in the ITAT from existing 2 months to 3 months. It is in the nature of policy change, which is outside the

scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. The time limit of filing appeal is to be seen in the backdrop of the time taken to reach an issue to finality as well as the pending recovery proceedings. Time limit to file appeal before ITAT is 2 months from the end of the month in which order sought to be appealed against is communicated to the assessee. In many cases, this time line is near to 3 months. Therefore, there is no benefit in increasing the said time-limit."

362.5.4 "Repeated suggestion similar to Sr. No. (ii) above. Such non-appealable orders continue to be retained, to ensure finality to proceedings. Further, the right to file writ before the High Court is always available to the assessee."

362.5.5 "The suggestion seeks to replace phrase "shall be accompanied" with "shall be furnished after depositing a fee". There is no change in the provisions of the Bill viz-a-viz Act. There is no such phrase as furnishing of appeal. As appeals to ITAT are can be filed physically as well as electronically. Thus, replacing the phrase would not be suitable."

362.5.6 "The suggestion seeks to make a new provision making all orders of the Appellate Tribunal including rejection of condonation of delay, stay etc. as appealable in High court. The issue is judicially settled and there is a provision of writ which is already available to the assessee. Thus, the suggestion which is in nature of policy change is not feasible."

362.5.7 The representatives of the Ministry deposed before the Committee as below:-

"ये बोल रहे हैं कि जो री-ओपनिंग करते हैं, जैसा मैंने पहले एक्सप्लेन किया है, पहले हम शोकॉज नोटिस देते हैं। शोकॉज नोटिस के बाद हम एक रिटेन ऑर्डर पास करते हैं कि आपका केस री-ओपन होने लायक है और हम इसको री-ओपन कर रहे हैं। उसके बाद जो हमारा टाइमलाइन है, हम फाइनल ऑर्डर नौ महीने के अंदर कर देते हैं। अब ये एक एक्स्ट्रा अपील वहां इंट्रोड्यूस करना चाहते हैं। इससे लिटिगेशन बहुत बढ़ जाएगा।"

362.5.8 On the suggestion of increasing time limit for appeals to 3 months, the representative of the Ministry added as follows:-

"सर, यह एक्ट में संशोधन चाह रहा है, तो we cannot commit anything on this issue because this will require amendment in the Act."

362.5.9 When the Committee asked to reconsider the suggestion, the representative of the Ministry made oral submission as follows:-

“सर, वह इस लिए कह रहे है कि यदि महीने के शुरू में ऑर्डर आ गया, तो महीने के अंत से दो महीने होते हैं, तो वर्चुअली 3 महीने उस केस में मिल सकते हैं। यह एक्सप्लेन किया गया है, लेकिन पीरियड वही है- two months from the end of the month.“

362.6 Observations/Recommendations of the Committee:

The Committee note that Clause 362 of the Income-Tax Bill, 2025 seeks to provide for appeals to the Income-Tax Appellate Tribunal, akin to Section 253 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

Clause 363: Orders of Appellate Tribunal.

363.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(*2*) The Appellate Tribunal may amend any order passed by it under sub-section (*1*) for the rectification of any mistake apparent from record, within six months from the end of the month in which the order was passed, if the mistake is brought to its notice by the assessee or the Assessing Officer.

(*3*) An amendment, as referred to in sub-section (*2*), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made, unless the assessee has been allowed a reasonable opportunity of being heard.

(*4*) Any application filed by the assessee under sub-section (*2*) shall be accompanied by a fee of fifty rupees.

(5) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within four years from the end of the financial year in which such appeal is filed under section 362(*1*) or (*2*).

(*6*) The Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under section 362(*1*), for a period not exceeding one hundred and eighty days from the date of such order, subject to the condition that the assessee—

(*a*) deposits not less than 20% of the amount of tax, interest, fee, penalty or any other sum payable under this Act; or

(*b*) furnishes security of equal amount as referred to in clause (*a*),

and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order.

(*7*) No extension of stay, as referred to in sub-section (*6*), shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay passed under the said sub-section, unless—

(*a*) the assessee makes an application and has complied with the condition referred to in sub-section (*6*); and

(*b*) the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee,

so, however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed.

(*8*) The order of stay shall stand vacated if the appeal is not disposed of within the period allowed under sub-section (*6*) or (*7*), even if the delay in disposing of the appeal is not attributable to the assessee.

(*9*) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(*10*) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

(*11*) Save as provided in section 365, orders passed by the Appellate Tribunal on appeal shall be final.

363.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 254: Orders of Appellate Tribunal

(1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(1A) [***]

(2) The Appellate Tribunal may, at any time within six months from the end of the month in which the order was passed, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1), and shall make such amendment if the mistake is brought to its notice by the assessee or the Assessing Officer:

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard:

Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees.

(2A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) or sub-section (2) of section 253:

Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253, for a period not exceeding one hundred and eighty days from the date of such order subject to the condition that the assessee deposits not less than twenty per cent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:

Provided further that no extension of stay shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay, unless the assessee makes an application and has complied with the condition referred to in the first proviso and the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee, so however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:

Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.

(2B) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

(4) Save as provided in section 256 or section 260A, orders passed by the Appellate Tribunal on appeal shall be final.

363.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 363 of the Bill deals with provisions relating to orders of Appellate Tribunal. Clause 363 of the Bill corresponds to Section 254 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."*

363.4 Important Views/Suggestions given by Experts/Stakeholders:

363.4 During the course of the Examination of the proposed Bill, some important suggestions/comments received from various stakeholders and experts are outlined as under:

363.4.1 Time Limit for disposal of appeal be reduced from 4 years to 2 years. In case of non- disposal of appeal on account of delay caused by Department, following consequences should be provided for: Refund of demand deposited regardless of status of appeal; or Higher interest rate @12% instead of 6%.

363.4.2 A provision for *suo moto* amendment order by the Appellate Tribunal maybe added. Time limit for amendment of order may be removed when the assesee or Assessing Officer applies for such Rectification. The Appellate Tribunal has the power to regulate its own procedure. It must be given powers to suo moto rectify mistakes apparent from record in case of orders passed by it. Mistakes apparent from record are obvious and patent mistakes. In case a mistake apparent from record is brought to the notice of the Appellate Tribunal by the Assessee or the Assessing Officer, there must be no time limit prescribed for amending the order containing such mistake apparent from record. In the alternative, it may be a period of 4 years as presently prescribed under section 154 of the Act, 1961. A maximum period of 6 months only for rectification whoever be the forum for initiating such action, would not promote justice.

363.4.3 Sub-section (2) may be redrafted as under – (2) The Appellate Tribunal may amend any order passed by it under sub-section (1) for the rectification of any mistake apparent from record, within six months from the end of the month in which the order was passed, if the mistake is brought to its notice by the assessee or the Assessing Officer or the income tax authority.

Justification: The words "income tax authority", may also be inserted at the end in sub-section (2) because there may be appeal to ITAT against order of rejection of an application under section 12A or 80G passed by CIT (Exemptions) who is not the Assessing Officer, but an income tax authority. Also, in case of appeal against revision

order by Commissioner, the respondent is the Commissioner and not the Assessing Officer.

363.4.4 It is suggested to amend the provisions of Clause 363(3) of the Bill, 2025 to provide that where the issue is covered by the favourable decisions of the ITAT in the taxpayer's own case and/or favourable decisions of the High Court/Supreme Court, stay may be granted without any payment or on payment of a reduced sum (say, 10% of disputed tax instead of 20%). This is in line with the Office Memorandum No.404/72/93-ITCC dated 29February 2016 and the VSV Schemes which provide that only 50% of the amount should be paid in case of covered issues.

363.4.5 The time limit to decide appeal may be reduced to two years. The time limit of four years to decide appeal may be reduced to provide early finalisation and to avoid prolonging the process of litigation. With modern technology coming to aid, with tax certainty being the objective of the exercise, with the pendency at the ITAT level coming down, with time for disposal by the first appellate level being 12 months, by DRP being 9 months and by Approving Panel being 6 months, curtain on litigation at any level, should be brought to a closure as early as possible.

363.4.6 ITAT must be given authority to grant stay of demand without payment of 20% demand. The power of ITAT to grant stay of demand is curtailed by section 363. It is unreasonable as to why the ITAT as not been empowered to grant an unconditional stay of demand. The payment of at least 20% of the demand by the assessee is compulsory for the ITAT to grant stay. Such curtailment lacks rationale as the lower authorities such as Assessing Officer or Commissioner are empowered to grant a stay. Further, exceptions should be created for ITAT to grant stay without payment in bonafide cases for just and sufficient reasons (say, when the case has been adjudged in the favour of the assessee in earlier years). The proposal is to promote this rationale.

363.4.7 Pre - Deposit of 20% of disputed demand for obtaining stay of demand before ITAT as per Clause 363(6)(b) is unreasonable, harsh and requires to be dropped. In many cases high pitched Assessments are made in which case Assessee may not be able to pay such demand. Also, no such pre-conditions exist for the department. Hence, such a provision should be dropped. Alternatively, ITAT may be given discretion to decide the quantum of pre-deposit.

363.4.8 To delete the condition of vacation of stay beyond 365 days even if the delay in disposal of appeal is not attributable to the assessee. During the pendency of appeal before tribunal, it has the power to grant stay. Second and Third Proviso to section 254(2A) of the Act, 1961 restricts the power of tribunal to grant stay beyond 365 days, even if the delay in disposal of appeal is not attributable to the assessee. This issue has

been decided in favour of the assessee by the Hon'ble Supreme Court in *Deputy Commissioner of vs. Pepsi Foods Ltd. [2021] 433 ITR 295 (SC).*

363.4.9 Sub-section (10A) be inserted – (10A) The appeal effect by the Assessing Officer or income tax authority pursuant to such order referred to in sub-section (10) can be on the basis of self-certified copy of such order downloaded from the income tax portal or website of the tribunal or court, as the case may be. Sub-section (10A) needs to inserted to provide that even if there is a delay in receiving appellate order from ITAT or High Court or Supreme Court, the order giving appeal effect cannot be delayed. In this digital era, the appellate orders can be downloaded and verified from website of ITAT, High Court, Supreme Court. Therefore, the income tax authority may rely upon the copy of appeal order furnished by the assessee/appellant not physically signed by appellate authority but downloaded from website or portal. Similar provision to be made in case of appeal orders of High Court and Supreme Court.

363.4.10 Stay application. When a stay application is rejected by the Tribunal, the only remedy is to file a writ petition before the Jurisdictional High Court. It may be desirable to provide a statutory appeal before the High Court against the rejection of the stay application by the Tribunal. Refer, Pepsi Foods Pvt. Ltd. v. ACIT (2015) 376 ITR 87 / 119 DTR 373 / 277 CTR 470 /232 Taxman 78 (Delhi)(HC).

363.5 Examination by the Committee:

363.5 The Ministry of Finance, in their written response pertaining to the above suggestions/views has submitted as under (mentioned correspondingly):

363.5.1 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

363.5.2 "The suggestion seeks to allow suo-moto amendment order by the Appellate Tribunal. The time limit of rectification is to be seen in the backdrop of the time taken to reach an issue to finality as well as the pending recovery proceedings. As per the present provisions, ITAT can amend its order where mistake is apparent from record. The time-limit has been fixed to arrive at the finality of an issue. The suggestion will upset the litigation management system. Extending the time -limit will further delay recovery proceedings as assessee will take recourse of putting applications before ITAT for rectification wherein the real purpose is to delay the recovery proceedings. Further, section 254(2) of the existing Act enables ITAT to make suo-moto amendment to its

orders, as also held in various decisions of Courts/Tribunals, such as Kamal Nayan Singh Vs DCIT (2023) (Jharkhand HC), Raja Malvender Singh Vs UOI (2005)(278 ITR 568)(P&H), Bhillai Engg Corpn Ltd Vs DCIT (2002)(81ITD282)(Ngp)(SB),etc. The time limit of 4 years for rectification by ITAT was reduced to 6 months by the Finance Act 2016, in order to bring certainty to the order of ITAT. Therefore, the suggestion to extend the time limit back to 4 years, or to make it indefinite on an application filed, is not acceptable."

363.5.3 "The proposal to modify clause 363(2) in order to expand the scope of mistake being brought to notice of the Tribunal by the CIT (Exemptions) etc., in addition to the Assessing Officer, is not feasible as there has to be a single point of responsibility to seek any amendment from the Tribunal. However, if there is any operational difficulty, the suggestion can be considered."

363.5.4 "The suggestion seeks to provide for complete stay by ITAT in cases the issue is covered by the favourable decisions of the ITAT in the taxpayer's own case and/or favourable decisions of the High Court/Supreme Court, The Department has brought VsV scheme wherein relaxation of payment of tax was provided on similar lines. However the same cannot be given in the provisions related to ITAT as the additions have been confirmed by the first appellate authority. Further, when the addition is deleted by ITAT, assessee is entitled to refund. The purpose of VSV was to settle the disputes without following the appellate route. The OM is related to the Jurisdictional CIT exercising due diligence while fixing the % of tax to be deposited prior to the receipt of decision of first appellate authority. Therefore this rationale does not apply in lowering the % of tax to be deposited when assessee files application before ITAT."

363.5.5 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

363.5.6 "The suggestion seeks to expand the power of ITAT by giving liberty to grant complete stay in deserving cases. It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a- vis Act. Further, as per clause 363(6), the ITAT may, after considering the merits of the application made by the assessee pass an order of stay for a maximum period of 180 days in any proceedings on deposition of at least 20 % of the tax. It is pertinent to mention that assessee has filed appeal in ITAT as CIT(A) has confirmed the additions made by AO. Thus, one level of appellate proceedings have gone against assessee. Therefore, it is logical that revenue should have at least 20 % of tax deposited till the time ITAT proceeding is ongoing. Therefore, the suggestion is not feasible."

363.5.7 "The suggestion seeks to delete the condition of Pre - Deposit of 20% of disputed demand for obtaining stay of demand before ITAT as per Clause 363(6)(b).

With regard to stay on covered matters and redeposit of 20% of the disputed amount, it is stated that an appeal is filed before the Tribunal by the assessee only in cases, where the First Appellate Authority (FAA) has denied relief to the assessee. In other words, the tax demand disputed before the Tribunal has already been confirmed by the FAA. In such circumstances, the existing provision to grant stay subject to payment of 20% of disputed demand is justifiable. With regard to stay on covered matters and pre deposit of 20% of the disputed amount, it is stated that an appeal is filed before the Tribunal by the assessee only in cases, where the First Appellate Authority (FAA) has denied relief to the assessee. In other words, the tax demand disputed before the Tribunal has already been confirmed by the FAA. In such circumstances, the existing provision to grant stay subject to payment of 20% of disputed demand is justifiable. Therefore, the proposal is not accepted."

363.5.8 "Clause 363 of the Bill is placed in sub-part 2 of Part A of Chapter XVIII, which deals with matters pertaining to appeals before Appellate Tribunal. Therefore, any provision relating to passing of consequent orders by the assessing officer cannot be placed in this part. Secondly, though there would not be a problem to give effect to an order based upon the copy uploaded in the website of the Tribunal or Court, however there could be issues with regard to the time limit within which the said appeal effect is to be given. A question will arise as to whether the time limit should commence from the date of uploading of the order in the website or the date on which such order has been seen by the assessing officer or the commissioner or the date on which a copy of such uploaded order is received by them etc. Therefore, the current provision that the time limit has to be taken from the date on which the commissioner receives the order may not be disturbed. In view of this, the proposal is not acceptable."

363.5.9 "Regarding giving effect to an order based upon the copy uploaded in the website of the Tribunal or Court, there are administrative issues in its implementation. It is not clear as to what would be taken as the start date for computing time limitation. Whether it be the date of uploading of the order in the website or the date on which such order has been seen by the Assessing officer or the commissioner or the date on which a copy of such uploaded the current provision that the time limit has to be taken from the date on which the commissioner receives the order may not be disturbed. Suggestion is not feasible order is received by them etc. This will be a source of unmitigated litigation. Therefore, the current provision that the time limit has to be taken from the date on which the commissioner receives the order may not be disturbed. Suggestion is not feasible."

363.5.10 "Repeat Suggestion. The suggestion seeks to provide a statutory appeal before the High Court against the rejection of the stay application by the Tribunal. It is in the nature of policy change. The invocation of writ is already available with the assessee. The issue is judicially settled. The purpose of providing appeals before High

Court and Supreme Court is to decide the substantial question of law. The stay petition does not give rise to any substantial question of law therefore such kind of appeals should not be placed before High court and Supreme court. The suggestion is not feasible."

363.5.11 With regard to *suo moto* cognizance to be taken by ITAT, the representative of the Ministry during oral evidence added as follows:-

> *"It is to increase the threshold of total income that can be disposed by a single member of the Tribunal. So, earlier, these limits were existing that where single member could dispose. So, this is not something which we provide by our law that single Member has to dispose order or the Bench has to dispose. So, it is up to the rules of the Tribunal how they dispose the matter and we have not prescribed any of the limit. If they say that a Bench has to dispose, then Bench has to do it."*

363.5.12 On being asked about the basis of selecting the threshold amount of 20% to be paid for appealing of stay and the possibility of doing away with the limit in cases where bigger amounts are involved, the Ministry in its written reply submitted as under:-

> *"There are already existing safeguards in the CBDT instructions for the stay of demand, which are as follows:*
>
> *(a) Payments may be made in instalments so as to collect the entire demand within a period of not exceeding 18 months.*
>
> *(b) Principal Commissioner or Commissioner of Income Tax can allow payment less than 15% (later modified to 20%), if appellate authorities in earlier years deleted the addition or the Jurisdictional High Court decided in favour of the assessee.*
>
> *(c) The Income Tax Authorities including Commissioner (Appeals) can also grant complete stay where additions are considered to be high pitched or principle of natural justice has not been followed or financial stringency is established etc. Thus, these suggestions are not feasible."*

363.5.13 Further, on enquiry regarding prospect for referring of matters penalty prosecution related proceedings, from appellate authorities to Dispute Resolution Committee (DRC), especially the ones where tax demand is paid and where there is co-operation of the assese, the Ministry in its written response furnished as follows:-

> *"DRC is only for small taxpayers with variation upto Rs 10 lacs and income upto Rs 50 lacs. It is also at the option of the assessee to avail the opportunity of*

dispute resolution before DRC. Therefore, all cases can not automatically be transferred from appellate forum to DRC."

363.5.14 Moreover, with regards to the questions about including the composition of the DRC within the Bill, 2025 and including a Judicial member in the composition, the Ministry in its written response furnished that as follows:-

"In this regard, it is hereby submitted that composition of DRC is as per the e-scheme formulated by the Board. Inclusion of the composition in the Bill would make the law bulky and would not serve any purpose. Further, inclusion of a judicial member in the composition of DRC may not be a right proposition as it will delay the matters. From the experience of Authority of Advance Rulings, it has turned out that it is difficult to find judicial members for normal appellate functions especially for disposal of low value appeals."

363.6 Observations/Recommendations of the Committee:

The Committee note that Clause 363 of the Income-Tax Bill, 2025 seeks to provide for the orders passed by the Income-Tax Appellate Tribunal which corresponds to Section 254 of the extant Act. The Committee also note that, apart from textual simplification, no policy change has been introduced in this Clause. Having held comprehensive deliberations on this Clause, and taking into account all suggestions and comments received from stakeholders and experts, along with the Department of Revenue's justifications, the Committee accept Clause 363 as proposed by the Department.

Clause 364: Procedure of Appellate Tribunal

364.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(*2*) Subject to the provisions contained in sub-section (*3*), a Bench shall consist of one Judicial Member and one accountant member.

(*3*) The President, or any other member of the Appellate Tribunal authorised in this behalf by the Central Government, may sitting singly, dispose of any case allotted to the Bench, pertaining to an assessee whose total income as computed by the Assessing Officer in the case does not exceed fifty lakh rupees.

(*4*) The President of the Appellate Tribunal may, for the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(*5*) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(*6*) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(*7*) The Appellate Tribunal, for the purposes of discharging its functions,—

(*a*) shall have all the powers which are vested in the authorities referred to in section 246;

(*b*) any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023; and

(*c*) the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 215 and Chapter XXXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023.

364.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 255: Procedure of Appellate Tribunal

(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one judicial member and one accountant member.

(3) The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Assessing Officer in the case does not exceed fifty lakh rupees, and the President may, for the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(6) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the authorities referred to in section 131, and any

proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

(7) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeals by the Appellate Tribunal so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Appellate Tribunal and parties to the appeal in the course of appellate proceedings to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing an appellate system with dynamic jurisdiction.

(8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification.

[***]

(9) Every notification issued under sub-section (7) and sub-section (8) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

364.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 364 of the Bill provides for procedure of Appellate Tribunal. Clause 364 of the Bill corresponds to Section 255 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."*

364.4 Important Views/Suggestions given by Experts/Stakeholders:

364.4 A stakeholder has suggested that provisions of Clause 364(3) of the Bill, 2025 be amended to increase the threshold to Rs. 1 crore. Justification: This is to ease burden on divisional benches and ensure faster disposal of appeals.

364.5 Examination by the Committee:

364.5 The Ministry of Finance in their written response pertaining to the above suggestion/view has submitted the following:

> *"The suggestion seeks to increase the threshold of total income that can be disposed of by the single member of the tribunal. Earlier, single member bench could dispose the cases where total income does not exceed 50 lakhs. The said limit has been proposed for increasing to 1 crore. It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. Clause 364(3) of the Bill provides that President or any other authorized member of the Tribunal may sitting singly, dispose of any matter where total income does not exceed fifty lakh rupees. However, increasing the limit of total income amounting to Rs. 1 crore from existing Rs. 50 lakhs would increase the discretionary powers of a single member of Tribunal. It may result into mala-fide practices in the Tribunal. Further, practice of allotting the cases to divisional bench ensures the discussions among the Tribunal Member and results into better judgement. Thus, the suggestion is not feasible."*

364.5.1 When the Committee further emphasized on the above suggestion, the representatives of the Ministry agreed with the Committee and replied as under:-

> *" In any case, so far as departmental appeals are concerned, we are not going below Rs.60 lakhs. Therefore, there is a case to increase it. We could consider that."*

364.5.2 When asked by the Committee to give a more clear and appropriate response with regard to acceptance of the suggestion for increasing the monetary threshold of the cases of appeal, the Ministry in their written reply submitted as follows:-

> *"Presently, the limit of total income in respect of any one case for its disposal by a single member bench of ITAT is Rs. 50 lakhs. The Ministry is positive about revising the limit of 50 lakhs upwards. However, any change in the provisions of law shall be carried out through the appropriate due process."*

364.6 Observations/Recommendations of the Committee:

The Committee note that Clause 364 of the Income-Tax Bill 2025, mirroring Section 255 of the extant Income-Tax Act, 1961, defines the powers and functions of the Income-Tax Appellate Tribunal (ITAT). Currently, it allows the ITAT to dispose of cases where the Assessing Officer's computed total income does not exceed fifty lakh rupees. The Committee, note that there is no policy change in this regard and after considering the views of the stakeholders as well as the response of the Department, accept Clause 364 as originally proposed.

3.—Appeals to High Court

Clause 365: Appeal to High Court.

365. Provision proposed in the Income-Tax Bill, 2025:

(*1*) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within one hundred twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(*3*) Where the High Court is satisfied that there was sufficient cause for not filing the appeal within one hundred twenty days, it may admit an appeal after the said period.

(*4*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*5*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(*6*) The provisions of sub-section (*5*) shall not take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*7*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*8*) The High Court may determine any issue which the Appellate Tribunal,—

(*a*) has not determined; or

(*b*) has wrongly determined, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(*9*) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

(*10*) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such order by the Assessing Officer, on the basis of a certified copy of the judgment.

365.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 260A: Appeal to High Court

(1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the

Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) [***]

(*c*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(2A) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in clause (*a*) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal; or

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

(7) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

365.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 365 of the Bill deals with provisions relating to appeals to High Court. Clause 365 of the Bill corresponds to Section 260A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

365.4 Important Views/Suggestions given by Experts/Stakeholders:

365.4 During the course of the examination of the Bill, some important suggestions/comments provided by various stakeholders and experts are encapsulated as under:

365.4.1 Appeal to High Court. An appeal to the High Court can be filed only on a substantial question of law. As per section 260B, the appeal before the High Court is to be heard by a bench of a strength not less than two judges. When a writ petition is filed against the order of an Assessing Officer or any issue on constitutional validity in Mumbai, Delhi, or Gujarat it is always heard by two judges, whereas in some of the High Courts like, Madras, Kerala etc. it is heard by a single judge and thereafter in appeal by a division Bench. To bring uniformity, it may be desirable to make an amendment in the Act stating that any writ petition against the Income -Tax Bill, 2025, should be heard by a division bench of two judges.

365.4.2 Publication of issues pending before on direct taxes before various High Courts and the Apex Court. As soon as appeals are filed, the Central Board of Direct Taxes (CBDT) can get the information from the respective Commissioners in respect of the issues pending before various High Courts and these can be compiled and published on the website of the CBDT under the legal corner. This will help both the taxpayers as well as the tax administration. A system may be adopted by the CBDT to know the pendency of appeals across the country before various High Courts and the Hon'ble Supreme Court and the issues involved. The list can be published on the website of the CBDT, which will help the Revenue as well as the Assessee.

365.4.3 To prevent unprecedented tax litigation at all levels, repeat appeals at the level of High Court and Supreme Court should be approved only if there is a more than 50% possibility of success. To ensure this, the AO should present a case analysis to a group of designated senior officials who will then evaluate and approve or disapprove after recording the reasons in writing for granting such approval/disapproval.

365.5 Examination by the Committee:

365.5 The Ministry of Finance in their written reply with regards to the above suggestions/views has furnished the following (mentioned correspondingly):

365.5.1 "The suggestion seeks to make an amendment in the Act stating that any writ petition against the Income -Tax Bill, 2025, should be heard by a division bench of two judges. It is in nature of policy change. The writ is governed through Article 226 and 227 of constitution and it cannot be regulated through Income-Tax Act. The suggestion is not feasible."

365.5.2 "The suggestion seeks to publish issues pending before on direct taxes before various High Courts and the Apex Court on website of CBDT. The suggestion is administrative in nature. The list is required to be updated in real time. Therefore, the request is required to be placed by the stakeholder before the respective High Courts to provide updated status daily in respect of all appeals filed. Thus, suggestion is not feasible."

365.5.3 "The suggestion suggests that repeat appeals at the level of High Court and Supreme Court should be approved only if there is a more than 50% possibility of success. The suggestion is administrative in nature. There is a dedicated chapter Special Provision [s.158A & 158AB] for avoiding repetitive appeals consisting of provisions wherein procedure has been prescribed when assessee claims identical question of law is pending before High court or Supreme Court, and also the procedure when in an appeal be Revenue an identical question of law is pending before Supreme Court through which number of repetitive appeals are reduced. Thus suggestion is already addressed."

365.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 365 of the Bill, 2025 textually simplifies and retains the intent of Section 260A of the Act, 1961 regarding provision for appeals to the High Court. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 365 as proposed.

Clause 366: Case before High Court to be heard by not less than two Judges

366.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) When an appeal has been filed before the High Court under Section 365, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided as per the opinion of such Judges or of the majority, if any, of such Judges.

(*2*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

366.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 260B: Case before High Court to be heard by not less than two Judges

(1) When an appeal has been filed before the High Court under section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

366.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 366 of the Bill provides for cases before High Court to be heard by not less than two judges. Clause 366 of the Bill corresponds to Section 260B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

366.4 Important Views/Suggestions given by Experts/Stakeholders:

366.4 During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are summarised as under:

366.4.1 The constitution of a Board of Advance rulings ought to include a technical and a legal member. In the erstwhile regime, composition of Authority for Advance Rulings (AAR) included a retired judge of High Court or Supreme Court, a revenue member and a law member who ensured independence and transparency in the advance ruling process. The advance ruling is sought on a mixed question of fact and law undertaken in a proposed transaction. Thus, it becomes very important that a law member is also made a part of the constitution of the Board of Advance Rulings (BAR).

366.4.2 Article 224A of the Constitution of India enables the appointment of retired judges at sittings of High Courts as ad-hoc judges. As the pendency in the various high Courts is increasing, the services of specialised ad-hoc judges may be availed for effective disposal of cases and efficient dispensation of justice. This step shall help in reducing the pendency of matters before various High Courts. This could be an effective measure to reduce the pendency of matters before various High Courts.

366.4.3 Appeals to High Court - Acceptance of orders of High Courts. In the earlier days, whenever the Department would accept a decision of a particular High Court on the interpretation of law, the Central Board of Direct Taxes used to issue a circular stating that the judgement had been accepted. This practice seems to have been discontinued now. If this process is adopted and instructions /circulars are published, litigation will be reduced considerably and shall prove invaluable for the ease of doing business in India by bringing certainty to tax laws. The Hon'ble Bombay High Court in CIT v. TCL Ltd. (2016) 241 Taxman 138 (Bom.)(HC) has passed a detailed order asking the Chief Commissioner of Income tax to host details of the matters admitted before the Bombay High Court, matters accepted by the Revenue, etc. online. If the order of the Bombay High Court is implemented, it will surely reduce by a positive step in reducing litigation.

366.5 Examination by the Committee:

366.5 The Ministry of Finance, which is the nodal agency for the proposed Bill, in their written reply pertaining to the above suggestions/views has submitted the following responses (mentioned correspondingly):

366.5.1 “The suggestion seeks to change the composition of the Board of Advance Rulings by including a technical and legal member. It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. In the erstwhile regime, composition of Authority for Advance Rulings (AAR)

included a retired judge of High Court or Supreme Court, a revenue member and a law member. However, most of the times, posts of members remained vacant as retired judge of High Court or Supreme Court were not opting for the post of Authority of Advance Rulings. Thus, the suggestion is not feasible."

366.5.2 "The suggestion seeks to appoint retired judges at sittings of High Courts as ad-hoc judges to reduce litigation. The matter may be taken up by stakeholders with the respective High Courts. The suggestion is not feasible."

366.5.3 "The suggestion seeks to issue a circular stating that the judgement of High Court had been accepted. There are 25 high courts in India. Further, there are finer points on which appeals are pursued on any major issue. Therefore, it may not be possible to collate information on continuous basis in respect of multitudes of judgments passed daily and provide daily updated status of accepted/not accepted. Also, many times there is divergence of opinion amongst High Courts on same issue. Thus, the suggestion is not feasible."

366.6 Observations/Recommendations of the Committee:

The Committee note that Clause 366 of the Bill, a textual simplification of Section 260B of the existing Act, stipulates that appeals to the High Court to be heard by not less than two judges, with no change in underlying policy. The Committee have considered stakeholder suggestions for this clause but ultimately found them unfeasible, aligning with the Department's rationale. As a result, the Committee accept the Clause in its current format.

4.—Appeals to Supreme Court

Clause 367: Appeal to Supreme Court

367.1 Provision proposed in the Income-Tax Bill, 2025:

An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on an appeal made to High Court in respect of an order passed under section 363 in any case which the High Court certifies to be fit for appeal to the Supreme Court.

367.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 261: Appeal to Supreme Court

An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a reference made under section 256 against an order made under section 254 before the 1st day of October, 1998 or an appeal made to High Court in respect of an order passed under section 254 on or after that date in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

367.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

"Clause 367 of the Bill deals with provisions relating to appeals to Supreme Court. Clause 367 of the Bill corresponds to Section 261 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

367.4 Important Views/Suggestions given by Experts/Stakeholders:

367.4. During the course of the Examination of the proposed Bill, an important suggestion/comment was provided by a stakeholder, which is produced as under:

"Statement of case to the Supreme Court in certain cases - No provision in the Income -Tax Bill, 2025. Though the is an all-India statute, the Appellate Tribunal sitting in a particular State is bound by the decision of the respective High Court of the particular State. It is possible that High Courts takes contrary views on the same important issue which affects a large number of assesses. In such a case, the decision of the Jurisdictional High Court will be binding bringing uncertainty in tax law. This is because two different benches of the Tribunal may have to take different stands based on the Judgments of the Jurisdictional High Courts. To avoid all these controversies, the Tribunal may be given power to refer the matter to the Supreme Court either of its 8 own, or on an application made by the assessee or the department. If this process is followed, there will be certainty in tax law, which will also help to reduce the pendency of cases before various High Courts, and finality may be attained on some of the important issues within a reasonable time".

367.5 Examination by the Committee:

367.5 The Ministry of Finance in their written reply pertaining to the above suggestion/view mentioned that

"The suggestion seeks to reinstate the reference by ITAT to Supreme Court. The suggestion is not feasible."

367.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 367 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 261 of the Act regarding appeals to Supreme Court. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 367 as proposed.

Clause 368: Hearing before Supreme Court

368.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 367 as they apply in the case of appeals from decrees of a High Court.

(*2*) The costs of the appeal shall be in the discretion of the Supreme Court.

(*3*) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 365(*10*) in the case of a judgment of the High Court.

368.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 262: Hearing before Supreme Court

(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 261 as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this section shall be deemed to affect the provisions of sub-section (1) of section 260 or section 265.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a judgment of the High Court.

368.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 368 of the Bill deals with provisions relating to hearing before Supreme Court. Clause 368 of the Bill corresponds to Section 262 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

368.4 Examination by the Committee:

368.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

368.5 Observations/Recommendations of the Committee:

The Committee observe that Clause 368 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 262 of the Act regarding hearing before the Supreme Court. They also note that no policy change has been effected by the Department; and only a textual simplification of the current Act. The Committee, therefore, accept Clause 368 as proposed.

5.—General

Clause 369: Tax to be paid irrespective of appeal, etc.

369.1 Provision proposed in the Income-Tax Bill, 2025:

Irrespective of the fact that an appeal has been preferred to the High Court or the Supreme Court, tax shall be payable as per the assessment made in the case.

369.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 265: Tax to paid notwithstanding reference, etc.

Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

369.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 369 of the Bill provides for tax to be paid irrespective of appeal, etc. Clause 369 of the Bill corresponds to Section 265 of the Act. Section 265 of the Act provides for reference to High Court and Supreme Court and also appeal to Supreme Court. Making of reference has been discontinued under the Act. Also appeal to the High Court is now enabled under the Act. The provisions of the clause have been aligned accordingly".*

369.4 Examination by the Committee:

369.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

369.5 Observations/Recommendations of the Committee:

The Committee note that Clause 369 of the Income-Tax Bill, 2025 seeks to provide that tax to be paid irrespective of filing of appeal before High Court or Supreme Court, aligns with Section 265 of the Income-Tax Act, 1961. The

Department confirms this is a rephrasing, not a policy change. The Committee, therefore, accept Clause 369 as proposed.

Clause 370: Execution for costs awarded by Supreme Court

<u>370.1 Provision proposed in the Income-Tax Bill, 2025:</u>

The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

370.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 266: Execution for costs awarded by Supreme Court.

The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

370.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 370 of the Bill provides for execution for costs awarded by Supreme Court. Clause 370 of the Bill corresponds to Section 266 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

370.4 Examination by the Committee:

370.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

370.5 Observations/Recommendations of the Committee:

The Committee note that Clause 370 of the Income-Tax Bill, 2025, which seeks to provide for execution for costs awarded by Supreme Court, is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the Department.

Clause 371: Amendment of assessment on appeal

371.1 Provision proposed in the Income-Tax Bill, 2025:

If as a result of an appeal under Section 356 or 357 or 362, any change is made in the assessment of a body of individuals or an association of persons, or a new assessment is directed in such cases, the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, shall pass an order authorising the Assessing Officer to either amend the assessment of any member of the body or association or make a fresh assessment on such member.

371.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 267: Amendment of assessment on appeal.

Where as a result of an appeal under section 246 or section 246A or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.

371.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 371 of the Bill provides for amendment of assessment on appeal. Clause 371 of the Bill corresponds to Section 267 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

371.4 Examination by the Committee:

371.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".

371.5 Observations/Recommendations of the Committee:

The Committee note that Clause 371 of the Income-Tax Bill, 2025 provides for amendment of assessment on account of appeal in certain cases, akin to Section 267 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

Clause 372: Exclusion of time taken for copy.

372.1 Provision proposed in the Income-Tax Bill, 2025:

In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not provided with a copy of the order when the notice of the order was served, the time required to obtain a copy of such order, shall be excluded.

372.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 268: Exclusion of time taken for copy.

In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.

372.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 372 of the Bill provides for exclusion of time taken for copy. Clause 372 of the Bill corresponds to Section 268 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

372.4 Examination by the Committee:

372.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

372.5 Observations/Recommendations of the Committee:

The Committee observe that Clause 372 of the Income-Tax Bill, 2025 seeks to provide for exclusion of time taken to obtain copy of the order by the assessee which corresponds to Section 268 of the current Act. The Committee further note that, apart from textual simplification, no policy change has been introduced in this Clause. The Committee, therefore, accept Clause 372 as proposed.

Clause 373: Filing of appeal or by authority.

373.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Board may, from time to time, issue orders, instructions or directions to other authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal by any authority under the provisions of this Chapter.

(*2*) Where, in pursuance of the orders, instructions or directions issued under sub-section (*1*), an authority has not filed any appeal on any issue in the case of an assessee for any tax year, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(*a*) the same assessee for any other tax year; or

(*b*) any other assessee for the same or any other tax year.

(*3*) Where even when no appeal has been filed by an authority pursuant to the orders or instructions or directions issued under sub-section (*1*), it shall not be lawful for an assessee, being a party in any appeal, to contend that the authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(*4*) The Appellate Tribunal or Court, hearing such appeal, shall have regard to the orders, instructions or directions issued under sub-section (*1*) and the circumstances under which such appeal was filed or not filed in respect of any case.

373.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 268A: Filing of appeal or application for reference by authority.

(1) The Board may, from time to time, issue orders, instructions or directions to other authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

(*a*) the same assessee for any other assessment year; or

(*b*) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.

373.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 373 of the Bill provides for filing of appeal or by authority. Clause 373 of the Bill corresponds to Section 268A of the Act. There is no policy change. The*

provisions of the existing section have been textually simplified and retained with the same intent in this clause".

373.4 Important Views/Suggestions given by Experts/Stakeholders:

373.4 During the course of the examination of the Bill, some important suggestions/comments received from various stakeholders and experts are encapsulated as follows:

373.4.1 Sub-section (5) of section 268A of the Act, 1961 may be retained for providing better clarity.

373.4.2 It is suggested that Section 373(2) be modified as follows:

(2) Where, in pursuance of the orders, instructions, or directions issued under sub-section (1), an authority has not filed any appeal on any issue in the case of an assessee for any tax year or assessment year relevant to the tax year commencing before 1.4.2026, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(a) the same assessee for any other tax year; or

(b) any other assessee for the same or any other tax year

Justification: Section 373(2) provides for the issuance of orders, instructions, or directions by the Board regarding the filing of appeals by income- tax authorities. Where, in pursuance of such orders/ instructions/directions, an authority has not filed any appeal on any issue in the case of the assessee for any tax year, it shall not preclude such authority from filing an appeal on the same issue in the case of the same assessee for any other tax year; or any other assessee for the same or any other tax year. The inclusion of the phrase "assessment year relevant to the previous year" after "any tax year" in the first part of the above sentence is suggested to cover cases, including those that may pertain to assessments made under the provisions of the Act, 1961, in respect of which the authority has not filed any appeal.

373.4.3 There is no penalty on the officers who file routine appeals which are settled by the court in favour of the taxpayer. Repeat appeals waste the time and effort of the tax department, taxpayer and the judiciary. Suitable administrative penalty should be imposed on such officers.

373.4.4 Appraisals of tax officials should include analysis of the number of cases filed by each officer, number of cases settled in favour of and against the taxpayer and tax amount ultimately realised and should be penalised for high pitch assessments.

373.4.5 The CBDT should further enhance the low monetary limits for filing appeals by the ITD to Rs. 1 cr before the ITATs (Rs. 60 lakhs now), Rs. 5 cr before the High Courts (Rs. 2 cr now) and Rs. 50 cr before the Supreme Court (Rs. 5 cr now). These enhanced limits should prevent tax officers from filing routine appeals and enable the judicial authorities to focus on high value litigations.

373.4.6 The CBDT should also ensure that all appeals filed by the ITD before the higher authorities which is below the monetary limits is immediately withdrawn, as done earlier.

373.5 Examination by the Committee:

373.5 The Ministry of Finance in their written response regarding the above suggestions/views has furnished the following:

373.5.1 "The suggestion seeks to retain the omitted sub-section (5) of section 268A of the existing Act. Sub-section 268A(5) provides that "Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly. Sub-section 268A(5) is a deeming provision. This sub-section has been omitted in the Bill as this sub-section was inserted to give the retrospective effect to the section 268A. Section 268A was inserted vide Finance Act, 2008 with effect from 01.04.1999. This deeming provision enabled that orders, instructions issued before Finance Act, 2008 were in accordance with the provisions of section 268A. Now, all the orders and instruction to increase the monetary limit are issued under sub-section 268A(1), thus deeming provision is not required."

373.5.2 "The suggestion seeks to include the phrase "assessment year relevant to the previous year commencing before 1.4.2026" after "any tax year" to cover cases that may pertain to assessment made under the provisions of the Act, 1961. The said suggestion may result in over-drafting. The same has been proposed for the purposes of saving clause. However, the same has been already covered as per the provisions of clause 536(2)(b) in the Repeal and Savings clause. Thus, same may not be accepted."

373.5.3 "The suggestion seeks to impose penalty on the officers who file routine appeals settled in the favour of the taxpayer. The issue is administrative in nature. Every appeal is filed with the approval of senior officers of the level of Addl. Secretary to the Govt. of India. Therefore, the suggestion is misplaced. Specific administrative measures have been made to ensure that appeals are filed after due scrutiny. Therefore, for the appeals to be filed in ITAT, firstly complete scrutiny report (CSR) is filed by the AO to the PCIT for the determination of the appealability of the order. Further, CSR contains the grounds of appeal and question of law/fact to ensure that

routine appeals are not filed. PCI/CIT is a very senior level officer who decides that which appeals shall be filed in the tribunal. Further, more stringent procedure has been placed for filing the appeal to High Court or Supreme Court. Procedure of filing an appeal to High Court is decided by the Collegium of Chief Commissioners. There is a dedicated chapter Special Provision for avoiding repetitive appeals constituting of provisions wherein procedure has been prescribed when assessee claims identical question of law is pending before High court or Supreme Court, and also the procedure when in an appeal be Revenue an identical question of law is pending before Supreme Court through which number of repetitive appeals are reduced. Thus, suggestion is already addressed. The monitoring of such appeals is done my Member (A&J). As, sufficient administrative measures are already in place, the suggestion is not feasible."

373.5.4 "The suggestion seeks to include analysis of the number of cases filed by each officer; number of cases settled in favour of and against the taxpayer and tax amount ultimately realised in appraisal of Officers and penalty for high pitch assessment. There is an effective and efficient mechanism of annual appraisal of officers in which the reporting officer makes evaluation of the performance of the officer which is also reviewed by a reviewing authority. Thus, administrative mechanism exists for the performance of the work done by the officers. The High pitch committee analyses the high pitch assessments and no coercive recovery is conducted if the assessment order is found to be of high pitch. Thus, suggestion is not feasible."

373.5.5 "The suggestion seeks to increase the monetary limit for filing appeal in ITAT, HC and SC. The rational to increase the limit to withdraw cases from ITAT from existing tax effect of Rs. 50 lakhs to Rs. 60 lakhs were for effective and efficient litigation management. These tax limits have been recently increased in the month of September 2024. It is submitted that increasing of monetary limits is done by the Circular in consequence of power under section 268A of the existing Act. Thus, any such changes in the monetary limits does not fall under the ambit of amendment of the Bill. As, this change is a policy matter, it needs further deliberations. The monetary limit has been enhanced on Sep 2024.Depatment is taking steps like DRC, posting of JCIT(Appeals), VsV scheme, safe harbour rules, simplification of IT Act 1961 and the administrative measures as mentioned in Sr. no 177 of Batch I. In respect of further increasing the said limits, it is stated that this is a policy matter and need further deliberation."

373.5.6 "The suggestion seeks that CBDT should ensure that all appeals filed by the ITD before the higher authorities which is below the monetary limits is immediately withdrawn, as done earlier. The department withdraws appeals before the appellate authorities whenever the tax effect is below the monetary limit. Thus, the suggestion is already addressed."

373.6 Observations/Recommendations of the Committee:

The Committee note that Clause 373 of the Income-Tax Bill, 2025 seeks to provide for filing of appeals by Income-Tax authority and empowers the Central Board of Direct Taxes to issue instructions from time to time. This Clause is similar to the provisions of existing Section 268A of the Income-Tax Act, 1961 with no policy change. After considering all viewpoints, the Committee accept Clause 373 as proposed by the Department.

Clause 374: Interpretation of "High Court"

374.1 Provision proposed in the Income-Tax Bill, 2025:

In this Chapter, "High Court" means,—

(*i*) for any State, the High Court for that State;

(*ii*) for the Union territory of Jammu and Kashmir, the High Court of Jammu and Kashmir and Ladakh;

(*iii*) for the Union territory of Ladakh, the High Court of Jammu and Kashmir and Ladakh;

(*iv*) for the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta;

(*v*) for the Union territory of Lakshadweep, the High Court of Kerala;

(*vi*) for the Union territory of Chandigarh, the High Court of Punjab and Haryana;

(*vii*) for the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay; and

(*viii*) for the Union territory of Puducherry, the High Court at Madras; and

(*ix*) for the National Capital Territory of Delhi, the High Court of Delhi.

374.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 269: **Definition of "High Court"**

In this Chapter,—

"High Court" means—

(*i*) in relation to any State, the High Court for that State ;

(*ii*) in relation to the Union territory of Delhi, the High Court of Delhi ;

(*iia*) [***]

(*iii*) [***]

(*iv*) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta;

(*v*) in relation to the Union territory of Lakshadweep, the High Court of Kerala ;

(*va*) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana;

(*vi*) in relation to the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay; and

(*vii*) in relation to the Union territory of Pondicherry, the High Court at Madras.

374.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 374 of the Bill provides for Interpretation of "High Court" Clause 374 of the Bill corresponds to Section 269 of the Act. The clause has been updated to provide for reference to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh".*

374.4 Examination by the Committee:

374.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> "The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".

374.5 Observations/Recommendations of the Committee:

The Committee note that Clause 374 of the Income-Tax Bill, 2025 provides for the definition of "High Court" for the purpose of filing of appeal under Chapter XVIII of the Bill, akin to Section 269 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of

the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

B.—Special provisions for avoiding repetitive appeals

Clause 375: Procedure when assessee claims identical question of law is pending before High Court or Supreme Court

375.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Irrespective of anything contained in this Act, where an assessee claims that—

(*a*) any question of law arising in his case for a tax year pending before the Assessing Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another tax year;

(*b*) such question of law is pending before—

(*i*) the High Court on a reference under section 256 or on an appeal under section 260A of the Act, 1961; or

(*ii*) the Supreme Court on a reference under section 257 or on an appeal under section 261 of the Act, 1961; or

(*iii*) the High Court on an appeal made under section 365; or

(*iv*) the Supreme Court on appeal made under section 367; or

(*v*) in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court,

such case being hereafter in this section referred to as the other case, he may furnish a declaration to the Assessing Officer or the appellate authority, in such form and manner, as prescribed, that if the Assessing Officer or the appellate authority, agrees to apply in the relevant case, the final decision on the question of law in the other case, he shall not

raise such question of law in the relevant case before any appellate authority or in a subsequent appeal before a higher forum.

(*2*) Where a declaration under sub-section (*1*) is furnished to any appellate authority, the appellate authority shall—

(*a*) call for a report from the Assessing Officer on the correctness of the claim made by the assessee; and

(*b*) allow the Assessing Officer an opportunity of being heard in the matter, if such request is made by him.

(*3*) The Assessing Officer or the appellate authority, may, by an order in writing,—

(*a*) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(*b*) reject the claim if not so satisfied.

(*4*) An order under sub-section (*3*) shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act.

(*5*) Where a claim is admitted under sub-section (*3*),—

(*a*) the Assessing Officer or the appellate authority, may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(*b*) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in any subsequent appeal before a higher forum.

(*6*) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order referred to in sub-section 5(*a*) in conformity with such decision.

(*7*) In this section,—

(*a*) “appellate authority” means the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal;

(*b*) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him; and

(*c*) “subsequent appeal before a higher forum” means the appeal before the High Court under section 365 or appeal before the Supreme Court under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court.

375.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 158A: Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Assessing Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 260A before the High Court or in appeal under section 261 before the Supreme Court (such case being hereafter in this section referred to as the other case), he may furnish to the Assessing Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Assessing Officer or the appellate authority, as the case may be, agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or in appeal before the High Court under section 260A or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Assessing Officer on the correctness of the claim made by the assessee and, where the Assessing Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Assessing Officer or the appellate authority, as the case may be, may, by order in writing,—

(*i*) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(*ii*) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(*a*) the Assessing Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(*b*) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in appeal before the High Court under section 260A or the Supreme Court under section 261.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (*a*) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.— In this section,—

(*a*) "appellate authority" means the Deputy Commissioner (Appeals), [28][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Appellate Tribunal;

(*b*) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him.

375.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 375 of the Bill deals with procedure when assessee claims identical question of law is pending before High Court or Supreme Court. Clause 375 of the Bill corresponds to Section 158A of the Act. No major policy changes have been made. Question of law pending before Supreme Court in a Special Leave Petition under article 136 of the Constitution has also been included for the purposes of the clause".*

375.4 Examination by the Committee:

375.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

375.5 Observations/Recommendations of the Committee:

The Committee observe that Clause 375 of the Income-Tax Bill 2025, mirroring Section 158A of the current Act, provides for procedure when assessee claims identical question of law is pending before High Court or Supreme Court. The Committee further note that, apart from textual simplification, no policy change has been introduced in this Clause. The Committee, therefore, accept Clause 375 as proposed by the Department of Revenue.

Clause 376: Procedure where an identical question of law is pending before High Courts or Supreme Court.

376.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Irrespective of anything contained in this Act, where the collegium is of the opinion that—

(*a*) any question of law arising in the case of an assessee for any tax year (such case being herein referred to as the relevant case) is identical with a question of law arising,—

(*i*) in his case for any other tax year; or

(*ii*) in the case of any other assessee for any tax year; and

(*b*) such question of law is pending before the jurisdictional High Court under section 365 or the Supreme Court in an appeal under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, which is in favour of such assessee (such case being herein referred to as the other case),

the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under section 362(*2*) or to the jurisdictional High Court under section 365(*2*) in the relevant case against the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal.

(*2*) Irrespective of anything contained in section 362(*3*) or section 365(*2*)(*a*), the Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (*1*), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, in such form as prescribed, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.

(*3*) The application referred to in sub-section (*2*) shall be filed within one hundred and twenty days from the date of receipt of the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or of the Appellate Tribunal.

(*4*) The Principal Commissioner or Commissioner shall direct the Assessing Officer—

(*a*) to make an application under sub-section (*2*), if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and

(*b*) to proceed as per section 362(*2*) or section 365(*2*)(*b*), if no such acceptance is received irrespective of anything in section 362(*3*) or section 365(*2*)(*a*).

(*5*) If the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the order of the Appellate Tribunal referred to in sub-section(*1*), is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, against such order, and save as otherwise provided in this section, all other provisions of Parts A.2 and A.3 of this Chapter shall apply accordingly.

(*6*) Every appeal under sub-section (*5*) shall be filed within sixty days to the Appellate Tribunal or one hundred and twenty days to the High Court, from the date on which the

order of the jurisdictional High Court or the Supreme Court in the other case, is communicated to the Principal Commissioner or the Commissioner (having jurisdiction over the relevant case), as per the procedure specified by the Board.

(*7*) In this section, "collegium" means a collegium comprising two or more Chief Commissioners or Principal Commissioners or Commissioners, as specified by the Board.

376.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 158AB: Procedure where an identical question of law is pending before High Courts or Supreme Court.

(1) Notwithstanding anything contained in this Act, where the collegium is of the opinion that—

(*a*) any question of law arising in the case of an assessee for any assessment year (such case being herein referred to as the relevant case) is identical with a question of law arising,—

(*i*) in his case for any other assessment year; or

(*ii*) in the case of any other assessee for any assessment year; and

(*b*) such question is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, which is in favour of such assessee (such case being herein referred to as the other case),

the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the jurisdictional High Court under sub-section (2) of section 260A in the relevant case against the order of [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Appellate Tribunal, as the case may be.

(2) The Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (1), notwithstanding anything contained in sub-section (3) of section 253 or clause (*a*) of sub-section (2) of section 260A, direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, as the case may be, in such form as may be prescribed

within a period of one hundred and twenty days from the date of receipt of the order of [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.

(3) The Principal Commissioner or Commissioner shall direct the Assessing Officer to make an application under sub-section (2) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Principal Commissioner or Commissioner shall, notwithstanding anything contained in sub-section (3) of section 253 or clause (*a*) of sub-section (2) of section 260A, proceed in accordance with the provisions contained in sub-section (2) of section 253 or in clause (*c*) of sub-section (2) of section 260A.

(4) Where the order of [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the case may be, against such order and save as otherwise provided in this section all other provisions of Part B and Part CC of Chapter XX shall apply accordingly.

(5) Every appeal under sub-section (4) shall be filed within a period of sixty days to the Appellate Tribunal or one hundred and twenty days to the High Court, as the case may be, from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case is communicated to the Principal Commissioner or the Commissioner (having jurisdiction over the relevant case), in accordance with the procedure specified by the Board in this behalf.

Explanation.—For the purposes of this section, "collegium" means a collegium comprising of two or more Chief Commissioners or Principal Commissioners or Commissioners, as may be specified by the Board in this behalf.

376.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

"Clause 376 of the Bill deals with procedure where an identical question of law is pending before High Court or Supreme Court. Clause 376 of the Bill corresponds to Section 158AB of the Act. No major policy changes have been made. The word "competent authority" has been used in place of designations like PCIT, etc".

376.4 Examination by the Committee:

376.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".

376.5 Observations/Recommendations of the Committee:

The Committee note that Clause 376 of the Income-Tax Bill 2025, akin to Section 158AB of the current Act, seeks to prescribe procedure when an identical question of law is pending before High Court or Supreme Court. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.

C.—Revision by the Principal Commissioner or Commissioner

Clause 377: Revision of orders prejudicial to revenue

377.1 Provision proposed in the Income-Tax Bill, 2025:

(1) The Competent Authority may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including—

(*a*) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(*b*) an order modifying the order under section 166; or

(*c*) an order cancelling the order under section 166 and directing a fresh order under the said section.

(*2*) For the purpose of sub-section (*1*),—

(*a*) an order passed by the Assessing Officer or the Transfer Pricing Officer, shall include—

(*i*) an order of assessment made on the basis of the directions issued by the Joint Commissioner under section 272;

(*ii*) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer or the Transfer Pricing Officer, conferred on, or assigned to, him by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board under section 241; and

(*iii*) an order under section 166;

(*b*) "record" shall include all records relating to any proceeding under this Act available at the time of examination by the Competent Authority;

(*c*) where any order referred to in this section and passed by the Assessing Officer or the Transfer Pricing Officer, had been the subject matter of any appeal filed, the powers of the Competent Authority, shall extend to such matters as had not been decided in such appeal.

(*3*) An order passed by the Assessing Officer or the Transfer Pricing Officer, shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Competent Authority, the order—

(*a*) is passed without making inquiries or verification which should have been made;

(*b*) is passed allowing any relief without inquiring into the claim;

(*c*) has not been made in accordance with any order, direction or instruction issued by the Board under section 239; or

(*d*) has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

(*4*) No order shall be made under sub-section (*1*) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(*5*) Irrespective of anything contained in sub-section (*4*), an order in revision under this section may be passed at any time to give effect to a finding or direction contained in the order of the Appellate Tribunal, the High Court, or the Supreme Court.

(*6*) In computing the period of limitation under sub-section (*4*), the following period shall be excluded,—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*); and

(*b*) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(*7*) If after the exclusion of the period provided in sub-section (*6*), the time limit for completion, in that sub-section is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(*8*) In this section,—

(*a*) "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(*b*) "Transfer Pricing Officer" shall have the same meaning as in section 166(*18*).

377.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 263: Revision of orders prejudicial to revenue.

(1) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including,—

(*i*) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(*ii*) an order modifying the order under section 92CA; or

(*iii*) an order cancelling the order under section 92CA and directing a fresh order under the said section.

Explanation 1.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(*a*) an order passed on or before or after the 1st day of June, 1988 by the Assessing

Officer or the Transfer Pricing Officer, as the case may be, shall include—

(*i*) an order of assessment made by the Assistant Commissioner or Deputy Commissioner or the Officer on the basis of the directions issued by the Joint Commissioner under section 144A;

(*ii*) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer or the Transfer Pricing Officer, as the case may be, conferred on, or assigned to, him under the orders or directions issued by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board in this behalf under section 120;

(*iii*) an order under section 92CA by the Transfer Pricing Officer;

(*b*) "record" shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*c*) where any order referred to in this sub-section and passed by the Assessing Officer or the Transfer Pricing Officer, as the case may be, had been the subject matter of any appeal filed on or before or after the 1st day of June, 1988, the powers of the Principal Commissioner or Commissioner under this sub-section shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal.

Explanation 2.—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer or the Transfer Pricing Officer, as the case may be, shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,—

(*a*) the order is passed without making inquiries or verification which should have been made;

(*b*) the order is passed allowing any relief without inquiring into the claim;

(*c*) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(*d*) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

Explanation 3.—For the purposes of this section, "Transfer Pricing Officer" shall have the same meaning as assigned to it in the *Explanation* to section 92CA.

(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and **[***the period commencing on the date on which stay on any proceeding under this section was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner***]** shall be excluded.

377.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 377 of the Bill provides revision of orders prejudicial to revenue. Clause 377 of the Bill corresponds to section 263 of the Act. There is no major policy change. However, in such cases, where after the exclusion period, if the period of limitation has less than 60 days, such period is deemed to be extended to the 60 days. Further, competent authority has defined as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of this section".*

377.4 Important Views/Suggestions given by Experts/Stakeholders:

377.4 During the course of the examination of the ill, an important suggestion/comment was provided by a stakeholder, which is outlined as under:

Orders passed pursuant to DRP orders are also made subjected to Revision Proceedings which is not justified. DRP is a panel of three Commissioners – May not be desirable for one commissioner (of equal rank) to revise orders which are as per guidance given by three Commissioners. Further, it may look as Review of decision which is not permissible as per court rulings. DRP also has power of enhancement which protects interest of Revenue.

377.5 Examination by the Committee:

377.5 Responding to the above suggestion, the Ministry of Finance in their written reply stated as below:-

"The suggestion seeks to bar orders passed pursuant to DRP orders to Revision Proceedings. Revision is an inherent and original power of the jurisdictional commissioner. This is required for administrative control and discipline also. The power not only includes revising orders prejudicial to revenue but also includes power to revise orders prejudicial to assessee. Thus, suggestion is not feasible."

377.6 Observations/Recommendations of the Committee:

The Committee note that Clause 377 of the Income-Tax Bill, 2025, which corresponds to Section 263 of the Income-Tax Act, 1961, provides for revision of

orders prejudicial to Revenue by Principal Commissioner or Commissioner. After considering all viewpoints; and given that this Clause is similar to the existing Section 263 with no policy change, the Committee recommend to accept the Clause as proposed by the Department in the proposed Act.

Clause 378: Revision of other orders

<u>378.1 Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) For any order, other than an order to which section 377 applies, passed by an authority subordinate to him, the Competent Authority may, either of his own motion or on an application by the assessee for revision,—

(*a*) call for the record of any proceeding under this Act in which any such order has been passed;

(*b*) make such inquiry or cause such inquiry to be made; and

(*c*) subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(*2*) The Competent Authority shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(*3*) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

(*4*) The Competent Authority may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period as provided in sub-section (*3*), admit an application made after the expiry of the period specified in that sub-section.

(*5*) The Competent Authority shall not revise any order under this section in the following cases—

(*a*) where an appeal against the order lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, but has not been made and the time within which such appeal may be made has not expired; or

(*b*) where the appeal lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(*c*) where the order has been made the subject of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal.

(*6*) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(*7*) On every application by an assessee for revision under this section, an order shall be passed within one year from the end of the financial year in which such application is made.

(*8*) In computing the period of limitation under sub-section (*7*), the following period shall be excluded:—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*); and

(*b*) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(*9*) If after the exclusion of the period provided in sub-section (*8*), the time limit for completion as provided in sub-section (*6*) is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(*10*) Irrespective of anything contained in sub-section (*7*), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(*11*) For the purposes of this section,—

(*a*) “Competent Authority” means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) an order by the Competent Authority declining to interfere shall, not be deemed to be an order prejudicial to the assessee.

378.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 264: Revision of other orders.

(1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner shall not revise any order under this section in the following cases—

(*a*) where an appeal against the order lies to the Deputy Commissioner (Appeals) or to [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(*b*) where the order is pending on an appeal before the Deputy Commissioner (Appeals); or

(*c*) where the order has been made the subject of an appeal to [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and [*the period commencing on the date on which stay on any proceeding under this section was granted by an order or injunction of any court and*

ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner] shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation 1.—An order by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

Explanation 2.—For the purposes of this section, the Deputy Commissioner (Appeals) shall be deemed to be an authority subordinate to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

378.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 378 of the Bill provides for revision of other orders. Clause 378 of the Bill corresponds to section 264 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, in such cases, where after the exclusion period, if the period of limitation has less than 60 days, such period is deemed to be extended to the 60 days. Further, competent authority has defined as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of this section".*

378.4 Important Views/Suggestions given by Experts/Stakeholders:

378.3 During the course of the Examination of the proposed Bill, an important suggestion/comment was received from a stakeholder/expert that is produced as under:

"Time Limit for Filing Revision Application: Provides a time limit of one year from the date of the original order to file an application for revision under Section 264, potentially creating challenges for taxpayers. It is recommended to liberalize the time limit under clause 378 (section 264 of the Act) to 2 years to make it uniform with clause 377 (section 263 of the Act)".

378.5 Examination by the Committee:

378.5 The Ministry of Finance in their written reply with regard to the above suggestion/comment stated as follows:-

"The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

378.5.1 The representatives of the Ministry further elaborated as below:-

"सर, सीरियल नम्बर-181 में इश्यू है। पुराने एक्ट में हमारे पास दो सेक्शन्स हैं, जो नए एक्ट में भी आ गए हैं। उसमें एक यह है कि असेसी प्रिंसिपल कमीश्नर के पास जा सकता है कि आप मेरा केस डिसाइड कर दीजिए। कंडिशन यह है कि वह अपील में नहीं जाएगा। वह प्रिंसिपल कमीश्नर के पास जाएगा कि आप मेरे केस डिसाइड कर दीजिए। यह सेक्शन-264 है। इसमें एप्लीकेशन है कि असेसी को ऑर्डर होने से एक साल के अंदर देना होता है। उसके बाद कमीश्नर अपना टाइम लेता है। उसके एक साल बाद एंड में फाइनेंशियल ईयर से अपना ऑर्डर पास कर देता है। दूसरा यह है कि अगर कमीश्नर को लगता है कि असेसिंग ऑफिसर ने सही काम नहीं किया, ठीक से एनक्वॉयरी नहीं की, लॉ के अगेंस्ट काम किया, कोई बाइडिंग डिसिजन माना, उसके चलते रवेन्यु को लॉस हुआ। उस केस में वह सेक्शन 263 में "Suo Motu" प्रोसीडिंग शुरू करता है और ऑर्डर का रिविजन कर सकता है। इसके लिए कमीश्नर को दो साल का टाइम दिया गया है from the end of the financial year. इनका बोलना है कि उसको आपने वहां दो साल दिया है तो असेसी को भी एप्लीकेशन फाइल करने के लिए दो साल दे दीजिए।

378.5.2 On a specific enquiry regarding the new addition of sub-clause (9) of the Clause 378 in the Bill as compared to the corresponding Section 264 of the current Act, the ministry in its written reply made the following submission:

"Clause (9) has been inserted to provide at least 60 days for the passing of order in such cases where period on proceedings was stayed by the court. There is a fixed time period of one year from the end of the financial year in which application is made. However, in such cases, where assessee approaches the court on the last few days of time-barring date (closer to 31st March), then after receiving the order from the court, number of days for passing the final order may limited (few days only). Thus, to provide minimum 60 days for passing the order after receiving the court order, this sub-section has been inserted."

<u>378.6 Observations/Recommendations of the Committee:</u>

The Committee observe that Clause 378 of the Bill, 2025 textually simplifies and maintains the intent of Section 264 of the current Act which allows for revision of orders not prejudicial to revenue. Currently the time limit for filing revision application is one year. While the current time limit for filing a revision application is one year, a stakeholder suggested extending this to two years for uniformity with Clause 377. The Department have, however, stated this constitutes a policy change beyond the Bill's scope. The Committee further note the inclusion of sub-clause (9) of Clause 378 in this Bill, which is absent in the current Act. The Department have clarified that this sub-section ensures a minimum of 60 days for passing an order after receiving a court order. After

considering the views of the stakeholder as well as the response of the Department, the Committee accept Clause 378 as proposed.

D.—Alternate Dispute Resolutions

1.—Dispute Resolution Committee in certain cases

Clause 379: Dispute Resolution Committee

379.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Central Government shall constitute, one or more Dispute Resolution Committees, as per the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as specified by the Board, who opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions, as prescribed.

(*2*) The Dispute Resolution Committee, subject to the conditions as prescribed, may make modifications to the variations in specified order or reduce or waive any penalty imposable under this Act, or grant immunity from prosecution for any offence punishable under this Act, in case of a person whose dispute is resolved under this Chapter.

(*3*) Irrespective of anything contained in section 275, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—

(*a*) in a case where the specified order is a draft of the proposed order of assessment under section 275(*1*), pass an order of assessment, reassessment or recomputation; or

(*b*) in any other case, modify the order of assessment, reassessment or recomputation, in conformity with the directions contained in the order of the Dispute Resolution Committee within one month from the end of the month in which such order is received.

(*4*) "specified order" means such order, including draft order, as specified by the Board, and—

(*i*) the aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(*ii*) such order is not based on search initiated under section 247 or requisition under section 248 in the case of assessee or any other person or survey under section 253 or information received under an agreement referred to in section 159(*1*) or (*2*); and

(*iii*) where the assessee has filed a return for the tax year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

379.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245MA: Dispute Resolution Committee.

(1) The Central Government shall constitute, one or more Dispute Resolution Committees, as may be necessary, in accordance with the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as may be specified by the Board, who may opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions.

(2) The Dispute Resolution Committee, subject to such conditions, as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence punishable under this Act in case of a person whose dispute is resolved under this Chapter.

(2A) Notwithstanding anything contained in section 144C, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—

(*a*) in a case where the specified order is a draft of the proposed order of assessment under sub-section (1) of section 144C, pass an order of assessment, reassessment or recomputation; or

(*b*) in any other case, modify the order of assessment, reassessment or recomputation,

in conformity with the directions contained in the order of the Dispute Resolution Committee within a period of one month from the end of the month in which such order is received.

(3) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of dispute resolution under this Chapter, so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Dispute Resolution Committee and the assessee in the course of dispute resolution proceedings to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a dispute resolution system with dynamic jurisdiction.

(4) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (3), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023:

[**Provided further** that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2023, by notification in the Official Gazette.]

(5) Every notification issued under sub-sections (3) and (4) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Explanation.— For the purposes of this section,—

(*a*) "specified conditions" in relation to a person means a person who fulfils the following conditions, namely:—

(*I*) where he is not a person,—

(*A*) in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that—

(*i*) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(*ii*) such order of detention being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(*iii*) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of the said section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(*iv*) such order of detention has not been set aside by a court of competent jurisdiction;

(*B*) in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code* (45 of 1860), the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Prohibition of Benami Transactions Act, 1988 (45 of 1988), the Prevention of Corruption Act, 1988 (49 of 1988) or the Prevention of Money-laundering Act, 2002 (15 of 2003) has been instituted and he has been convicted of any offence punishable under any of those Acts;

(*C*) in respect of whom prosecution has been initiated by an authority for any offence punishable under the provisions of this Act or the Indian Penal Code* (45 of 1860) or for the purpose of enforcement of any civil liability under any law for the time being in force, or such person has been convicted of any such offence consequent upon the prosecution initiated by an authority;

(*D*) who is notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (27 of 1992);

(*II*) such other conditions, as may be prescribed.

(*b*) "specified order" means such order, including draft order, as may be specified by the Board, and,—

(*i*) aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(*ii*) such order is not based on search initiated under section 132 or requisition under section 132A in the case of assessee or any other person or survey under section 133A or information received under an agreement referred to in section 90 or section 90A;

(*iii*) where return has been filed by the assessee for the assessment year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

379.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

"Clause 379 of the Bill provides for Dispute Resolution Committee. Clause 379 of the Bill corresponds to Section 245MA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

379.4 Important Views/Suggestions given by Experts/Stakeholders:

379.4 During the course of the Examination of the proposed Bill, some important suggestion/view was received from a stakeholder/expert, which is summarised as under:

"Enhance Scope of Dispute Resolution Committee ['DRC']: DRC was introduced vide Finance Act 2021, with the aim to reduce litigation and provide relief to taxpayers. Currently applies only to medium sized taxpayers, i.e. only taxpayers whose total income filed as per the return of income does not exceed 50 lakhs and the adjustments proposed do not exceed 10 lakhs. Scope of the DRC must be expanded to provide for

higher threshold limits of who can file an application to even enable operating companies with substantial litigation to opt for this route. Also, provisions should be made for guiding the procedure to be adopted by the DRC".

379.5 Examination by the Committee:

379.5 The Ministry of Finance in their written response pertaining to the above suggestion/comment furnished as follows:-

"The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

379.5.1 The representative of the Ministry further added as follows:-

"सर, मैं अभी डिस्प्यूट रिजॉल्यूशन कमेटी के कॉन्सेप्ट के बारे में बात कर रहा हूं। अभी यह पूरी तरह से स्टैबलाइज नहीं हुई है। यह अल्टरनेट डिस्प्यूट रिजॉल्यूशन का कॉन्सेप्ट अच्छा है। यह एक मैकेनिज्म है। इसको हमें आगे प्रमोट करना है। लेकिन, अभी वह स्टैबलाइज नहीं हुई है। हम उसके प्रोसेस को सेट कर रहे हैं। Once it is done, we can actually think of expanding the concept. अभी डीआरसी का मैनडेट है कि अगर रिटर्न इन्कम 50 लाख से कम है और जब तक इन्कम वैरियशन 10 लाख है, तब तक उसको पावर्स दिया हुआ है।"

379.5.2 He further added as below:-

"For DRPs, there is a time limit of nine months. So far as DRCs are concerned, it is yet to stabilise. Therefore, we have not given a timeline. Once it stabilizes, then we can, of course, give a timeline."

379.5.3 With regard to increasing the monetary threshold of cases dealt with by DRCs, the representative of the Ministry further submitted to the Committee as under:-

"We will see that how we can actually do it, whether we can increase the limit. The DRCs are being set up and ultimately, it will take some time for them to stabilize. Once they are stabilized, then, we can actually increase the limits also and expand the scope."

379.5.4 Moreover, in their written submissions related to oral depositions on 09 June 2025 & 10 June 2025, pertaining to expansion of monetary scope of DRCs, the Ministry has furnished as follows:-

"At present, the scope of the DRC is limited to taxpayers whose total returned income does not exceed ₹50 lakh and where the variation in question does not exceed ₹10 lakh. These eligibility thresholds were designed to channel low-value, high-volume disputes into a more conciliatory forum, thereby reducing burden on the appellate system and expediting relief to taxpayers. While no decision has been taken at this stage, the Department acknowledges the potential of the suggestion for enhancing the effectiveness and accessibility of the DRCs. These are constructive suggestions and are currently under evaluation for implementation implications as part of the objective of strengthening taxpayer services and reducing litigation. Any changes, if found appropriate, will be determined through the established policy-making process."

379.6 Observations/Recommendations of the Committee:

The Committee notes that Clause 379 of the Income-Tax Bill, 2025, textually simplifies Section 245MA of the Income-Tax Act, 1961, provides for constitution of Dispute Resolution Committee (DRC) to resolve disputes in certain cases, with no policy change. The Committee, after considering the views of the stakeholder as well as the response of the Department, accept Clause 379 as originally proposed.

2.—*Advance rulings*

Clause 380: Interpretation

380.1 Provision proposed in the Income-Tax Bill, 2025:

In this Chapter,—

(*a*) “advance ruling” means—

(*i*) a determination by the Board for Advance Rulings in relation to the tax liability arising out of a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(*ii*) a determination by the Board for Advance Rulings in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(*iii*) a determination by the Board for Advance Rulings in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant; and such determination shall include the determination of any question of law or of fact specified in the application;

(*iv*) a determination or decision by the Board for Advance Rulings in respect of an issue relating to computation of total income which is pending before any authority or the Appellate Tribunal and such determination or decision shall include the determination or

decision of any question of law or of fact relating to such computation of total income specified in the application;

(*v*) a determination or decision by the Board for Advance Rulings whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter XI or not;

(*b*) “applicant” means any person who—

(*i*) is a non-resident referred to in clause (*a*)(*i*); or

(*ii*) is a resident referred to in clause (*a*)(*ii*); or

(*iii*) is a resident referred to in clause (*a*)(*iii*) falling within any such class or category of persons as the Central Government may, by notification, specify; or

(*iv*) is a resident falling within any such class or category of persons as the Central Government may, by notification, specify in this behalf; or

(*v*) is referred to in clause (*a*)(*v*),

and makes an application under section 383(*1*);

(*c*) “application” means an application made to the Board for Advance Rulings under section 383(*1*);

(*d*) “Board for Advance Rulings” means the Board for Advance Rulings constituted by the Central Government under section 381;

(*e*) “Member” means a Member of the Board for Advance Rulings.

380.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245N: Definitions.

In this Chapter, unless the context otherwise requires,—

(*a*) "advance ruling" means—

(*i*) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(*ii*) a determination by the Authority in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(*iia*) a determination by the Authority in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant; and such determination shall include the determination of any question of law or of fact specified in the application;

(*iii*) a determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;

(*iv*) a determination or decision by the Authority whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not:

Provided that where an advance ruling has been pronounced, before the date on which the Finance Bill, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (*ii*) of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in section 245S;

(*b*) "applicant" means—

(*A*) any person who—

(*I*) is a non-resident referred to in sub-clause (*i*) of clause (*a*); or

(*II*) is a resident referred to in sub-clause (*ii*) of clause (*a*); or

(*III*) is a resident referred to in sub-clause (*iia*) of clause (*a*) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(*IV*) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official

Gazette, specify in this behalf; or

(*V*) is referred to in sub-clause (*iv*) of clause (*a*),

and makes an application under sub-section (1) of section 245Q;

(*B*) an applicant as defined in clause (*c*) of section 28E of the Customs Act, 1962 (52 of 1962);

(*C*) an applicant as defined in clause (*c*) of section 23A of the Central Excise Act, 1944 (1 of 1944);

(*D*) an applicant as defined in clause (*b*) of section 96A of the Finance Act, 1994 (32 of 1994);

(*c*) "application" means an application made to the Authority or the Board for Advance Rulings under sub-section (1) of section 245Q;

(*ca*) "Board for Advance Rulings" means the Board for Advance Rulings constituted by the Central Government under section 245-OB;

(*d*) "Authority" means the Authority for Advance Rulings constituted under section 245-O;

(*e*) "Chairman" means the Chairman of the Authority;

(*f*) "Member" means a Member of the Authority and includes the Chairman and Vice-chairman or a Member of the Board for Advance Rulings;

(*g*) "Vice-chairman" means the Vice-chairman of the Authority.

380.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

"Clause 380 of the Bill provides for interpretations of the provisions relating to Advance Rulings. Clause 380 of the Bill corresponds to Section 245N of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

380.4 Examination by the Committee:

380.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

380.5 Observations/Recommendations of the Committee:

Clause 380 of the Income-Tax Bill 2025, which seeks to define certain expressions used in the context of Advance Rulings, corresponding to Section 245N of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and

comprehension. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 380 as it is.

Clause 381: Board for Advance Rulings

<u>381.1 Provision proposed in the Income-Tax Bill, 2025:</u>

(1) The Central Government shall constitute one or more Boards for Advance Rulings, as may be necessary, for giving advance rulings under this Chapter on or after such date as the Central Government may, by notification, appoint.

(2) The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board.

381.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245-OB: Board for Advance Rulings.

(1) The Central Government shall constitute one or more Boards for Advance Rulings, as may be necessary, for giving advance rulings under this Chapter on or after such date as the Central Government may, by notification in the Official Gazette, appoint.

(2) The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board.

381.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

381.3 The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 381 of the Bill provides for Board of Advance Rulings. Clause 381 of the Bill corresponds to Section 245-OB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

381.4 Important Views/Suggestions given by Experts/Stakeholders:

381.4 During the course of the examination of the Bill, some important suggestions/views received from various stakeholders and experts are summarised as follows:

381.4.1 To render BAR functional with immediate effect as an independent body, amendment could be proposed in section 381 of the Bill to abolish BAR and expand the scope of functioning of the Income Tax Appellate Tribunal ('ITAT'). This will bring about a proper mix of the members resulting in neutrality and functionality for advance ruling. Currently, the ITAT is handling international tax cases and also large domestic tax disputes, and has earned a reputation already with the taxpayer community. If ITAT

were to provide advance ruling, it could be extended to the Southern part of India also with the ITAT functioning in Bangalore, Chennai, Hyderabad and Cochin. This will ensure faster disposal of cases also, when it is geographically spread out.

381.4.2 The constitution of Board of Advance rulings ought to include a technical and a legal member. In the erstwhile regime, composition of Authority for Advance Rulings (AAR) included a retired judge of High Court or Supreme Court, a revenue member and a law member which ensured independence and transparency in the advance ruling process. The advance ruling is sought on a mixed question of fact and law undertaken in a proposed transaction. Thus, it becomes very important that a law member is also made a part of the constitution of the Board of Advance Rulings (BAR).

381.5 Examination by the Committee:

381.5 The Ministry of Finance in their written reply with regard to the above suggestion/comment submitted as following (mentioned correspondingly):

381.5.1 "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

381.5.2 "The suggestion seeks to change the composition of the Board of Advance Rulings by including a technical and legal member. It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill *vis-a-vis* Act.
In the erstwhile regime, composition of Authority for Advance Rulings (AAR) included a retired judge of High Court or Supreme Court, a revenue member and a law member. However, most of the times, posts of members remained vacant as retired judge of High Court or Supreme Court were not opting for the post of Authority of Advance Rulings. Further, nature of application made for the Advance Rulings are technical in nature and can be most suitable dealt by the Chief Commissioners of Income Tax. Chief Commissioners of Income Tax are very senior most positions in the Department who have the experience of more than 30 years of service related to income tax matters. Thus, the suggestion is not feasible."

381.5.3 With regards to the enquiry made by the Committee about the prudence it not be prudent to include one law member (viz. retired Judge of the High Court or Supreme Court), similar to the composition of erstwhile AAR so as to do away with any biasness and ensure that any question from legal/constitutional point of view is also dealt with, the Ministry in its written response submitted as under:-

> *"Erstwhile AAR consisted of a Chairman and various Vice-Chairman, revenue members and law members. A bench cannot function if the post of Chairman or Vice-Chairman is vacant. As per section 245-O of the Act, persons eligible for*

appointment as Chairman of AAR are retired judges of the Supreme Court, retired Chief Justice of a High Court or retired Judge of a High Court who has served in that capacity for at least seven years. Similarly, the persons eligible for appointment as Vice-Chairman are retired judges of a High Court. As per past experience, the posts of Chairman and Vice-Chairman have remained vacant for a long time due to non-availability of eligible persons. This had seriously hampered the working of AAR and a large number of applications are pending since last many years. Hence, BAR was brought on statute. Suggestion is not feasible."

381.5.4 On being asked about the possibility of devising a system or SOP for clubbing of appeals, at the lower levels of litigation mechanism viz. ITAT or CIT(A) itself, especially when dealing with identical legal points or common factual matrix across different assessment years for the same assessee, or even similar issues for multiple assessees, the Ministry in its written response furnished as follows:-

"Such provisions of clubbing of appeals is already in place and is being handled practically by the appellate authorities. On the lines of the suggested alternate forum to appeals, Dispute Resolution Committee is a recent introduction by the Department and is functioning as per its current mandate which is to settle cases having a specified tax effect. Such cases are generally less complex which require lesser time to be disposed off and hence, serving its purpose to cater to the small taxpayers and providing them with early relief. Provisions of BAR and DRP are already in place for specific cases."

381.5.5 Further, with regards to the question about the prospect of devising a system to manage clubbing of appeals digitally (such as identifying and grouping similar cases for a consolidated hearing, potentially by the same panel of appellate authorities e.g., Commissioner (Appeals) or ITAT) in view of the emphasis on 'faceless appeals', the Ministry in its written reply mentioned as under:-

"Faceless Appeal scheme can be moderated via the e-filing portal of the assessee. Pending and completed proceedings before the CIT(A) can be accessed from the dashboard of the assessee's portal. However, since ITAT is governed by its own rules and procedures, consolidation of pending appeals for viewing on a single dashboard may be taken up with the Ministry of Law. In any case, this shall be handled administratively and no legislative intervention is required on this account."

381.5.6 Moreover, on being probed about the possibility to codify or precisely define the criteria for what constitutes an "erroneous" order or an order "prejudicial to the interests

of the revenue", the representative of the Ministry in written reply made the following submission:-

> *"Power available to the Commissioner under section 263 is for suo-moto actions in cases where the order is prejudicial to the interest of Revenue. Time period of two years is there so that internal audit, revenue audit, inspection and review process is carried out and as a consequence of which such prejudicial orders are identified."*

381.6 Observations/Recommendations of the Committee:

Clause 381 provides for constitution of Board for Advance Rulings. The Committee note that this Clause is simplified textual version of existing Section 245-OB maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 381 as proposed.

Clause 382: Vacancies, etc., not to invalidate proceedings.

382.1 Provision proposed in the Income-Tax Bill, 2025:

No proceeding before, or pronouncement of advance ruling by, the Board for Advance Rulings, shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board for Advance Rulings.

382.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245P: Vacancies, etc., not to invalidate proceedings.

(1) No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

(2) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the provisions of this section shall have effect as if for the word "Authority", the words "Board for Advance Rulings" had been substituted.

382.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

"Clause 382 of the Bill provides for Vacancies, etc., of Board of Advance Rulings not to invalidate proceedings. Clause 382 of the Bill corresponds to Section 245P of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

382.4 Examination by the Committee:

382.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".

382.5 Observations/Recommendations of the Committee:

The Committee note that Clause 382 of the Bill dealing with proceeding in case of vacancies in the Board for Advance Rulings, aligns with existing Section 245P but features simplified textual construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 382 as it is.

Clause 383: Application for advance ruling

383.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) An applicant desirous of obtaining an advance ruling under this Chapter, may make an application in such form and manner, as prescribed, stating the question on which the advance ruling is sought.

(*2*) The application shall be made in quadruplicate and be accompanied by a fee of ten thousand rupees or such fee, as prescribed.

(*3*) An applicant may withdraw an application within thirty days from the date of the application.

383.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245Q: Application for advance ruling.

(1) An applicant desirous of obtaining an advance ruling under this Chapter or under Chapter V of the Customs Act, 1962 (52 of 1962) or under Chapter IIIA of the Central Excise Act, 1944 (1 of 1944) or under Chapter VA of the Finance Act, 1994 (32 of 1994)

may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The application shall be made in quadruplicate and be accompanied by a fee of ten thousand rupees or such fee as may be prescribed in this behalf, whichever is higher.

(3) An applicant may withdraw an application within thirty days from the date of the application.

(4) Where an application for advance ruling under this Chapter is made before such date as the Central Government may, by notification in the Official Gazette appoint, and in respect of which no order under sub-section (2) of section 245R has been passed or no advance ruling under sub-section (4) of section 245R has been pronounced before such date, such application along with all the relevant records, documents or material, by whatever name called, on the file of the Authority shall be transferred to the Board for Advance Rulings and shall be deemed to be the records before the Board for Advance Rulings for all purposes:

[Provided that the applicant may, on or before the 31st day of October, 2024, request the Board for Advance Rulings in writing that the application so transferred may not be proceeded with, if up to the date of such request, the Board for Advance Rulings has not passed an order under sub-section (2) of section 245R.]

383.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 383 of the Bill deals with application for advance rulings. Clause 383 of the Bill corresponds to Section 245Q of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

383.4 Important Views/Suggestions given by Experts/Stakeholders:

383.4 During the course of the Examination of the proposed Bill, a suggestion as received from a stakeholder is produced below:

"The requirement to make the application in quadruplicate in Section 383(2) may be removed. (2) The application shall be furnished made in quadruplicate and be accompanied by after payment of a fee of ten thousand rupees or such fee, as prescribed. Rule 44E requiring the application for obtaining advance ruling under Section 245Q(1) to be made in the respective forms, Form No.34C/34D/ 34DA/34E/34EA has deleted the words "in quadruplicate" w.e.f. 5.5.2022. This requirement has been removed in Rule 44E, since the forms have to be sent vide e-mail. However, the same continued in section 245Q(2). Further, e-filing utility may be introduced for advance ruling to enable effective tracking. Then, instead of "accompanied by" fee, the words "after payment of fee" may be used in sub-section (2)".

383.5 Examination by the Committee:

383.5 The Ministry of Finance in their written response pertaining to the above suggestion/view categorically accepted the suggestion and stated as under:-

> ***"****For aligning the provisions of Bill alongwith Rules, 1962, condition of submitting application for advance rulings in quadruplicate shall be omitted in clause 383(2) of the Bill."*

383.5.1 On specific inquiry, about the specific legal rationale behind the omission of the words "whichever is higher" from Clause 383(2) of the Income-Tax Bill, 2025 and as to how the same would ensure unambiguous fee determination, prevent potential revenue loss for the department, and avoid increased litigation arising from differing interpretations of the applicable fee, the Ministry in its written response agreed to the above point and submitted as under:

> *"****Accepted.*** *The suggestion is in nature of drafting correction. The current rule 44E(4) prescribes the quantum of fee in different cases. Therefore, drafting correction will be made to delete the phrase ten thousand so as to prescribe the fee through rule only."*

383.6 Observations/Recommendations of the Committee:

The Committee observe that Clause 383, textually simplifies Section 245Q of the Income-Tax Act, 1961, outlining procedures for filing of application before the Board for Advance Rulings. The Committee also note that while Rule 44E(4) currently prescribes fees, a suggestion to remove the archaic term 'quadruplicate' from sub-clause 2 of Clause 383 (already removed from Rule 44E with effect from

5 May, 2022) has been accepted by the Department. Furthermore, the Committee have identified an ambiguity between sub-clause (2) of Clause 383, which stated 'a fee of ten thousand rupees or such fee, as prescribed,' and the corresponding Section 245Q(2) of the Act, which specified 'ten thousand rupees or such fee as may be prescribed... whichever is higher.' Upon the Committee's insistence to clarify this ambiguity, which posed risks of revenue loss and misinterpretation, the Department has agreed to remove the phrase 'ten thousand' from Clause 383(2), ensuring fees are prescribed by Rule only. Accordingly, the Committee recommend to carry out the drafting correction and amend the sub-clause (2) of Clause 383 as under:-

"(2) The application shall be made accompanied by such fee, as prescribed".

Apart from the above drafting correction, the Committee accept Clause 383 as proposed by the Department.

Clause 384: Procedure on receipt of application.

<u>384.1 Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) On receipt of an application, the Board for Advance Rulings shall forward a copy thereof to the Principal Commissioner or Commissioner and, call upon him to furnish the relevant records, which shall be returned at the earliest opportunity.

(*2*) The Board for Advance Rulings may, after examining the application and the records called for either allow or reject the application by an order.

(*3*) For the purposes of sub-section (*2*), an application shall be rejected if the question raised therein—

(*a*) is already pending before any authority or Appellate Tribunal except in the case of a resident applicant falling in section 380(*b*)(*iv*) or any court;

(*b*) involves determination of fair market value of any property;

(*c*) relates to a transaction or issue which is designed *prima facie* for the avoidance of except in the case of a resident applicant falling in section 380(*b*)(*iv*) or in the case of an applicant falling in section 380(*b*)(*v*).

(*4*) The application shall not be rejected under sub-section (*2*), unless an opportunity has been given to the applicant of being heard and the reasons for such rejection are given in the order.

(*5*) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(*6*) Where an application is allowed under sub-section (*2*), the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling in writing, on the question specified in the application within six months of the receipt of application.

(*7*) On a request from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

(*8*) A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in the manner, as prescribed shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.

(*9*) In this section, “authorised representative” shall have the meaning assigned to it in section 515(*3*)(*a*), as if the applicant were an assessee.

384.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245R: Procedure on receipt of application.

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Principal Commissioner or Commissioner and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Principal Commissioner or Commissioner.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application where the question raised in the application,—

(*i*) is already pending before any authority or Appellate Tribunal [except in the case of a resident applicant falling in sub-clause (*iii*) of clause (*b*) of section 245N] or any court;

(*ii*) involves determination of fair market value of any property;

(*iii*) relates to a transaction or issue which is designed *prima facie* for the avoidance of [except in the case of a resident applicant falling in sub-clause (*iii*) of clause (*b*) of section 245N or in the case of an applicant falling in sub-clause (*iiia*) of clause (*b*) of section 245N]:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order:

[Provided also that on receipt of an application under the proviso to sub-section (4) of section 245Q, the Board for Advance Rulings may, by an order, reject the application referred to in sub-section (1) thereof as withdrawn on or before the 31st day of December, 2024.]

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorized representative.

Explanation.—For the purposes of this sub-section, "authorized representative" shall have the meaning assigned to it in sub-section (2) of section 288, as if the applicant were an assessee.

(6) The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.

(8) On and from such date as the Central Government may, by notification in the Official Gazette, appoint, the provisions of this section shall have effect as if for the word "Authority", the words "Board for Advance Rulings" had been substituted and the provisions of this section shall apply *mutatis mutandis* to the Board for Advance Rulings as they apply to the Authority.

(9) The Central Government may, by notification in the Official Gazette, make a scheme for the purposes of giving advance rulings under this Chapter by the Board for Advance Rulings, so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Board for Advance Rulings and the applicant in the course of proceedings to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a system with dynamic jurisdiction.

(10) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (9), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023:

[Provided further that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2023, by notification in the Official Gazette.]

(11) Every notification issued under sub-section (9) and sub-section (10) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

384.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 384 of the Bill deals with procedure on receipt of application. Clause 384 of the Bill corresponds to Section 245R of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

384.5 Examination by the Committee:

384.5 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

384.6 Observations/Recommendations of the Committee:

The Committee note that Clause 384 of the Income-Tax Bill, 2025, mapped to Section 245R of the Income-Tax Act, 1961, seeks to provide for procedure to process the application made for advance rulings. The Committee approve Clause 384 as proposed, noting its simplified approach to existing provisions.

Clause 385: Appellate authority not to proceed in certain cases.

385.1 Provision proposed in the Income-Tax Bill, 2025:

No authority or the Appellate Tribunal shall proceed to decide any issue for which an application has been made by an applicant, being a resident, under section 383(*1*).

385.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245RR: Appellate authority not to proceed in certain cases.

No authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, under sub-section (1) of section 245Q.

385.3 Reasons/Justification given by the Ministry of Finance for the proposed provision: The justification furnished by the Ministry for the proposed provision is as under:

"Clause 385 of the Bill deals with appellate authority not to proceed in certain cases. Clause 385 of the Bill corresponds to Section 245RR of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".

385.4 Examination by the Committee:

385.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".

385.6 Observations/Recommendations of the Committee:

The Committee note that Clause 385 of the Bill, which seeks to provide that certain authorities not to proceed to decide in certain cases where application for advance ruling has been made, aims to simplify the existing provisions of Section 245RR. The Committee concur with the Department's justification for this simplification and, therefore, accept Clause 385 as proposed.

Clause 386: Advance ruling to be void in certain circumstances.

386.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) Where on a representation made by the Principal Commissioner or Commissioner or otherwise, the Board for Advance Rulings finds, that an advance ruling pronounced under section 384(*6*) has been obtained by the applicant by fraud or misrepresentation, then it may by order, declare such ruling to be *void ab initio* and thereupon, all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(*2*) A copy of the order made under sub-section (*1*) shall be sent to the applicant and the Principal Commissioner or Commissioner.

386.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245T: Advance ruling to be void in certain circumstances.

(1) Where the Authority finds, on a representation made to it by the Principal Commissioner or Commissioner or otherwise, that an advance ruling pronounced under sub-section (6) of Section 245R has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Principal Commissioner or Commissioner.

(3) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the provisions of this section shall have effect as if for the word "Authority", the words "Board for Advance Rulings" had been substituted.

386.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 386 of the Bill deals with advance ruling to be void in certain circumstances. Clause 386 of the Bill corresponds to Section 245T of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

386.4 Examination by the Committee:

386.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

386.5 Observations/Recommendations of the Committee:

Noting that Clause 386 of the Income-Tax Bill, 2025, which governs when an advance ruling becomes void, is a textual simplification of Section 245T of the Income-Tax Act, 1961, retaining its original intent. The Committee, therefore, accept the Clause in its present form.

Clause 387: Powers of the Board for Advance Rulings

387.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 as are referred to in section 246 of this Act.

(2) The Board for Advance Rulings shall be considered to be a civil court for the purposes of section 215 but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 and every proceeding before the Board for Advance Rulings shall be considered to be a judicial proceeding under sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023.

387.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245U: Powers of the Authority.

(1) The Authority shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) as are referred to in section 131 of this Act.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI, of the Code of Criminal Procedure, 1973* (2 of 1974) and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

(3) On and from such date as the Central Government may, by notification in the Official Gazette, appoint, the powers of the Authority under this section shall be exercised by the Board for Advance Rulings and the provisions of this section shall *mutatis mutandis* apply to the Board for Advance Rulings as they apply to the Authority.

387.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 387 of the Bill deals with powers of the Board for Advance Rulings. Clause 387 of the Bill corresponds to Section 245U of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

387.4 Examination by the Committee:

387.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

387.5 Observations/Recommendations of the Committee:

The Committee note that Clause 387, which defines the powers of the Board for Advance Rulings, aligns with the existing Section 245U and involves no policy shift. The Committee, therefore, accept Clause 387 as proposed by the Department of Revenue.

Clause 388: Procedure of Board for Advance Rulings

388.1 Provision proposed in the Income-Tax Bill, 2025:

The Board for Advance Rulings shall, subject to this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

388.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245V: Procedure of Authority.

The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act:

Provided that nothing contained in this section shall apply on or after such date as the Central Government may, by notification in the Official Gazette, appoint.

388.3 Reasons/Justification given by the Ministry of Finance for the proposed provision: The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 388 of the Bill deals with procedure of Board for Advance Rulings. Clause 388 of the Bill corresponds to Section 245V of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

388.4 Examination by the Committee:

388.4 In a reply to a specific query on changes (addition or omission or replacement of words, etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:-

> *"The provisions proposed in the Income-Tax Bill, 2025 is the simplified version of the corresponding provisions of IT Act 1961".*

388.5 Observations/Recommendations of the Committee:

The Committee note that Clause 388 of the Income-Tax Bill 2025 empowers the Board for Advance Rulings to regulate its own procedure, corresponds to Section 245V of the Income-Tax Act, 1961, and introduces no policy change beyond textual simplification. The Committee, therefore, approve Clause 388 as it is.

Clause 389: Appeal.

389.1 Provision proposed in the Income-Tax Bill, 2025:

(*1*) The applicant, if aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within sixty days from the date of the communication of that ruling or order, in such form and manner, as prescribed.

(*2*) Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (*1*), it may grant further period of thirty days for filing such appeal.

389.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 245W: Appeal.

(1) The applicant, if he is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within sixty days from the date of the communication of that ruling or order, in such form and manner, as may be prescribed:

Provided that where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (1), it may grant further period of thirty days for filing such appeal.

(2) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of filing appeal to the High Court under sub-section (1) by the Assessing Officer, so as to impart greater efficiency, transparency and accountability by—

(*a*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*b*) introducing a team-based mechanism with dynamic jurisdiction.

(3) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (2), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023.

(4) Every notification issued under sub-section (2) and sub-section (3) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

389.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

389.3 The justification furnished by the Ministry for the proposed provision is as under:

> *"Clause 389 of the Bill deals with appeal against the order passed by the Board of Advance Rulings. Clause 389 of the Bill corresponds to Section 245W of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause".*

389.4 Important Views/Suggestions given by Experts/Stakeholders:

389.4 During the course of the Examination of the proposed Bill, a significant suggestion was provided by a stakeholder, which is outlined as under:

"Appeal before the order of Board of Advance Ruling shall be heard by not less than two judges of the High Court. Order of BAR deals with mixed question of facts and law and may also involve important substantial question of laws and thus an appeal ought to be heard by not less than two judges of the High Court. Thus to this extent, in clause 366(1) of the Bill, 2025, appropriate change may be made to include section 389, along with section 365".

389.5 Examination by the Committee:

389.5 The Ministry of Finance in their written response pertaining to the above suggestion/view stated as follows:-

> *"The suggestion seeks to mandate that appeal against the order of Board of Advance Rulings shall be heard by not less than two judges of the High Court. It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a-vis Act. High Courts are already over-burdened having large number of pendency of appeal. Thus, the suggestion is not feasible."*

389.5.1 On the perennial issue of humungous pending litigations, a witness during the oral evidence of senior income tax officers (serving and retired) of different Income Tax Zone deposed before the Committee as follows:-

> *"What I was thinking to suggest was that if there is a Standing Committee, which addresses the litigating factors on a real-time basis, does research work on that, recommends to the CBDT, and CBDT in-turn issues relevant guidelines, which are followed by the officers, they will also be followed by Commissioner Appeal. Even Tribunals will follow that. This will reduce litigation to a great extent. I mean, that can be considered. This suggestion I had made earlier also to the Committee, but the point was that mandate was not there. So, I think that this could not be taken up. But I am reiterating it for your august consideration."*

389.5.2 He further emphasized as below:-

> *"It should recommend issue of guidelines to be followed.* यूनिफॉर्मेटी आ जाएगी और उससे सर्टेनिटी आ जाएगी तो टैक्स पेयर को पता होगा कि हमें यह देना है और इस पर हमें टैक्स लगेगा या नहीं लगेगा तथा डिपार्टमेंट को भी पता होगा। यह एडजुडिकेट नहीं करेगी, वह केवल रिकमंड करेगी कि आप इसको दे दे कि यह होना चाहिए। *This is how it should be handled.* यह इश्यु है। यह ऐसे होना चाहिए। राइट आंसर यह है। *This is what I was thinking on litigation to issue the guidelines, which other jurisdictions are also doing."*

389.5.3 In this regard, the representative(s) of the Department of Revenue stated as under:-

> *"Sir, Litigation Management Committee is a good suggestion which has come up. Certainly, it can be considered. Within the Department also we can consider it.* इस कंटेक्स्ट में हमारे पास एक सेक्शन *-199* प्रेजेंट एक्ट में है, जिसके तहत बोर्ड इंटरप्रेटेशन और गाइडलाइन अपने ऑफिसर्स के लिए इश्यू करता रहता है कि इस इश्यू का मतलब यह है। वह इंटरनली और असेसीज के लिए भी इश्यू करता है। मैं मानता हूं कि लिटिगेशन मैनेजमेंट के नजरिए से इस पावर को एग्जीक्यूट करने के लिए कोई ऑर्गेनाइज्ड सिस्टेमेटिक प्रोसेस नहीं है।."

389.5.4 It was further stated:-

> "*To that extent, Litigation Management Committee is a good concept. We can consider that. How it has to be administratively implemented? The Board can implement it administratively also.*"

389.6 Observations/Recommendations of the Committee:

The Committee note that Clause 389 of the Income-Tax Bill, 2025, a simplified textual version of existing Section 245W, provides for appeals to the High Court against rulings by the Board for Advance Rulings, maintaining the Government's original policy. After considering the viewpoints of both stakeholder and the Department, the Committee accept Clause 389 as proposed.

CHAPTER XIX

COLLECTION AND RECOVERY OF TAX

Clause - 390 - Deduction or collection at source and advance payment

390.1 **Provisions proposed in the Income-Tax Bill, 2025:**

A.—General

390. (1) The tax on income shall be payable as per this Chapter by way of—

(a) deduction or collection at source; or

(b) advance payment; or

(c) payment under section 392(2)(a).

(2) The tax referred to in sub-section (1) shall be payable as per the provisions of this Chapter, irrespective of the assessment to be made later than the relevant tax year.

(3) Nothing contained in this section, shall affect the charge of tax on such income under section 4(1).

(4) The payment of tax referred to in sub-section (1) shall be in addition to any other mode of tax collection to discharge the liability in respect of income assessed for a tax year.

390.2 **Relevant provision of the Principal Act (Income-Tax Act 1961)**

Deduction at source and advance payment.

190. (1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction or collection at source or by advance payment or by payment under sub-section (1A) of section 192, as the case may be, in accordance with the provisions of this Chapter.

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4.

Credit for tax deducted.

199. (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on

behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.

Deduction only one mode of recovery.

202. The power to recover tax by deduction under the foregoing provisions of this Chapter shall be without prejudice to any other mode of recovery.

Persons deducting tax to furnish prescribed returns.

206C(4) Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person [*or any other person eligible for credit*] for the amount so collected in a particular assessment year in accordance with the rules as may be prescribed by the Board from time to time.

390.3 **Reasons/Justification given by the Department of Finance for the proposed provision**

Clause 390 of the Bill relates to deduction or collection of tax at source and advance payment. The clause corresponds to section 190,199, 202, 206C (4) of the Act. The provisions of the existing sections are merged, textually simplified and retained with the same intent in this clause.

390.4 **Important views/Suggestions given by Experts/Stakeholders**

390.4.1 Clause 390(2); The current wording of sub-sections (1) and (2) may create ambiguity in situations where the income being paid includes amounts from multiple years. The provision may be interpreted as limiting to Tax deductions or payments to a single tax year. In real-world scenarios, income may span over several tax years (both previous and future), especially in cases where lump-sum payments cover multiple periods.

Rewording of sub-section (2) is suggested to clarify that the tax provisions apply to income related to multiple years, and the assessment can be made in the tax years corresponding to the relevant period of income.

Sub-section (2) may be reworded as follows:

(2)The tax referred to in sub-section (1) shall be payable as per the provisions of this Chapter, irrespective of the assessment to be made in the **subsequent tax years** to which the income relates.

390.4.2 Clause 390(4):Sub-section (4) uses the term "tax collection" to describe the payment of taxing addition to other modes of tax collection. It may be more accurate and consistent to use “recovery" as used in sections like section 226 of the Income-tax Act, 1961 and Section 416 of the Income-tax Bill, 2025."Recovery" better conveys the mandatory nature of the tax payment and includes both voluntary and involuntary tax payments that are due after assessment.

390.5. **Examination by the Committee**

390.5.1 The Department in their written reply has accepted the suggestion of the stakeholder to redraft the Clause and stated that clause 390(2) of the Bill maybe aligned with the existing provisions of the Act.

390.5.2 While accepting the above suggestion on Clause 390(4), the Department in their written reply have stated as under:

“Accepted

The stakeholder has suggested using the word "recovery" instead of the word "collection" in clause 390(4) of the Bill. It is a drafting issue.”

390.6 Observations/Recommendations of the Committee

390.6.1 The Committee note that Clause 390 of the Bill pertains to the deduction or collection of tax at source and advance payment. A stakeholder has suggested rephrasing sub-clause (2) of Clause 390, as its current wording in sub-sections (1) and (2) could create ambiguity when income paid spans multiple years. The concern is that the provision might be interpreted as limiting tax deductions or payments to a single tax year, despite income often covering several tax periods. The Department has agreed to redraft the clause and align with the existing provisions of the Act. Therefore, the Committee desire that the Clause 390(2) be rephrased to make the language lucid and unambiguous, clarifying that tax provisions apply to multi-year income and can be assessed in the corresponding tax years.

390.6.2 The Committee note a stakeholder's suggestion to replace "collection" with "recovery" in Clause 390(4) of the Bill. The rationale is that "recovery" more accurately conveys the mandatory nature of tax payments, encompassing both voluntary and involuntary payments due post-assessment. The Department of Revenue has acknowledged this as a drafting issue. Given that "recovery" is already used in Section 226 of the Income-tax Act, 1961, and Clause 416 of the Income-tax Bill, 2025, the Committee recommend the Department to implement this change to ensure uniformity in language and to emphasize the mandatory aspect of tax payments.

Apart from the above mentioned drafting corrections, the Committee accept Clause 390 as proposed by the Department.

Clause - 391 - Direct payment

391.1 **Provisions proposed in the Income-Tax Bill, 2025:**

(1) The income-tax on any income shall be payable directly by the assessee if—

(a) there is no provision under this Chapter to deduct income-tax on such income at the time of payment; or

(b) income-tax has not been deducted as per the provisions of this Chapter.

(2) If an assessee has any income of the nature of specified security or sweat equity shares as specified in section 17(1)(d) allotted or transferred directly or indirectly by the current employer which is an eligible start-up referred to in section 140, then direct payment of tax for the purposes of sub-section (1) shall be made within the time specified in section 289(3).

(3) Where any person, including the principal officer of the company,—

(a) who is required to deduct any sum as per the provisions of this Act; or

(b) referred to in section 392(2)(a), being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, apart from any other consequences that he may incur, be deemed to be an assessee in default within the meaning of section 398(1), in respect of such tax.

391.2 **Relevant provision of the Principal Act (Income-Tax Act 1961)**

Direct payment.

191. (1) In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct.

(2) For the purposes of paying income-tax directly by the assessee under sub-section (1), if the income of the assessee in any assessment year, beginning on or after the 1st day of April, 2021, includes income of the nature specified in clause (*vi*) of sub-section (2) of section 17 and such specified security or sweat equity shares referred to

in the said clause are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in section 80-IAC, the income-tax on such income shall be payable by the assessee within fourteen days—

(*I*) after the expiry of forty-eight months from the end of the relevant assessment year; or

(*ii*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*iii*) from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,

whichever is the earliest.

Explanation.—For the removal of doubts, it is hereby declared that if any person including the principal officer of a company,—

(*a*) who is required to deduct any sum in accordance with the provisions of this Act; or

(*b*) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default within the meaning of sub-section (1) of section 201, in respect of such tax.

391.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 391 of the Bill provides for direct payment of tax by assessee in cases where there is no provision under Chapter XIX of the Bill to deduct income-tax at the time of payment or where income-tax has not been deducted as per the provisions of this Chapter. The clause corresponds to section 191 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

391.4 **Important views/Suggestions given by Experts/Stakeholders**

As per sub-section (3) of Clause 391 if the person required to deduct tax does not deduct or after deducting fails to pay and where the assessee has also failed to pay such tax directly, he would be deemed to be an assessee-in- default. In situations where the tax has not been deducted but the assessee has paid the said tax directly thedeductor would not be held to be liable and the consequences in terms of interest and penalty would not arise. This aspect/scenario also needs to be clearly brought out in this clause.

391.5 **Examination by the Committee**

With regard to the above suggestion the Department in their written submission has stated as follows :

'The stakeholder has suggested that situation where the deductor has failed to deduct the tax but the person has paid the tax directly in that case it is not clear whether the deduct or shall be deemed to be an assessee in default. Thus, it is submitted that this situation does not get covered under the provisions of clause 391(3) of the Bill.In a case where the person responsible has not deducted the tax, but the assessee has made payment directly, the person responsible will not be deemed tube an assessee in default subject to conditions as mentioned in Clause 398(2) which includes filing of return, including the income, paying the tax and furnishing a certificate. The suggestion is already addressed."

391.6 **Observations/Recommendations of the Committee**

The Committee note that Clause 391 of the Bill provides for direct tax payment by assessees when no deduction provision exists or tax hasn't been deducted under Chapter XIX, mirroring Section 191 of the current Act with simplified, yet retained, intent. A stakeholder suggested incorporating a provision in this Clause to offer relief to persons responsible for tax deduction when the assessee has already directly paid the un-deducted tax. However, the Department clarified that Clause 398(2) of the Bill already addresses this situation. Satisfied with the Department's contention, the Committee propose no change to Clause 391(3). The Committee, therefore, approve Clause 391 as proposed.

B.—Deduction and collection at source

Clause-392 - Salary and accumulated balance due to an employee.

392.1 Provisions proposed in the Income-Tax Bill, 2025:

392. (1) Any person responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the amount payable and this deduction shall be made at the time of such payment at the average rate of income-tax computed on the basis of the rates in force for the tax year in which the payment is made, on the estimated income of the assessee under this head for such year.

(2)(a) Without prejudice to the provisions of sub-section (1), the person responsible for paying any income in the nature of a non-monetary perquisite chargeable to tax under section 17(2), may pay, at his option, tax on the whole or part of such income without making any deduction therefrom, at the time when such tax was deductible under sub-section (1);

(b) the tax under clause (a) shall be determined at the average rate as per sub-section (1), on the income chargeable under the head "Salaries" including the income referred to in the said clause, and shall be construed as a tax deductible at source from the income under the head "Salaries", and be subject to the provisions of this Chapter.

(3) Any person, being an eligible start-up referred to in section 140, responsible for paying any income of the nature specified in section 17(1)(d) in any tax year, shall deduct or pay, tax on such income, on the basis of rates in force for the tax year in which the specified security or sweat equity share is allotted or transferred, within the time as specified for the payee in section 289(3).

(4) (a) The person responsible for paying under sub-section (1), shall take into account the following particulars furnished by the assessee, at his option, in such form and manner as prescribed, for the purpose of making deduction under the said sub-section and such particulars shall have an effect of increasing or decreasing the tax to be deducted:—

(i) any income under the head "Salaries" due or received by the assessee, from any other employer or employers during the tax year;

(ii) any relief allowable under section 157, where the assessee being a Government servant, or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled for such relief;

(iii) any loss under the head “Income from house property”;

(iv) any income chargeable under any other head of income, [not being a loss under any such head other than the loss specified in sub-clause (iii)];

(v) any tax deducted or collected at source under this Chapter;

(b) the tax deductible from income under the head “Salaries” shall not be reduced in any case, except on account of—

(i) loss under the head “Income from house property”; and

(ii) the tax deducted and collected as per other provisions of this Chapter.

(5) The person responsible for paying any income chargeable under the head “Salaries” to the assessee—

(a) shall furnish a statement in such form and manner, as prescribed, with correct and complete particulars of perquisites or profits in lieu of salary paid, along with their value, to the assessee;

(b) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set off of loss) under the provisions of this Act in such form and manner, as prescribed; and;

(c) may, increase or reduce the amount to be deducted under this section for adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

(6)(a) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of the accumulated balances due to employees shall, in cases where paragraph 9 of Part A of Schedule XI applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in paragraph 10 of Part A of Schedule XI;

(b) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in paragraph 7 of Part B of Schedule XI.

(7)(a) The trustees of the Employees' 'Provident Funds Scheme, 1952, made under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or

(b) any person authorised under such scheme to make payment of accumulated balance due to employees,

shall at the time of payment of accumulated balance due to the employee participating in a recognised provident fund, deduct income-tax thereon at the rate of 10%, where the aggregate amount of such payment is fifty thousand rupees or more, and such accumulated balance is includible in his total income owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable.

392.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Salary.

192.(1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.

(1A) Without prejudice to the provisions contained in sub-section (1), the person responsible for paying any income in the nature of a perquisite which is not provided for by way of monetary payment, referred to in clause (*2*) of section 17, may pay, at his option, tax on the whole or part of such income without making any deduction therefrom at the time when such tax was otherwise deductible under the provisions of sub-section (1).

(1B) For the purpose of paying tax under sub-section (1A), tax shall be determined at the average of income-tax computed on the basis of the rates in force for the financial year, on the income chargeable under the head "Salaries" including the

income referred to in sub-section (1A), and the tax so payable shall be construed as if it were, a tax deductible at source, from the income under the head "Salaries" as per the provisions of sub-section (1), and shall be subject to the provisions of this Chapter.

(1C) For the purposes of deducting or paying tax under sub-section (1) or sub-section (1A), as the case may be, a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in [sub-clause (*vi*) of clause (*2*)] of section 17 in any previous year relevant to the assessment year, beginning on or after the 1st day of April, 2021, shall deduct or pay, as the case may be, tax on such income within fourteen days—

(*i*) after the expiry of forty-eight months from the end of the relevant assessment year; or

(*ii*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*iii*) from the date of the assessee ceasing to be the employee of the person,

whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.

(2) Where, during the financial year, an assessee is employed simultaneously under more than one employer, or where he has held successively employment under more than one employer, he may furnish to the person responsible for making the payment referred to in sub-section (1) (being one of the said employers as the assessee may, having regard to the circumstances of his case choose), such details of the income under the head "Salaries" due or received by him from the other employer or employers, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).

(2A) Where the assessee, being a Government servant or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled to the relief under [***] section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1), such particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible as

aforesaid shall compute the relief on the basis of such particulars and take it into account in making the deduction under sub-section (1).

Explanation.—For the purposes of this sub-section, "University" means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.

[(2B) Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, —

(*i*) any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property"); or

(*ii*) any tax deducted or collected under the provisions of Part B or Part BB of this Chapter, as the case may be,

for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1), the particulars of—

(*a*) such other income;

(*b*) any tax deducted or collected under any other provision of Part B or Part BB of this Chapter, as the case may be; and

(*c*) the loss, if any, under the head "Income from house property",

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take into account the particulars referred to in clauses (*a*), (*b*) and (*c*) for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from income under the head "Salaries", except where the loss under the head "Income from house property" and the tax deducted in accordance with other provisions of Part B and tax collected in accordance with the provisions of Part BB, of this Chapter, has been taken into account.]

(2C) A person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made a statement giving

correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in such form and manner as may be prescribed.

(2D) The person responsible for making the payment referred to in sub-section (1) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

(3) The person responsible for making the payment referred to in sub-section (1) or sub-section (1A) or sub-section (2) or sub-section (2A) or sub-section (2B) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule.

(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule.

(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange.

Payment of accumulated balance due to an employee.

192A. Notwithstanding anything contained in this Act, the trustees of the Employees' Provident Funds Scheme, 1952, framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or any person authorised under the scheme to make payment of accumulated balance due to employees, shall,

in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent :

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than fifty thousand rupees.

[***]

392.3 <u>Reasons/Justification given by the Department of Finance for the proposed provision</u>

Clause 392 of the Bill provides for tax deduction at source on salary and accumulated balance to an employee. The clause corresponds to section 192 and 192A of the Act. The provisions of section 192 and 192A of the Act have been merged into the clause 392 of the bill with simplified text.
(Provision corresponding to Section 192(6) have been missed inadvertently and same needs to be included in the Bill).

392.4 <u>Important views/Suggestions given by Experts/Stakeholders</u>

392.4.1 In clause 392(7)(a) there is ambiguity on whether the payment of accumulated recognized provident fund amount is subject to withholding at the average rate specified in Rule 9, Part A, Fourth Schedule, or at 10% (rate provided in Section 392(7)). Reinstate the “non-obstante” clause in Section 392(7) to remove any such ambiguity.

392.4.2 1. In absence of provisions related to Section 192(6) of the Income-Tax Act there will be ambiguity regarding the value of salary payable in foreign currency.

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1. In the absence of such provisions, different rates may be adopted for conversion of salary paid in foreign currency into INR, leading to litigation.

2. Include provisions similar to Section 192(6) in ITB 2025 which will determine conversion of such foreign currency as per the prescribed rates there under to avoid litigation on applicable forex conversion rates for salary income.

392.5 <u>Examination by the Committee</u>

392.5.1 While accepting the above suggestions the Department in their written reply have stated as under respectively:

"'Irrespective of anything contained in the Act', there is doubt whether average rate of TDS will apply or the rate of 10% will apply on the payment of recognized PF amount. The suggestion made by stakeholders is acceptable."

392.5.2 "Provisions corresponding to Section 192(6) have been missed inadvertently. The suggestion is acceptable."

392.6 Observations/Recommendations of the Committee

392.6.1 The Committee, having examined Clause 392 of the Bill (corresponding to Sections 192 and 192A of the Act concerning TDS on salary and accumulated provident fund balances), and considering stakeholder input on sub-clause 7(a), has identified a critical omission. While simplifying the text, the Department has inadvertently excluded a crucial 'Non obstante' clause. The Committee believe this oversight could lead to unnecessary speculation and ambiguity regarding the applicable TDS rate on accumulated balances from a recognized Provident Fund. Noting the Department's acceptance of this suggestion, the Committee recommend the Department to insert appropriate wording into the Clause 392(7)(a) to eliminate any such ambiguity.

392.6.2 The Committee note numerous stakeholder suggestions highlighting the Department's omission of the crucial Section 192(6) of the existing Act from the current Clause of the Income-Tax Bill, 2025, which creates ambiguity regarding the valuation of salary paid in foreign currency. Section 192(6) of the Act clarifies that for residents receiving salary in foreign currency, the taxable amount for TDS is determined by converting the currency at prescribed rates. The Committee believe this lack of clarity on conversion rates will cause unnecessary confusion and ambiguity, potentially leading to litigation. Therefore, the

Committee recommend incorporating this vital provision into the Clause of the Bill to explicitly define applicable forex conversion rates for salary income.

Apart from the above mentioned amendment, the Committee accept Clause 392 as proposed by the Department.

Clause- 393- Tax to be deducted at source.

393.1 Provisions proposed in the Income-Tax Bill, 2025:

393. (1) Where any income or sum of the nature specified in column B of the Table below, is credited or paid or distributed by the person specified in column C during the tax year, to a resident, the person responsible for paying shall deduct income-tax,—

(a) on the entire amount of such income or sum, where the amount or aggregate of amounts exceeds the threshold limit specified in column D;

(b) at the rate specified in column D;

(c) at the time of credit of such income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(d) subject to the provisions of sub-sections (4), (5), (6), (8) and (9).

Table

FOR PAYMENTS TO RESIDENT

Sl. No.	Nature of Income or sum	Payer	Rate Threshold limit
A	B	C	D
1.	Commission or brokerage (i) Income by way of remuneration or reward,	Any person.	Rate: Rates in force. Threshold limit:

	whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of insurance policies).		₹ 20,000
	(ii) Income by way of commission [not being insurance commission referred to in serial number 1(i)] or brokerage.	Specified person.	Rate: 2% Threshold limit: ₹ 20,000
2.	Rent	Person other than specified person.	Rate: 2%
	(i) Income by way of rent.		Threshold limit: ₹50,000 for a month or part of a month
	(ii) Income by way of rent.	Specified person.	Rate: (a) 2%, for the use of any machinery or, plant, or equipment; and (b) 10%, for the use of any land, or building (including factory building), or land appurtenant to a

			building (including factory building), or furniture, or fittings. Threshold limit [for (a) and 5 (b)]: ₹ 50,000 for a month or part of a month.

Note 1.— In serial number 2(i), the tax shall be deducted on such income at the time of—

(a) credit of rent to the account of the payee; or

(b) payment thereof in cash or by way of a cheque or a draft or any other mode,

whichever is earlier, for the last month of the tax year or the last month of tenancy.

3.	Payment on transfer of certain immovable property other than agricultural land		
	(i) Any consideration for transfer of any immovable property (other than agricultural land).	Person (other than the person who are required to deduct tax under serial number 3(iii)).	Rate:1% of such sum or stamp duty value of the property if more than ₹50,00,000, whichever is higher. —— Threshold limit: ₹50,00,000.
	(ii) Any consideration, not being consideration in kind, under the agreement	Any person.	Rate: 10% —— Threshold limit:

referred to in section 67(14).		Nil.
(iii) Sum, being in the nature of— (a) compensation or the enhanced compensation; or (b) consideration or the enhanced consideration, on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).	Any person.	Rate: 10% —— Threshold limit ₹5,00,000:

Note 1.— Consideration for transfer of any immovable property under serial number 3(i) shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property for the purposes of the threshold limit mentioned in column D.

Note 2.— In case of consideration on which provisions of both serial numbers 3(i) and 3(ii) are applicable, tax shall be deducted under 3(ii) only.

4.	Income from capital market		
	(i) Any income in respect of—	Any person.	Rate: 10% ——
	(a) units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or	Any Business Trust.	Threshold limit: ₹ 10,000. Rate: 10%
	(b) units from the Administrator of the specified undertaking; or	Any Investment fund specified in section 224.	—— Threshold limit: Nil. Rate: 10%
	(c) units from the	Any securitisation	——

specified company. (ii) Any distributed income referred to in section 223, referred to in Schedule V (Table: Sl. Nos. 3 and 4) or (Table: Sl. No. 4), payable to a unitholder of a Business Trust. (iii) Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224, payable to its unitholder. (iv) Any income, in respect of an investment in a securitisation trust specified in section 221 to an investor.	trust specified in section 221.	Threshold limit: Nil Rate: 10% —— Threshold limit: Nil.
5. Interest income (i) Any income by way of Interest on securities (ii) Any income by way of interest other than interest securities.	Any person. (a) banking A company; or (b) a co-operative society carrying on the business of banking; or (c) a post office	Rate: Rates in force. —— Threshold limit: ₹10,000 Rate: Rates in force. —— Threshold limit: (a) ₹1,00,000 in

		for a deposit made under a scheme notified by the Central Government	the case of a senior citizen; (b) ₹50,000 in case of person other than senior citizen.
	(*iii*) Any income being interest other than interest on securities.	Specified person [other than person in Sl. No. 5(*ii*).C]	Rate: Rates in force. —— Threshold limit: ₹10,000.

Note 1.— In serial number 5(*ii*) and (*iii*), where the interest income credited or paid is in respect of—

(*a*) time deposits with a banking company;or

(*b*) time deposits with a co-operative society engaged in carrying on the business of banking; or

(*c*) deposits with a public company formed and registered in India with the main object of carrying on business of long-term finance for construction or purchase of houses in India for residential purposes and is eligible for deduction under section 32(*e*),

and the person mentioned in column C has not adopted core banking solutions, the threshold limit in column D shall be computed with reference to the income credited or paid by a branch of such person.

Note 2.—The person responsible for making the payment referred to in serial numbers5(*ii*) and (*iii*) of this Table, may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

6. Payments to contractors, fees for professional and technical services, etc.			
(*i*) Any sum for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person.	Any designated person.	Rate: (*a*) 1%, if contractor is individual or Hindu undivided family; (*b*) 2%, if contractor is a person other than the person mentioned in (*a*). —— Threshold limit: [for (*a*) and (*b*)] (*a*) ₹30,000; or aggregate of amount; and (*b*) ₹1,00,000 in case of aggregate of amounts.	
(*ii*) Any sum— (*a*) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (*b*) by way of fees for professional services; or	Any person, being an individual or Hindu undivided family [other than those required to deduct income-tax as per Sl. No. 6(*i*) and (*iii*) or Sl. No. 1(*ii*)]	Rate: 2%. —— Threshold limit: ₹50,00,000.	1 %
(*c*) by way of commission [not being insurance commission referred to in			

serial number 1(i)] or brokerage.		
(*iii*) Any sum by way of— (*a*) fees for professional services; or (*b*) fees for technical services; or (*c*) remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company; or (*d*) royalty; or (*e*) any sum referred to in section 26(*2*)(*h*).	Specified person.	Rate: (*a*) 2% of such sum in case of— (*i*) fees for technical services (not being a professional services); or (*ii*) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or (*iii*) payee, engaged only in the business of operation of call centre; (*b*) 10% of such sum in cases other than (*a*) —— Threshold limit: [for (*a*) and (*b*)]: ₹ 50,000.

Note.—In serial number 6 (*i*), if any sum is paid or credited for carrying out any work specified in section 402(47)(*e*), tax shall be deducted at source—

(*a*) on the invoice value excluding the value of material, if such value is specified separately in the invoice; or

(*b*) on the whole of the invoice value, if the value of material is not specified separately in the invoice.

7. Dividend

Any dividends (including on preference shares) declared.	Any domestic company.	Rate: 10%. —— Threshold limit: *Nil.*

Note.—The tax shall be deducted at source before making any distribution or payment of dividend.

8. Other cases

(*i*) Any sum under a life insurance policy, including the sum allocated as bonus on such policy, other than the amount not includible in the total income under Schedule II (Table: Sl. No. 2).	Any person.	Rate: 2% on income comprised in such sum. —— Threshold limit: ₹1,00,000
(*ii*) Any sum for purchase of any goods.	Any person, being a buyer.	Rate: 0.1% of such sum exceeding ₹50,00,000. —— Threshold limit: ₹50,00,000.
(*iii*) Total income of a specified senior citizen after allowing deduction under Chapter VIII and rebate	specified bank.	Rate: Rates in force. —— Threshold limit:

under section 156.		*Nil*.
(*iv*) Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession of any resident.	Any specified person.	Rate: 10% of value or aggregate of values of such benefit or perquisite. —— Threshold limit: ₹ 20,000.
(*v*) Sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform.	Anye-commerce operator.	Rate: 0.1% of gross amount of such sale or services or both. —— Threshold limit: *Nil.*
(*vi*) Any sum by way of consideration for transfer of a virtual digital asset.	Any person.	Rate: 1%. —— Threshold limit: *Nil.*

Note1.—The deduction of tax under serial number 8(*ii*) shall not apply to a transaction on which tax is deductible or collectible under any of the provisions of the Act.

Note 2.—The provisions of serial number 8(*iv*) shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind, provided to a resident.

Note 3.—In respect of serial number 8(*v*)—

(*a*) for deduction of tax, the provisions thereof shall take precedence over any other provisions of this Chapter;

(*b*) any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and this amount shall be included in the gross amount of such sale or services for the purposes of deduction of income-tax under this serial number;

(*c*) e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant;

(d) irrespective of anything contained in this Chapter, if—

(i) tax has been deducted on a transaction under this serial number; or

(ii) a transaction is not liable for tax deduction as provided in section 393(4)(Table: Sl. No. 11),

then tax shall not be deducted on such transaction under any other provision of this Chapter;

(e) clause (d) shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for—

(i) hosting advertisements; or

(ii) providing any other services,

which are not in connection with the sale or services referred to in this serial number.

Note 4.—In case of a transaction on which provisions of serial number 8(v) are applicable along with the provisions of serial number 8(vi) for deduction of tax, then tax on such transaction shall be deducted only under the provisions of serial number 8(vi).

Note 5.—The provisions of serial number 8(iii) shall take precedence over any other provisions of this Chapter and tax shall be deducted under this provision.

Note 6.—For serial numbers 8(iv) and (vi),—

(a) where the consideration or benefit or perquisite is—

(i) in exchange of another virtual digital asset where there is no part in cash, in respect of serial number 8(iv); or

(ii) is wholly in kind; or

(iii) is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such payment or benefit or perquisite,

the person responsible for paying or providing shall ensure that the tax required to be deducted has been paid, before releasing such consideration or providing such benefit or perquisite, as the case may be.

(b) "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

(2) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column D during the tax year, to a non-resident specified in column C, the person responsible for paying shall deduct income-tax on the amount of such income or sum,—

(a) at the rate specified in column E;

(b)at the time of credit of income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(c) subject to the provisions of sub-sections (4), (8) and (9).

Table

FOR PAYMENTS TO NON-RESIDENT

Sl. No.	Nature of Income or sum	Payee	Payer	Rate
A	B	C	D	E
1.	Any income referred to in section 211.	(*a*) A non-resident sportsman (including an athlete) or an entertainer, who is not a citizen of India; or (*b*) a non-resident sports association or institution.	Any person.	20%.

2.	Any income by way of interest payable in respect of monies borrowed in foreign currency from a source outside India,— (*a*) under a loan agreement or issue of long-term infrastructure bond on or after the 1st July, 2012 but before the 1st July, 2023; or (*b*) by way of issue of any long-term bond on or after the 1st October, 2014 but before the 1st July, 2023, which is approved by the Central Government in this behalf.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%.
3	Any income by way of interest payable in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond before the 1st July, 2023.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%.
4.	Any income by way of	Any non-resident (not	Any Indian	(*a*) 4%, where

	interest payable in respect of monies borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	being a company) or a foreign company.	company or a business trust.	issued on or after the 1st April, 2020 but before the 1st July, 2023; or (*b*) 9%, where issued on or after the 1st July, 2023.
5.	Any income by way of interest.	Any non-resident (not being a company) or a foreign company.	Any infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%.
6.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 3).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	(*a*) 5%, in case of income of the nature referred to in Schedule V [Table: Sl. No.3.B(*a*)]; and (*b*)10%, in case of income of the

				nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)].
7	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 4).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	Rates in force.
8	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224.	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any investment fund specified in section 224.	Rates in force.
9.	Any income in respect of an investment in a securitisation trust specified in section 221.	Any investor, being a non-resident (not being a company) or a foreign company.	Any securitisation trust specified in section 221.	Rates in force.
10.	Any income— (*a*) in respect of units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20) or (Table: Sl. No. 21); or (*b*) from the specified company.	Any non-resident (not being a company) or a foreign company.	Any person.	As per Note 2.

11.	Any income in respect of units referred to in section 208.	Any Offshore fund.	Any person.	10%.
12.	Any income by way of long-term capital gains arising from the transfer of units referred to in section 208;	Any offshore fund.	Any person.	12.5%.
13.	Any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	10%.
14.	Any income by way of long-term capital gains arising from the transfer of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	12.5%.
15.	Any income in respect of securities referred to in section 210(*1*)(Table: Sl. No. 1).	Any Foreign Institutional Investor.	Any person.	As per Note 2.
16.	Any income in respect of securities referred to in section 210(*1*)(Table: Sl. No. 1).	a specified fund, referred to in Schedule VI [Note 1(*g*)].	Any person.	10%.
17.	Any interest (not being interest referred to	Any non-resident (not being a company) or a	Any person.	Rates in force.

	against serial numbers 2, 3, 4 and 5) or any other sum chargeable under the provisions of this Act, not being income chargeable under the head “Salaries”.	foreign company.

(*3*) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column D during the tax year, to any person, the person responsible for paying the amount specified in column C, shall deduct income-tax on such amount—

(*a*) at the rate specified in column E;

(*b*) at the time of payment thereof in cash or by way of a cheque or a draft or by any other mode, or as specified therein; and

(*c*) subject to the provisions of sub-sections (*4*), (*5*), (*6*), (*8*) and (*9*).

Table

FOR PAYMENTS TO ANY PERSON

Sl.No.	Nature of Income or sum	Payer	Rate
			Threshold limit
A	B	C	D
1.	Any income by way of winnings (other than winnings from serial number 2) from — (*a*) any lottery; or (*b*) crossword puzzle; or (*c*) card game and other game of any sort; or (*d*) gambling or betting of any	Any person.	Rate: Rates in force. —— Threshold limit: ₹10,000 in case of a single transaction.

	form or nature whatsoever		
2.	Any income by way of winnings from online game.	Any person.	Rate: Rates in force. —— Threshold limit: Net winnings as per Note 1.
3.	Any income by way of winnings from any horse race.	Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.	Rate: Rates in force. —— Threshold lilmit: ₹10,000 in case of a single transaction.
4.	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets.	Any person.	Rate: 2%. —— Threshold limit: ₹20,000.
5.	Any sum, paid in cash, from one or more accounts maintained by the deductee.	Every person, being,— (*a*) a banking company to which the Banking	Rate: 2%. —— Threshold limit: ₹3,00,00,000 in case of deductee being, a co-

		Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); (*b*) a co-operative society engaged in carrying on the business of banking; or (*c*) a post office.	operative society; or (*b*) ₹1,00,00,000 in case of deductee being person other than a co-operative society.
6.	Any amount referred to in section 80CCA (*2*)(*a*) of the Income-tax Act, 1961 (43 of 1961).	Any person.	Rate: 10%. —— Threshold limit: ₹2,500.
7.	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account).	Any person, being a firm.	Rate: 10% —— Threshold limit: ₹20,000.

(*4*) The deduction of tax at source shall not be made under the provisions referred to in column B of the Table below, in respect of the income or sum, specified in column C:

Table

FOR NO DEDUCTION AT SOURCE

Sl. No.	Provisions for tax deduction at source	Condition for no deduction

A	B	C
1.	Commission or Brokerage referred to in section 393(*1*)[Table: Sl. No. 1(*ii*)].	Commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.
2.	Rent referred to in section 393(*1*)[Table: Sl. No. 2(*ii*)].	Income by way of rent credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in Schedule V (Table: Sl. No. 4), owned directly by such business trust.
3.	Compensation on acquisition of certain immovable property referred to in section 393(*1*)[Table: Sl. No. 3(*iii*)].	Income by way of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 3013).
4.	Income in respect of units referred to in section 393(*1*)[Table: Sl. No. 4(*i*)].	If income is of the nature of capital gain.
5.	Income from units of a business trust referred to in section 393(*1*)[Table: Sl. No. 4(*ii*)].	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)], if the special purpose vehicle referred to in the said clause has not exercised the option under section 200.
6.	Interest on securities referred to in section 393(*1*)[Table: Sl. No. 5(*i*)].	(*a*) Interest payable on— (*i*) National Development Bonds; (*ii*) such debentures, issued by such institution or authority or person as the Central Government may, by notification, specify in this behalf; (*iii*) any security of the Central Government or a State Government, other than— (*A*) 8% Savings (Taxable) Bonds, 2003; or (*B*) 7.75% Savings (Taxable) Bonds, 2018; or

		(*C*) Floating Rate Savings Bonds, 2020 (Taxable); or (*D*) any other security of the Central Government or State Government as the Central Government may, by notification, specify in this behalf; (*b*) interest payable to— (*i*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, in respect of any securities owned by it or in which it has full beneficial interest; or (*ii*) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(*1*) of the General Insurance Business (Nationalisation) Act, 1972, in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or (*iii*) any other insurer in respect of any securities owned by it or in which it has full beneficial interest; or (*iv*) a "business trust", as defined in section 2(*21*), in respect of any securities, by a special purpose vehicle referred to in Schedule V (Table: Sl. No. 3).
7.	Interest other than Interest on securities referred to in section 393(*1*)[Table: Sl. No. 5(*ii*) and 5(*iii*)].	(*a*) Interest income credited or paid to— (*i*) any banking company; or (*ii*) any financial corporation established by or under a Central Act or State Act or Provincial Act; or (*iii*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956); or (*iv*) the Unit Trust of India; or

(*v*) any company or co-operative society carrying on the business of insurance; or

(*vi*) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notified in this behalf before the 1st April, 2020;

(*b*) interest income credited or paid—

(*i*) by a co-operative society (other than a co-operative bank) to a member thereof; or

(ii) by a co-operative society to any other co-operative society; or

(*iii*) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank; or

(*iv*) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (*iii*), engaged in the business of banking,

Wherethe total sales, gross receipts or turnover of the co-operative society does not exceed ₹50,00,00,000 during the tax year immediately preceding the tax year in which such interest is credited or paid;

(*c*) interest income credited or paid—

(*i*) by the Central Government under any provision of this Act or the Income-tax Act, 1961 (43 of 1961), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax

		Act, 1958 (18 of 1958), the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974); (*ii*) in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf; (*iii*) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a banking company;
		(*iv*) by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, the aggregate of the amounts of such income does not exceed ₹50,000 during the tax year; (*v*) or payable by an infrastructure capital company; or infrastructure capital fund; or infrastructure debt fund; or a public sector company; or scheduled bank in relation to a zero coupon bond issued on or after the 1st June, 2005 by such company or fund or public sector company or scheduled bank; (*vi*) as referred to in Schedule V (Table: Sl. No. 3); (*vii*) by a firm to a partner of the firm.
8.	Payments to contractors referred to in section 393(*1*)[Table: Sl. No. 6(*i*)].	(*a*) When— (*i*) any sum credited or paid or likely to be credited or paid during the tax year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages; and (*ii*) that contractor owns ten or less goods carriages at any time during the tax year; and (*iii*) furnishes a declaration to that effect along with his Permanent Account Number to the person

		paying the sum; and (*iv*) the person responsible for paying to the contractor furnishes to the prescribed income-tax authority the particulars in such form and within such time as prescribed; (*b*) where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.
9.	Fees for professional or technical services referred to in section 393(*1*)[Table: Sl. No. 6(*iii*)].	Where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.
10.	Dividend referred to in section 393(*1*)(Table: Sl. No. 7).	Dividend income credited or paid to— (*a*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, in respect of any shares owned by it or in which it has full beneficial interest; (*b*) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(*1*) of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; (*c*) any other insurer in respect of any shares owned by it or in which it has full beneficial interest; (*d*) a “business trust”, as defined in section 2(*21*), by a special purpose vehicle referred to in Schedule V (Note 2);

		(*e*) any other person as notified by the Central Government in this behalf; (*f*) a shareholder, being an individual, if— (*I*) the dividend is paid by the company by any mode other than cash; and (*II*) amount or aggregate of amounts of such dividend distributed or paid or likely to be distributed or paid during the tax year does not exceed ₹10,000.
11.	Payment by e-commerce operator to e-commerce participant referred to in section 393(*1*)[Table: Sl. No. 8(*v*)].	If the amount is credited or paid or likely to be credited or paid during the tax year to the account of an e- commerce participant, which is— (*a*) an individual or a Hindu undivided family; and (*b*) the gross amount of the sales or services or both during the tax year does not exceed ₹5,00,000; and (*c*) the e-commerce participant has furnished the Permanent Account Number or Aadhaar number to the e-commerce operator.
12.	Payment on transfer of virtual digital asset referred to in section 393(*1*)[Table: Sl. No. 8(*vi*)]	Where value or aggregate value of such consideration during the tax year does not exceed– – (*a*) ₹50,000, when payable by an individual or a Hindu undivided family,— (*i*)whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed ₹1,00,00,000 in case of business or ₹50,00,000 in case of profession, during the tax year immediately preceding the tax year in which such virtual digital asset is transferred;

		(*ii*) not having any income under the head "Profits and gains of business or profession"; (*b*) ₹10,000, when payable by any person other than the person referred to in clause (*a*).
13.	Income from units of a business trust referred to in section 393(*2*)(Table: Sl. No. 6).	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B (*b*)], if the special purpose vehicle referred to in the said clause has not exercised the option under section 200.
14.	Income in respect of units of investment fund referred to in section 393(*2*)(Table: Sl. No. 8).	Income that is not chargeable to tax under the provisions of this Act.
15.	Income in respect of units of non-residents referred to in section 393(*2*)(Table: Sl. No. 10).	Income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, subject to prescribed conditions.
16.	Income of Foreign Institutional Investors from securities referred to in section 393(*2*)(Table: Sl. No. 15).	Income, by way of capital gains arising from the transfer of securities referred to in section 210, if payable to a Foreign Institutional Investor.
17.	Income of Specified Fund from securities referred to in section 393(*2*)(Table: Sl. No. 16).	Income exempt at Schedule VI (Table: Sl. No. 1) to (Table: Sl. No. 4).
18.	Payment of certain amounts in cash referred to in section 393(*3*)(Table: Sl. No. 5).	Payment made to— (*a*) the Government; (*b*) any banking company or co-operative society engaged in carrying on the business of banking or a post office; (*c*) any business correspondent of a banking

		company or co-operative society engaged in carrying on the business of banking, as per the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934); (*d*) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, as per the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007).
19.	Payment in respect of deposits under National Savings Scheme, etc., referred to in section 393(*3*)(Table: Sl. No. 6).	Payment made to— (*a*) an assessee being and individual; (*b*) heirs of an assessee.

(5) Irrespective of anything contained in this Chapter, the tax shall not be deducted by any person from any amount payable to—

(a) the Government; or

(b) the Reserve Bank of India; or

(c) a corporation established by or under a Central Act which is, under any law in force, exempt from income-tax on its income; or

(d) a Mutual fund as specified at Schedule VII (Table: Sl. No. 20 or 21),

where such amount is payable to it by way of—

(A) interest; or

(B) dividend in respect of any securities or shares owned by it or in which it has full beneficial interest; or

(C) any other income accruing or arising to it.

(6) The deduction of tax shall not be made under provisions referred to in column C of the Table below, in the case of a person as specified in column B, if such person

furnishes to the person responsible for paying any income or sum of the nature referred to in such provisions, a written declaration in duplicate in such form and manner as prescribed that the tax on such person's estimated total income of the tax year in which such income or sum is to be included in computing his total income shall be nil.

Table

DECLARATION FOR NO DEDUCTION AT SOURCE

Sl. No.	Person	Provisions for tax deduction at source
A	B	C
1.	An individual, who is a resident of India.	Dividend referred to in section 393(*1*)(Table: Sl. No. 7).
2.	(a) An individual, resident of India, who is of the age of sixty years or more at any time during the tax year; (*b*) any person (not being a company or a firm).	(*a*) Payment of accumulated balance due to an employee referred to in section 392(7); (*b*) Insurance Commission referred to in section 393(*1*)[Table: Sl. No. 1(*i*)]; (*c*) rent referred to in section 393(*1*)[Table: Sl. No. 2(*ii*)]; (*d*) income in respect of units referred to in section 393(*1*)[Table: Sl. No. 4(*i*)]; (*e*) interest referred to in section 393(*1*)[Table: Sl. No. 5(*i*)], [(*ii*)] and (*iii*)]; (*f*) payment in respect of Life Insurance Policy referred to in section 393(*1*)[Table: Sl. No. 8(*i*)].

Note.—The provisions of this sub-section shall not apply where the aggregate of amounts of any income or sum of the nature referred to in provision mentioned in column C of this Table, is credited or paid or likely to be credited or paid during the relevant tax year in which such income or sum is to be included, exceeds the maximum amount not chargeable to tax.

(*7*) The person responsible for paying any income or sum of the nature referred in sub-section (*6*) shall deliver or cause to be delivered, one copy of the declaration referred therein, received from the person to the Principal Chief Commissioner or Chief

Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month in which the declaration is furnished to him.

(*8*) Irrespective of anything contained in sub-section (*6*), the deduction of tax shall not be made from the interest paid by an Offshore Banking Unit on a borrowing or deposit made on or after 1st April, 2005, by a non-resident or a person not ordinarily resident in India.

(*9*) Irrespective of anything contained in this Chapter, the deduction of tax shall not be made from any payment to a person for, or on behalf of, the New Pension System Trust referred to in Schedule VII (Table: Sl. No. 41).

(*10*In a case other than that referred to in section 392(*2*)(*a*), where under an agreement or an arrangement, if the tax chargeable on any income of the recipient referred to in this Chapter is to be borne by the payer, then, for the purposes of deduction of tax, the income shall be increased to an amount which after deduction of tax as per provisions of this Chapter becomes equal to the net amount payable under such agreement or arrangement.

(*11*) The credit of any income or sum to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income or sum, shall be deemed to be the credit of such income or sum to the account of the payee and the provisions of this section shall apply accordingly.

393.2 <u>Relevant provision of the Principal Act (Income-Tax Act 1961)</u>

Interest on securities.

193. The person responsible for paying to a resident any income by way of interest on securities shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, [61]**[***being the amount or the aggregate of amounts exceeding ten thousand rupees during the financial year,***]** deduct income-tax at the rates in force on the amount of the interest payable :

Provided that no tax shall be deducted from—

(*i*) any interest payable on 4¼ per cent National Defence Bonds, 1972, where the bonds are held by an individual, not being a non-resident; or

(*ia*) any interest payable to an individual on 4¼ per cent National Defence Loan, 1968, or 4¾ per cent National Defence Loan, 1972; or

(*ib*) any interest payable on National Development Bonds; or

(*ii*) [***]

(*iia*) any interest payable on 7-Year National Savings Certificates (IV Issue); or

(*iib*) any interest payable on such debentures, issued by any institution or authority, or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*iii*) any interest payable on 6½ per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980, where the Bonds are held by an individual not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the 6½ per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates;

(*iiia*) [***]

(*iv*) any interest payable on any security of the Central Government or a State Government:

[62][**Provided** that nothing in this clause shall apply to the interest exceeding ten thousand rupees payable during the financial year on 8% Savings (Taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 or Floating Rate Savings Bonds, 2020 (Taxable) or any other security of the Central Government or State Government as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

(*v*) any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if—

(*a*) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed [63]**[***ten***]** thousand rupees; and

(*b*) such interest is paid by the company by an account payee cheque;

(*vi*) any interest payable to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or

(*vii*) any interest payable to the General Insurance Corporation of India (hereafter in this clause referred to as the Corporation) or to any of the four companies (hereafter in this clause referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or

(*viii*) any interest payable to any other insurer in respect of any securities owned by it or in which it has full beneficial interest;

[6] [4][(*ix*) any interest payable to a "business trust", as defined in clause (*13A*) of section 2, in respect of any securities, by a special purpose vehicle referred to in the *Explanation* to clause (*23FC*) of section 10.]

Explanation.—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Explanation 2.—[*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

Dividends.

194. The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment by any mode in

respect of any dividend or before making any distribution or payment to a shareholder, who is resident in India, of any dividend within the meaning of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*e*) [65][or sub-clause (*f*)] of clause (*22*) of section 2, deduct from the amount of such dividend, income-tax at the rate of ten per cent :

Provided that no such deduction shall be made in the case of a shareholder, being an individual, if—

(*a*) the dividend is paid by the company by any mode other than cash; and

(*b*) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed [66]**[***ten***]** thousand rupees:

Provided further that the provisions of this section shall not apply to such income credited or paid to—

(*a*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any shares owned by it or in which it has full beneficial interest;

(*b*) the General Insurance Corporation of India (hereafter in this proviso referred to as the Corporation) or to any of the four companies (hereafter in this proviso referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest;

(*c*) any other insurer in respect of any shares owned by it or in which it has full beneficial interest;

(*d*) a "business trust", as defined in clause (*13A*) of section 2, by a special purpose vehicle referred to in the *Explanation* to clause (*23FC*) of section 10;

(*e*) any other person as may be notified by the Central Government in the Official Gazette in this behalf.

Interest other than "Interest on securities".

194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.

Explanation.—For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(2) [*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

(3) The provisions of sub-section (1) shall not apply—

(*i*) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed—

(a) [67]**[***fifty***]** thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) [67]**[***fifty***]** thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) [67]**[***fifty***]** thousand rupees, on any deposit with post office under any

scheme framed by the Central Government and notified by it in this behalf; and

(d) [68]**[***ten***]** thousand rupees in any other case]:

Provided that in respect of the income credited or paid in respect of—

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36;

the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be :

Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions:

Provided also that in case of payee being a senior citizen, the provisions of sub-clause (*a*), sub-clause (*b*), and sub-clause (*c*) shall have effect as if for the words " [68]**[***fifty***]** thousand rupees", the words " [69-70]**[***one lakh***]** rupees" had been substituted.

Explanation.—[***]

(ii) [***]

(iii) to such income credited or paid

to—

(a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or

(b) any financial corporation established by or under a Central, State or Provincial Act, or

(c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or

(d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or

(e) any company or co-operative society carrying on the business of insurance, or

(f) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided that no notification under this sub-clause shall be issued on or after the 1st day of April, 2020;

(iv) to such income credited or paid by a firm to a partner of the firm;

(v) to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society.

Explanation.—For the purposes of this clause, "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;

(vii) to such income credited or paid in respect of deposits (other than time deposits

made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);

(viia) to such income credited or paid in respect of,—

(*a*) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(*b*) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (*a*), engaged in carrying on the business of banking;

(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974);

(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;

(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or a public sector company or scheduled bank in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company or scheduled bank;

(xi) to any income by way of interest referred to in clause (*23FC*) of section 10:

Provided that a co-operative society referred to in clause (*v*) or clause (*viia*) shall be liable to deduct income-tax in accordance with the provisions of sub-section (1), if—

(*a*) the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and

(*b*) the amount of interest, or the aggregate of the amounts of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than [71]**[***one lakh***]** rupees in case of payee being a senior citizen and [72]**[***fifty***]** thousand rupees in any other case.

Explanation 1.—For the purposes of clauses (*i*), (*vii*) and (*viia*), "time deposits" means deposits (including recurring deposits) repayable on the expiry of fixed periods.

Explanation 2.—For the purposes of this sub-section, "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year.

(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

(5) The Central Government may, by notification in the Official Gazette, provide that the deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons, as may be specified in the said notification.

Explanation.—[*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

Winnings from lottery or crossword puzzle [73][, etc.].

194B. The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort [74][or from gambling or betting of any form or nature whatsoever, being the amount [75]**[***in respect of a single transaction***]** exceeding ten thousand rupees [76]**[*****]**] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force :

Provided that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in

respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings:

[77][**Provided further** that nothing contained in this section shall apply to deduction of income-tax on winnings from any online game on or after the 1st day of April, 2023.

Explanation.—For the purposes of this section, "online game" shall have the meaning assigned to it in clause (*iii*) of the *Explanation* to section 115BBJ.]

[**Winnings from online games.**

194BA. (1) Notwithstanding anything contained in any other provisions of this Act, any person responsible for paying to any person any income by way of winnings from any online game during the financial year shall deduct income-tax on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force:

Provided that in a case where there is a withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account, computed in the manner as may be prescribed, at the end of the financial year.

(2) In a case where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.

(3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

(4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to deduct income-tax.

Explanation.—For the purposes of this section—

(*a*) "computer resource", "internet" and "online game" shall have the meanings respectively assigned to them in section 115BBJ;

(*b*) "online gaming intermediary" means an intermediary that offers one or more online games;

(*c*) "user" means any person who accesses or avails any computer resource of an online gaming intermediary;

(*d*) "user account" means account of a user registered with an online gaming intermediary.]

Winnings from horse race.

194BB. Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race [78][, being the amount [79]**[***in respect of a single transaction***]** exceeding ten thousand rupees [80]**[***]**,] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

Payments to contractors.

194C. (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(ii) two per cent where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (*e*) of clause (*iv*) of the *Explanation,* tax shall be deducted at source—

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed thirty thousand rupees :

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds one lakh rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

Explanation.—For the purposes of this section,—

(*i*) "specified person" shall mean,—

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or

(h) any trust; or

(i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(A) does not fall under any of the preceding sub-clauses; and

(B) has total sales, gross receipts or turnover from business or profession carried on by him exceeding one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) "goods carriage" shall have the meaning assigned to it in the *Explanation* to sub-section (7) of section 44AE;

(iii) "contract" shall include sub-contract;

(iv) "work" shall include—

(a) advertising;

(b) broadcasting and telecasting including production of progra-mmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in clause (*b*) of sub-section (2) of section 40A,

[81][but does not include—

(A) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or

(B) any sum referred to in sub-section (1) of section 194J.]

Insurance commission.

194D. Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973:

Provided further that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such

income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed [82]**[***twenty***]** thousand rupees.

Payment in respect of life insurance policy.

194DA. Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (*10D*) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of [83][two] per cent on the amount of income comprised therein :

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees.

Payments to non-resident sportsmen or sports associations.

194E. Where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) or an entertainer who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.

Payments in respect of deposits under National Savings Scheme, etc.

194EE. The person responsible for paying to any person any amount referred to in clause (*a*) of sub-section (2) of section 80CCA shall, at the time of payment thereof, deduct income-tax thereon at the rate of ten per cent :

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than two thousand five hundred rupees :

Provided further that nothing contained in this section shall apply to the payment of the said amount to the heirs of the assessee.

Commission, etc., on sale of lottery tickets.

194G. (1) Any person who is responsible for paying, on or after the 1st day of October, 1991 to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name

called) on such tickets in an amount exceeding [84]**[***twenty***]** thousand rupees shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of [85][two] per cent.

(2) [***]

(3) [***]

Explanation.—For the purposes of this section, where any income is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Commission or brokerage.

194H. Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of [85][two] per cent :

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed [86-87]**[***twenty***]** thousand rupees :

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, shall be liable to deduct income-tax under this section:

Provided also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

Explanation.—For the purposes of this section,—

(*i*) "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(ii) the expression "professional services" means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;

(iii) the expression "securities" shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;

(iv) where any income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Rent.

194-I. Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of—

(a) two per cent for the use of any machinery or plant or equipment; and

(b) ten per cent for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:

[88]**[Provided** *that no deduction shall be made under this section, where the income by way of rent credited or paid for a month or part of a month by such person to the account of, or to, the payee, does not exceed fifty thousand rupees:***]**

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one

crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section :

Provided also that no deduction shall be made under this section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (*23FCA*) of section 10, owned directly by such business trust.

Explanation.—For the purposes of this section,—

(i) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,—

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

(g) furniture; or

(h) fittings,

whether or not any or all of the above are owned by the payee;

(ii) where any income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Payment on transfer of certain immovable property other than agricultural land.

194-IA. (1) Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of

consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum or the stamp duty value of such property, whichever is higher, as income-tax thereon.

(2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, are both, less than fifty lakh rupees:

[89][**Provided** that where there is more than one transferor or transferee in respect of any immovable property, then the consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property.]

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

Explanation.—For the purposes of this section,—

(a) "agricultural land" means agricultural land in India, not being a land situate in any area referred to in items (*a*) and (*b*) of sub-clause (*iii*) of clause (*14*) of section 2;

(aa) "consideration for transfer of any immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property;

(b) "immovable property" means any land (other than agricultural land) or any building or part of a building;

(c) "stamp duty value" shall have the same meaning as assigned to it in clause (*f*) of the *Explanation* to clause (*vii*) of sub-section (2) of section 56.

Payment of rent by certain individuals or Hindu undivided family.

194-IB. (1) Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), responsible for paying to a

resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to [90][two] per cent of such income as income-tax thereon.

(2) The income-tax referred to in sub-section (1) shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

(4) In a case where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

Explanation.—For the purposes of this section, "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

Payment under specified agreement.

194-IC. Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon.

Fees for professional or technical services.

194J. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, or

(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or

(c) royalty, or

(d) any sum referred to in clause (*va*) of section 28,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to two per cent of such sum in case of fees for technical services (not being a professional services), or royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films and ten per cent of such sum in other cases, as income-tax on income comprised therein :

Provided that no deduction shall be made under this section—

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

(i) [91]**[***fifty***]** thousand rupees, in the case of fees for professional services referred to in clause (*a*), or

(ii) [91]**[***fifty***]** thousand rupees, in the case of fees for technical services referred to in clause (*b*), or

(iii) [91]**[***fifty***]** thousand rupees, in the case of royalty referred to in clause (*c*), or

(iv) [91]**[***fifty***]** thousand rupees, in the case of sum referred to in clause (*d*) :

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section :

Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional

services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family:

Provided also that the provisions of this section shall have effect, as if for the words "ten per cent", the words "two per cent" had been substituted in the case of a payee, engaged only in the business of operation of call centre.

(2) [***]

(3) [***]

Explanation.—For the purposes of this section,—

(a) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

(b) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause (*vii*) of sub-section (1) of section 9;

(ba) "royalty" shall have the same meaning as in *Explanation 2* to clause (*vi*) of sub-section (1) of section 9;

(c) where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

Income in respect of units.

194K. Any person responsible for paying to a resident any income in respect of—

(a) units of a Mutual Fund specified under clause (*23D*) of section 10; or

(b) units from the Administrator of the specified undertaking; or

(c) units from the specified company,

shall, at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent:

Provided that the provisions of this section shall not apply—

(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person responsible for making the payment to the account of, or to, the payee does not exceed [92]**[***ten***]** thousand rupees; or

(ii) if the income is of the nature of capital gains.

Explanation 1.—For the purposes of this section,—

(a) "Administrator" means the Administrator as referred to in clause (*a*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(b) "specified company" means a company as referred to in clause (*h*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(c) "specified undertaking" shall have the meaning assigned to it in clause (*i*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002).

Explanation 2.—For the removal of doubts, it is hereby clarified that where any income referred to in this section is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Payment of compensation on acquisition of certain immovable property.

194LA. Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment

of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed [93]**[***five lakh***]** rupees:

Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).

Explanation.—For the purposes of this section,—

(i) "agricultural land" means agricultural land in India including land situate in any area referred to in items (*a*) and (*b*) of sub-clause (*iii*) of clause (*14*) of section 2;

(ii) "immovable property" means any land (other than agricultural land) or any building or part of a building.

Income by way of interest from infrastructure debt fund.

194LB. Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause (*47*) of section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

Certain income from units of a business trust.

194LBA. (1) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (*23FC*) or clause (*23FCA*) of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

(2) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (*23FC*) of section 10, is payable by a business trust to its unit holder,

being a non-resident (not being a company) or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent in case of income of the nature referred to in sub-clause (*a*) and ten per cent in case of income of the nature referred to in sub-clause (*b*), of the said clause.

(2A) Nothing contained in sub-sections (1) and (2) shall apply in respect of income of the nature referred to in sub-clause (*b*) of clause (*23FC*) of section 10, if the special purpose vehicle referred to in the said clause has not exercised the option under section 115BAA.

(3) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (*23FCA*) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

Income in respect of units of investment fund.

194LBB. Where any income, other than that proportion of income which is of the same nature as income referred to in clause (*23FBB*) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (*a*) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon,—

(i) at the rate of ten per cent, where the payee is a resident;

(ii) at the rates in force, where the payee is a non-resident (not being a company) or a foreign company :

Provided that where the payee is a non-resident (not being a company) or a foreign company, no deduction shall be made in respect of any income that is not chargeable to tax under the provisions of the Act.

Explanation.—For the purposes of this section,—

(a) "unit" shall have the meaning assigned to it in clause (*c*) of the *Explanation 1* to section 115UB;

(b) where any income as aforesaid is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.

Income in respect of investment in securitization trust.

194LBC. (1) Where any income is payable to an investor, being a resident, in respect of an investment in a securitisation trust specified in clause (*d*) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, [94]**[***at the rate of ten per cent***]**.

(2) Where any income is payable to an investor, being a non-resident (not being a company) or a foreign company, in respect of an investment in a securitisation trust specified in clause (*d*) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rates in force.

Explanation.—For the purposes of this section,—

(a) "investor" shall have the meaning assigned to it in clause (*a*) of the *Explanation* occurring after section 115TCA;

(b) where any income as aforesaid is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.

Income by way of interest from Indian company.

194LC. (1) Where any income by way of interest referred to in sub-section (2) is payable to a non-resident, not being a company or to a foreign company by a specified company or a business trust, the person responsible for making the payment, shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct the income-tax thereon at the rate of five per cent:

Provided that in case of income by way of interest referred to clause (*ib*) of sub-section (2), the income-tax shall be deducted at the rate of four per cent:

[95][**Provided further** that in case of income by way of interest referred to in clause (*ic*) of sub-section (2), the income-tax shall be deducted at the rate of nineper cent.]

(2) The interest referred to in sub-section (1) shall be the income by way of interest payable by the specified company or the business trust,—

(i) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2023; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the 1st day of July, 2023,

as approved by the Central Government in this behalf; or

(ia) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2023; or

(ib) in respect of monies borrowed by it from a source outside India by way of issue of any long-term bond or rupee denominated bond on or after the 1st day of April, 2020 but before the 1st day of July, 2023, which is listed only on a recognised stock exchange located in any International Financial Services Centre, [96][or]

95[(ic) in respect of money borrowed by it from a source outside India by way of issuance of any long-term bond or rupee denominated bond on or after the 1st day of July, 2023, which is listed only on a recognised stock exchange located in an International Financial Services Centre; and]

(ii) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

Explanation.—For the purpose of this section—

(a) "foreign currency" shall have the meaning assigned to it in clause (*m*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) "specified company" means an Indian company;

(c) "International Financial Services Centre" shall have the meaning assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(d) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation 1* to clause (*5*) of section 43.

Income by way of interest on certain bonds and Government securities.

194LD. (1) Any person who is responsible for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor, any income by way of interest referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

(2) The income by way of interest referred to in sub-section (1) shall be the interest payable,—

(a) on or after the 1st day of June, 2013 but before the 1st day of July, 2023 in respect of the investment made by the payee in—

(i) a rupee denominated bond of an Indian company; or

(ii) a Government security;

(*b*) on or after the 1st day of April, 2020 but before the 1st day of July, 2023 in

respect of the investment made by the payee in municipal debt securities:

Provided that the rate of interest in respect of bond referred to in sub-clause (*i*) of clause (*a*) shall not exceed the rate as the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purpose of this section,—

(a) "Foreign Institutional Investor" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 115AD;

(b) "Government security" shall have the meaning assigned to it in clause (*b*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(ba) "municipal debt securities" shall have the meaning assigned to it in clause (*m*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Municipal Debt Securities) Regulations, 2015 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(c) "Qualified Foreign Investor" shall have the meaning assigned to it in the Circular No. Cir/IMD/DF/14/2011, dated the 9th August, 2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Payment of certain sums by certain individuals or Hindu undivided family.

194M. (1) Any person, being an individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of section 194C, section 194H or section 194J) responsible for paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract, by way of commission (not being insurance commission referred to in section 194D) or brokerage or by way of fees for professional services during the financial year, shall, at the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to [97-98][two] per cent of such sum as income-tax thereon:

Provided that no such deduction under this section shall be made if such sum or, as the case may be, aggregate of such sums, credited or paid to a resident during a financial year does not exceed fifty lakh rupees.

(2) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

Explanation.—For the purposes of this section,—

(a) "contract" shall have the meaning assigned to it in clause (*iii*) of the *Explanation* to section 194C;

(b) "commission or brokerage" shall have the meaning assigned to it in clause (*i*) of the *Explanation* to section 194H;

(c) "professional services" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 194J;

(d) "work" shall have the meaning assigned to it in clause (*iv*) of the *Explanation* to section 194C.

Payment of certain amounts in cash.

194N. Every person, being,—

(i) a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);

(ii) a co-operative society engaged in carrying on the business of banking; or

(iii) a post office,

who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding one crore rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent of such sum, as income-tax:

Provided that in case of a recipient who has not filed the returns of income for all of the three assessment years relevant to the three previous years, for which the time limit of file return of income under sub-section (1) of section 139 has expired, immediately preceding the previous year in which the payment of the sum is made to him, the provision of this section shall apply with the modification that—

(i) the sum shall be the amount or the aggregate of amounts, as the case may be,

in cash exceeding twenty lakh rupees during the previous year; and

(ii) the deduction shall be—

(a) an amount equal to two per cent of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds twenty lakh rupees during the previous year but does not exceed one crore rupees; or

(b) an amount equal to five per cent of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds one crore rupees during the previous year:

Provided further that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the first proviso shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification:

[99][**Provided also** that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words "one crore rupees", the words "three crore rupees" had been substituted:]

Provided also that nothing contained in this section shall apply to any payment made to—

(i) the Government;

(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;

(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007):

Provided also that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the provision of this section shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification.

Payment of certain sums by e-commerce operator to e-commerce participant.

194-O. (1) Notwithstanding anything to the contrary contained in any of the provisions of Part B of this Chapter, where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall, at the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier, deduct income-tax at the rate of [1][0.1] per cent of the gross amount of such sales or services or both.

Explanation.—For the purposes of this sub-section, any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sale or services for the purpose of deduction of income-tax under this sub-section.

(2) No deduction under sub-section (1) shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of an e-commerce participant, being an individual or Hindu undivided family, where the gross amount of such sale or services or both during the previous year does not exceed five lakh rupees and such e-commerce participant has furnished his Permanent Account Number or Aadhaar number to the e-commerce operator.

(3) Notwithstanding anything contained in Part B of this Chapter, a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2), shall not be liable to tax deduction at source under any other provision of this Chapter:

Provided that the provisions of this sub-section shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for hosting

advertisements or providing any other services which are not in connection with the sale or services referred to in sub-section (1).

(4) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the e-commerce operator.

(6) For the purposes of this section, e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant.

Explanation.—For the purposes of this section,—

(a) "electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network;

(b) "e-commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(c) "e-commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;

(d) "services" includes "fees for technical services" and fees for "professional services", as defined in the *Explanation* to section 194J.

Deduction of tax in case of specified senior citizen.

194P. (1) Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.

(2) The provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted under sub-section (1).

Explanation.—For the purposes of this section,—

(a) "specified bank" means a banking company as the Central Government may, by notification in Official Gazette, specify;

(b) "specified senior citizen" means an individual, being a resident in India—

(i) who is of the age of seventy-five years or more at any time during the previous year;

(ii) who is having income of the nature of pension and no other income except the income of the nature of interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and

(iii) has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.

Deduction of tax at source on payment of certain sum for purchase of goods.

194Q. (1) Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 per cent of such sum exceeding fifty lakh rupees as income-tax.

Explanation.—For the purposes of this sub-section, "buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out, not being a person, as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and the person liable to deduct tax.

(5) The provisions of this section shall not apply to a transaction on which—

(a) tax is deductible under any of the provisions of this Act; and

(b) tax is collectible under the provisions of section 206C [2]**[***]**.

Deduction of tax on benefit or perquisite in respect of business or profession.

194R. (1) Any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent of the value or aggregate of value of such benefit or perquisite:

Provided that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite:

Provided further that the provisions of this section shall not apply in case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed twenty thousand rupees:

Provided also that the provisions of this section shall not apply to a person being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does

not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

(2) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(3) Every guideline issued by the Board under sub-section (2) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person providing any such benefit or perquisite.

Explanation [3][*1*].—For the purposes of this section, the expression "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

[3][*Explanation 2.*— For the removal of doubts, it is clarified that the provisions of sub-section (1) shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.]

Payment on transfer of virtual digital asset.

194S. (1) Any person responsible for paying to any resident any sum by way of consideration for transfer of a virtual digital asset, shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax thereon:

Provided that in a case where the consideration for transfer of virtual digital asset is—

(a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or

(b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer,

the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax required to be deducted has been paid in respect of such consideration for the transfer of virtual digital asset.

(2) The provisions of [4]**[***section 203A***]** shall not apply to a specified person.

(3) Notwithstanding anything contained in sub-section (1), no tax shall be deducted in a case, where—

(a) the consideration is payable by a specified person and the value or aggregate value of such consideration does not exceed fifty thousand rupees during the financial year; or

(b) the consideration is payable by any person other than a specified person and the value or aggregate value of such consideration does not exceed ten thousand rupees during the financial year.

(4) Notwithstanding anything contained in section 194-O, in case of a transaction to which the provisions of the said section are also applicable along with the provisions of this section, then, tax shall be deducted under sub-section (1).

(5) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such sum, such credit of the sum shall be deemed to be the credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

(6) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the prior approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

(7) Every guideline issued by the Board under sub-section (6) shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for paying the consideration on transfer of such virtual digital asset.

Explanation.—For the purposes of this section "specified person" means a person,—

(a) being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;

(b) being an individual or a Hindu undivided family, not having any income under the head "Profits and gains of business or profession".

[**Payments to partners of firms.**

194T.*(1) Any person, being a firm, responsible for paying any sum in the nature of salary, remuneration, commission, bonus or interest to a partner of the firm, shall, at the*

time of credit of such sum to the account of the partner (including the capital account) or at the time of payment thereof, whichever is earlier shall, deduct income-tax thereon at the rate of ten per cent.

(2) No deduction shall be made under sub-section (1) where such sum or the aggregate of such sums credited or paid or likely to be credited or paid to the partner of the firm does not exceed twenty thousand rupees during the financial year.]

Other sums.

195. (1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest referred to in section 194LB or section 194LC) or section 194LD or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries") shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (*23D*) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode.

Explanation 1.—For the purposes of this section, where any interest or other sum as aforesaid is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Explanation 2.—For the removal of doubts, it is hereby clarified that the obligation to comply with sub-section (1) and to make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has—

(i) a residence or place of business or business connection in India; or

(ii) any other presence in any manner whatsoever in India.

(2) Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the Assessing Officer for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the Assessing Officer before the expiry of such period, till such cancellation.

(5) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

(6) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

(7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a

foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

Income payable "net of tax".

195A. In a case other than that referred to in sub-section (1A) of section 192, where under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon at the rates in force for the financial year in which such income is payable, be equal to the net amount payable under such agreement or arrangement.

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.

196. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (*23D*) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Income in respect of units of non-residents.

196A. (1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (*23D*) of section 10 or from the specified company referred to in the *Explanation* to clause (*35*) of section 10 shall, at the time of credit of such income to the account of the

payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent:

[6][**Provided** that where an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A applies to the payee and if the payee has furnished a certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A, as the case may be, then, income-tax thereon shall be deducted at the rate of twenty per cent or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.]

(2) Notwithstanding anything contained in sub-section (1), no deduction of tax shall be made from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, where the units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India or by remittance of funds in foreign currency, in accordance, in either case, with the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999), and the rules made thereunder.

Explanation.—For the purposes of this section—

(a) "foreign currency" shall have the meaning assigned to it in the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) "non-resident Indian" shall have the meaning assigned to it in clause (*e*) of section 115C;

(c) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(d) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Income from units.

196B. Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore

Fund, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon [7-8][at the rate of—

(a) ten per cent in respect of income from units referred to in clause (*i*) of sub-section (1) of section 115AB;

(b) ten per cent in respect of long-term capital gains arising from transfer of units referred to in section 115AB, which takes place before the 23rd day of July, 2024;

(c) twelve and one-half per cent in respect of long-term capital gains arising from transfer of units referred to in section 115AB, which takes place on or after the 23rd day of July, 2024.]

Income from foreign currency bonds or shares of Indian company.

196C. Where any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or Global Depository Receipts is payable to a non-resident, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax thereon [7-8][at the rate of—

(a) ten per cent in respect of income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 115AC;

(b) ten per cent in respect of long-term capital gains arising from transfer of such bond or Global Depository Receipts referred to in section 115AC which takes place before the 23rd day of July, 2024;

(c) twelve and one-half per cent in respect of long-term capital gains arising from transfer of such bond or Global Depository Receipts referred to in section 115AC which takes place on or after the 23rd day of July, 2024.]

Income of Foreign Institutional Investors from securities.

196D. (1) Where any income in respect of securities referred to in clause (*a*) of sub-section (1) of section 115AD, not being income by way of interest referred to in section 194LD, is payable to a Foreign Institutional Investor, the person responsible for making the

payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent:

Provided that where an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A applies to the payee and if the payee has furnished a certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A, as the case may be, then, income-tax thereon shall be deducted at the rate of twenty per cent or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.

(1A) Where any income in respect of securities referred to in clause (*a*) of sub-section (1) of section 115AD, not being income by way of interest referred to in section 194LD, is payable to a specified fund referred to in clause (*c*) of the *Explanation* to clause (*4D*) of section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee, or at the time of payment thereof by any mode, whichever is earlier, deduct the income-tax thereon at the rate of ten per cent:

Provided that no deduction shall be made in respect of an income exempt under clause (*4D*) of section 10.

(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor.

No deduction to be made in certain cases.

197A. (1) Notwithstanding anything contained in section 194 or section 194EE, no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 194 or, as the case may be, section 194EE, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

(1A) Notwithstanding anything contained in section 192A or section 193 or section 194A or section 194D or section 194DA or section 194-I or section 194K, no deduction of tax shall be made under any of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in section 192A or section 193 or section 194A or section 194D or section 194DA or section 194-I or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil.*

(1B) The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (1) or sub-section (1A), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.

(1C) Notwithstanding anything contained in section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K or sub-section (1B) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty years or more at any time during the previous year, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(*a*) on deposit made on or after the 1st day of April, 2005, by a non-resident or a

person not ordinarily resident in India; or

(*b*) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

Explanation.—For the purposes of this sub-section "Offshore Banking Unit" shall have the same meaning as assigned to it in clause (*u*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10.

(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.

(2) The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1) or sub-section (1A) or sub-section (1C) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

393.3 <u>Reasons/Justification given by the Department of Finance for the proposed provision</u>

Clause 393 of the Bill provides for tax deduction at source on various payments. The clause corresponds to section 193, 194, 194A, 194B, 194BA, 194BB, 194C,194D, 194DA, 194E, 194EE, 194G, 194H, 194I, 194-IA, 194-IB, 194-IC, 194J,194K, 194LA, 194LB, 194LBA, 194LBB, 194LBC, 194LC, 194M, 194N, 194O,194P, 194Q, 194R,

194S, 194T, 195, 195A, 196, 196A, 196B, 196C, 196D, 197A of the Act. All sections in the Act specifying various sums liable to TDS have been merged into a single section providing 3 tables based on three broad categories of Payees-(i) Residents, (ii) Non-residents and (iii) any person. Redundant provisions have been removed. Tables have been provided to make the provisions easier to comprehend. Notes provide explanation specific to a clause in the table itself. Rates and thresholds are also rationalized and the changes made by the Finance Act, 2025 have been incorporated in the Bill. Further, the conditions where tax is not be deducted at source have been provided in tabular format in clause 393(4). The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Notes below the table in clause 393(2) and 393(3) have inadvertently been missed and same is to be added to the Bill.

393.4 Important views/Suggestions given by Experts/Stakeholders

393.4.1 **Rationalization of TDS Rates/Reduction in the number of rates of TDS**:

At present, there are six rates of TDS under the Income-tax Act, 1961, namely, 0.1%,1%,2%,5%, 10% and20% for residents which are continuing in the Income-tax Bill, 2025. In line with the intent of TDS provisions serving as an audit trail rather than revenue garnering measure, the number of TDS rates may be reduced to two, namely, 2% and 5%. TDS rates under all provisions where the rate is currently equal to or higher than 5% may be pegged at a maximum of 5% and in all other cases, the rate be 2%.Reducing the number of rates from 6 to 2 will increase the working capital available which will in turn facilitate ease of doing business.

Requirement of a streamlined TDS regime, reducing the number of rates to three or four.

393.4.2 : **TDS on Cash Withdrawal**

This provision does not encourage NPOs to deposit cash in banks as withdrawals are subject to TDS Exempt NPO’s from this hardship Or Allow taking 197 certificate (ITA 1961) (395 of ITB, 2025) . Data of Cash Withdrawals are already reported by banks and is available with the Dept for Analysis under the “Project Insight” This helps in maintaining the liquidity of the Trusts.

393.4.3 **Uniform Threshold limit for triggering TDS**

The threshold limit for triggering TDS is different for different type of payments varying from 0 to 50 lakhs. Also, a uniform threshold limit may be prescribed for TDS provisions. It will also facilitate ease of compliance and minimize the possibility of disputes arising from the incorrect application of rates.

393.4 **Negative list of transactions exempt from TDS**

It is suggested to introduce a negative list of transactions exempt from TDS, such as:- Payments to senior citizens and farmers-Payments to banks and financial institutions-B2B transactions where GST is paid .This would ease compliance, reduce working capital blockage, and align with ease of doing business goals.

393.4.5 **:** In clause 393(1)(4)(ii)There is duplication of reference to Table Sl.No. 4 under the Head “Income from Capital Market” at Serial No. 4 of the Table in Clause 393(1) which needs to be rectified.

393.4.6: In clause 393(1)(4)(ii)&(iv) Reference of Clause 221, 223 and 224 for "Securitization trust" ,Business Trust, and "Investment Fund" should be incorporated.

393.4.7: In clause 393(1)(6)(iii) Regarding fees for professional or technical services it is suggested that independent threshold limit be provided for each category (a) to (e)in line with section 194J of the Income-tax Act, 1961.

393.4.8 **393(1)(7),393(1)(8)(v)&(vi) Dividends & Other Cases**

For all other payments, except dividend in Sl.No.7 Payment by e-commerce operator to e-commerce participant in Sl. No.8(v) and sum by way of consideration for transfer of VDA (Virtual Digital Asset) in Sl. No.8(vi) the threshold limits have been given in column D of the table. For these three payments, threshold is mentioned as Nil in the table and

given in sub-section (4) in the table containing the conditions for no deduction of tax at source. However, the mention of threshold as nil in Column D in these three cases alone would cause confusion. Hence, the threshold limits have to be incorporated here itself.

393.4.9: In clause 393(1)(8)(ii) The opening para of section 393(1) requires deduction of tax at source on the entire amount of such income or sum, where the amount or aggregate of amounts exceeds the threshold limit specified in column D at the rate specified in column D, subject to the provisions of sub-sections (4), (5), (6),(8) and (9).However, in 393(1)(8)(ii) the rate of tax is to be applied on such sum exceeding Rs.50 lakh. This contradicts the opening statement.

393.4.10: In clause 393(1) (Note 2) Modes of payment other than cash be included, since benefit or perquisite may be through other modes of payment like cheque/draft
In the Note 2 below the Table for Payment to Residents at Clause 393(1) for serial number 8 (iv) it needs to be clarified whether the benefit mentioned would include payment by cheque or draft also . If so this should be clearly mentioned in the note to avoid confusion and ensure clarity.

393.4.11: In clause 393(1) (Note 6) The consideration or benefit or perquisite maybe through modes of payment other than cash. Accordingly, reference to such modes of payment be made in Note 6**.**

393.4.12: In clause 393(2) Note 2 is not provided in ITB 2025, creating ambiguity regarding the withholding rate. Include Note 2 in ITB 2025. Clarify that the beneficial rate prescribed under the treaty would apply wherever applicable.

393.4.13: In clause 393(3) Ambiguity on whether the payer is relieved from ensuring tax payment before releasing winnings, and the impact on penalty and prosecution

proceedings. Include provisions similar to ITA 1961 for withholding on winnings partly or wholly in kind. Amend Section 448 (corresponding to penalty under Section 271C of ITA 1961) and Section 476 (corresponding to prosecution under Section 276B of ITA 1961) to clarify the impact of non-compliance on penalty and prosecution.

393.4.14: In clause 393(4) Circulars/notifications providing exemption from TDS need to be incorporated in the table in sec 393(4) of the Bill.

393.4.15: In clause 393(6) Under the present act, a senior citizen can avail the benefit of no deduction of tax under section 197A(1C) where the income of the senior citizen exceeds basic exemption limit but the tax liability is nil .For example a senior citizen receiving 10 lacs in FD interest income would have zero tax liability after considering rebate u/s 87A .Such senior citizen, presently, upon making an application u/s 197A(1C) can avoid Tax deductions . Such benefit should continue to be extended under the New Income-Tax Bill else it will burden the senior citizen with TDS and requirement to claim refund .

393.4.16: In clause 393(6)-Column (2) The Table below Sl. No. 2 mentions the persons who can file declaration in respect of the different provisions of TDS listed in corresponding row of Column (3). There is a common list of provisions of TDS for persons mentioned in 2(a) and (b). 2(b) mentions that any person (not being accompany or a firm) can file a declaration, which implies that an individual resident in India can file a declaration for no deduction of tax at source. However, (a)mentions that only individual resident of India who is of the age of 60 years or more at anytime during the tax year can file a declaration .There is no need for (a)when such persons are already covered in (b).On account of inclusion of (a), it is possible to wrongly interpret that other individuals resident in India who are not senior citizens cannot file a declaration ,which is not the intent ,since (b) permits any person, other than a company or firm, to file the declaration. Therefore, (a) may be removed.

393.4.17: Note below Table under Clause 393(6) to be removed, since sub-section (6) provides that the deduction of tax shall not be made under provisions referred to in column C of the Table, in the case of a person as specified in column B, if such person furnishes to the person responsible for paying any income or sum of the nature referred to in such provisions, a written declaration in duplicate in such form and manner as prescribed that the tax on such person's estimated total income of the tax year in which such income or sum is to be included in computing his total income shall be nil. In line with the tax payer's charter, the tax payer should be treated as honest unless there is a reason to believe otherwise.

393.4.18 The threshold limit for triggering TDS is different for different type of payments varying from 0 to 50 lakhs. Also, a uniform threshold limit may be prescribed for TDS provisions. It will also facilitate ease of compliance and minimize the possibility of disputes arising from the incorrect application of rates.

393.4.19 Taxability of offshore supply of goods. Clarify that a non-resident supplying goods from an offshore location would not be taxed even if there is Permanent Establishment (PE) in India, as the PE has no role in earning the manufacturing profits.

393.4.20 Provide certainity to tax payers for payments made to Non-residents. Strict compliance and monitoring mechanisms are in place when a non-resident payee is involved. The payer should be allowed to remit the amounts based on a No PE declaration, and no additional liability should arise to the payer even if subsequently it is found that the non-resident has a PE in India (may be an interpretative dispute also). The non-resident could be assessed directly and additional taxes could be directly recovered.

393.4.21 **Withholding tax on interest payments on listed Non-Convertible Debentures**

Clause 393(2) of the Bill **(**Section 194LBA of the Act) provides for a concessional rate of tax of 5% in respect of interest distributed by a BT to its unitholders which is received

by the BT from an Indian SPV Considering that FPIs are now permitted to invest in the debt securities issued by REITs and InvITs, currently, there are no concessions provided and an FPI investing in NCDs or bonds are subject to tax withholding rate of 20%. To encourage FPI investments in bonds the benefit of concessional rate of tax on interest income should be made available to FPI's who are not unitholders but have invested in NCDs or bonds.

393.4.22 **Reduce 1% TDS to 0.01% and Increase TDS threshold to INR 5,00,000 :** As per an ESYA Centre report, projections based on the status quo estimate a total trading volume of ₹17.7 trillion by Indians on offshore platforms over the next five years, potentially resulting in ₹177 billion in uncollected TDS It also demonstrates that a scenario where TDS is reduced to 0.01 percent (comparable to securities and commodities) and the share of assets held on domestic platforms reverts to pre-February 2022 levels, approximately 82 percent of Indian users would likely trade through domestic or compliant platforms This shift could generate ₹91.69– ₹183.38 billion in tax revenue over five years, assuming 50–100 percent of VDA profits are traded annually (The Impact of India's VDA Tax Policy: An Update — Esya Centre) .Most VDA sellers (mainly individuals) are in the lower income brackets Thus, increasing the threshold from INR 10,000 / INR 50,000 to INR 5,00,000 will reduce administrative burden on the tax department in processing refunds.

393.4.23 TDS and TCS are governed by various sections specifying the nature of income or sum, applicable threshold limits, and the relevant rates at which tax is deducted or collected. This comprehensive framework has been well-established – operational procedures, including tax withholding, taxpayment via challan, and filing of e-TDS / e-TCS statements, have been sufficiently streamlined. Further, the TRACES portal and the e-filing system have set procedures for processing tax returns, making the TDS and TCS collection mechanisms efficient and transparent.

In the New Bill, the various provisions under different sections of the existing Act have been merged into two sections – One for TDS and one for TCS. TDS Section has a table which specifies the nature of income or sum, monetary thresholds, applicable TDS

rates for each category and no withholding cases. This will lead to Taxpayers requiring to modify the current operational procedures under the existing systems for sections to be changed to Serial Number of the table, Note to the table, etc. Also, TRACES portal and efiling system will required to be updated to accommodate these new changes and taxpayers will need to adapt to these changes, which could initially create compliance challenges and lead to confusion in the processing of returns.
The proposed amendments, especially the introduction of new tables and their application, could also open the door for potential litigation concerning the interpretation and application of TDS/TCS provisions, especially in relation to existing taxpayer practices.

393.4.24 Amount on which TDS to be deducted by Non Resident be explicitly mentioned in TDS Section;

393.4.25 No penalty for non-deduction/ non- collection as the payer acts as an agent of the Government and prosecution should only be there for major defaults;

393.4.26 As per Section 194D of the Act No tax deduction is required from commission payment made to agents up to an amount of twenty thousand rupees (B) Section 194DA – No tax deduction is required from payments made under life insurance policies where paid amount is less than one hundred thousand rupees. Though this is a welcome step, this limit may be considered to be increased to the level of basic exemption limit for individuals. Considering the fact that the basic exemption limit under old tax regime is Rs.2,50,000/- (and new tax regime is Rs 4,00,000/-), the threshold limit may be enhanced to appropriate level to reduce the administrative and compliance workload for insurers as well as the tax department

393.4.27 The CBDT vide circular no 715 dated 08.08.1995 have provided various clarifications in respect of the applicability of TDS provisions vide Finance Act, 1995. Clarifications on the interpretational issues provided through circular no 715 issued by the CBDT may be provided in the new bill for the sake of better clarity and

understanding.

393.4.28 Simplify certificate issuance, improve form 26AS with TAN inclusion of the deductee, enhance TDS/TRACES portals, speed up refunds, raise TDS thresholds for gig workers and freelancers, allow carry forward of unclaimed foreign tax credits, and allow consolidated TDS payments for crypto transactions for each quarter instead of per transaction deduction.

393.5 <u>Examination by the Committee</u>

393.5.1 In response to the above suggestions, the Department in their written submission has stated as under (mentioned correspondingly):

"Thresholds and rates have been sufficiently rationalised in the Income-tax Bill, 2025. Thresholds have been increased and rates have been reduced for convenience of the tax payers. The rates are dependent on type of transactions, payers and payees. For residents, now there are only four rates in the Bill viz 0.1%, 1%, 2% and 10%. Therefore, significant rationalisation has already been done. In some cases, the rate is also a measure of the income component embedded in the payment particularly in case of passive incomes like rent for immovable property, compensation, income in respect of units, certain royalties, dividend. There cannot be a same rate or threshold for all types of payments as the component of income embedded in any payment is different."

393.5.1(a) During the sitting of the Committee on 4.06.2025 the representative of the Department informed as under:

" In July 2024 and then in February 2025 Budget, we have rationalised the TDS as well as TCS provisions. Rates have been reduced. Now, there are only four rates, 0.1, one percent, two percent and 10 percent. These are four rates. But then there are some special kinds of incomes. Take, for example, lottery income. There, the whole income has to be deducted at the TDS stage itself. In these provisions, 30

percent rate will kick in. But otherwise, there are four rates, as I said, 0.1 per cent, one per cent, two per cent and 10 per cent."

When the Committee further asked to clarify whether there are six slabs, the representative of the Department replied as under:

"Sir, salary has to be deducted at an average rate. At that average, rate changes according to person to person."

393.5.2 "The suggestion seeks exemption from TDS on cash withdrawal for NPOs. Suggestion has already been addressed as the clause 395 of the Bill provide for application of lower deduction certificates for all provisions related to TDS including 194N."

393.5.2 (a) During the sitting of the Committee on 10.06.2025, the representative of the Department elaborated as under:

"……...if there are cash withdrawals exceeding Rs. 1 crore, then there is a two per cent TDS on that withdrawal. The suggestion is there should be exemption from TDS on cash withdrawal for non-registered and non-profit organisations. We are saying that that suggestion is already addressed because the Bill provides for application of lower TDS certificates for all provisions including Section 194N."

393.5.3 "Regarding Uniform Threshold limit for triggering TDS rate of TDS is not just a measure of audit trail, but it is based on principle of 'pay as you earn'. Amount of TDS collected proportionately decreases the advance tax liability of the taxpayer which reduces compliance and also saves on the interest payable by the taxpayer. Threshold has been significantly rationalised in the new Bill in line with the amendments in the IT Act. The threshold has to be kept in accordance with the nature of payments. For example, a threshold of Rs. 50 lakh has been kept for immovable property. But the same cannot be provided for interest, dividend etc. Therefore, there is merit in providing separate thresholds. Therefore, the suggestion has no merits. In some cases, the rate is also a measure of the income component embedded in the payment particularly in case

of passive incomes like rent for immovable property, compensation, income in respect of units, certain royalties, dividend. There cannot be a same rate or threshold for all types of payments as the component of income embedded in any payment is different. For example, On a lottery winnings of Rs 100, the income component is Rs. 100 only. Therefore, tax is required to be deducted on such payment @30%. For contractual payments, the income component in Rs. 100 payment is presumed to be in the range of 6-8%. Therefore, a rate of TDS of 1-2% is considered enough to capture the income component in such payments. Similarly, payment having larger component of income such as technical fees, royalty etc. have been provided TDS@10%. Where payments are in nature of sales, the income component is substantially lower. Therefore, 0.1% TDS is provided for. The same logic holds for thresholds also. Reducing the number of rates or having uniform thresholds will result in lesser alignment with incomes."

393.5.4 The Department in their reply have furnished that negative lists already exist in clauses 393(4), (5), (6), (8) and (9) of the Bill.

393.5.4.(a) When asked if it would be more prudent to have a single consolidated list at one place would be more convenient and less tedious thereby doing away with the need of referring to so many different sub-clauses, the Department in their written submission replied that submitted that Provisions of clause 393(4) provides for no deduction of tax in respect of specific clause of the Bill. Whereas provisions of clause 393(5)/(6)/(8)/(9) are different in nature from clause 393(4). For eg.393(5) provide for blanket exemption from TDS to Government/RBI etc for payment by way of interest, dividend, any other income.393(6) provide for declaration of no deduction of tax where estimated total income is nil. Hence these cannot be clubbed together.

393.5.5 With regard to the above suggestion related to duplication of reference to Table Sl.No. 4 under the Head "Income from Capital Market" at Serial No. 4 of the Table in Clause 393(1) which needs to be rectified, the Department in their written reply have furnished as under :

"Accepted. It is an inadvertent drafting error.SN 4 of Schedule V has been referred twice"

393.5.6 With regard to suggestion regarding incorporating reference of Clause 221, 223 and 224 for "Securitization trust" ,Business Trust, and "Investment Fund" , the Department in their written reply have furnished as under :

"The stakeholder seeks to give reference of clause 223 for business trust. The term "business trust" has been defined in clause 2(21) of the Bill. There is no requirement to give specific reference to a term which is covered in general definitions. The terms "Investment Fund" and" Securitization trust" are given particular definitions in clause 224and clause 221 respectively. Hence these clauses are specifically referred to for these terms."

393.5.7 With regard to the above suggestion regarding provision of independent threshold limit of fees for each category of professional or technical services (a to e) in line with Section 194J of the Income-tax Act, 1961, the Department in their written reply have furnished as under :

"Accepted. The stakeholder has suggested to provide independent threshold of Rs. 50000 limit for five different sum referred in 393(1) Table Si.No. 6(iii).The threshold limits have been changed by FA 2025. There is drafting error as limits have not been provided for 3 out of 5 sums. The limits will be aligned with the existing provisions of the Act. The threshold limits may be provided for each of the income separately to align it with existing provisions of the Act. "

393.5.8 With regard to the above suggestion regarding providing the threshold limits in clause 393(1)(8)(v)&(vi) Dividends & Other Case, the Department in their written reply have furnished as under :

"The stakeholder has suggested that threshold limits for sr. no. 7, 8(v)and 8(vi) of table below clause393(1) may be provided in the table itself instead of clause 393(4)which provides for conditions of no deduction of tax. Threshold limits for above sr. no. have not been provided in the table below clause 393(1) as the threshold limits provided in clause 393(1) are applicable to all transactions of the

nature specified in col B .However, in respect of sr. no. 7,8(v) and 8(vi), the threshold limits are applicable to specific persons. For eg. Threshold limit of Rs.10,000 in the case of dividend is only applicable to individuals and not to other persons. Hence, providing such threshold limits in the table itself may make table complicated."

393.5.9 With regard to the above suggestion on clause 393(1)(8)(ii), the Department in their written reply have furnished as under :

"*Accepted. It is an inadvertent drafting error.Col D of sr no 8(ii) is to be redrafted to provide that TDS shall be deducted only on the sum exceeding fifty lakh rupees."*

393.5.10. While agreeing with the suggestion on Clause 393(1) Note 2, the Department in their written reply have stated as follows:

"Accepted. The stakeholder has suggested that mode of payment other than cash to be included in the modes for deduction of tax [refer Table sr. no.8 (iv) note 2.]Note 2 provides that provisions of Table Serial no 8(iv) (sec 194R of the Act) shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind. There are drafting issues in cl.393(1)(c) r.w. Note 2 of the Table below the said clause. Appropriate drafting corrections shall be carried out."

393.5.11 With regard to the above suggestion on Clause 393(1) Note 6, the Department in their written reply have furnished as under :

"The stakeholder has suggested to give reference of mode of payments other than cash in note 6 of the table (it deals with ensuring that tax has been paid by the recipient, where the consideration is partly in cash and partly in kind, but the cash part is not sufficient to meet the tax liability).The term "cash" in note 6 denotes the money part of the consideration and it includes modes of payments other than cash also. Therefore, it is not required to explicitly mention modes of payments other than cash in note 6.The suggestion is already addressed."

393.5.12. With regard to the above suggestion on Clause 393(2) Note 2, the Department in their written reply have furnished as under :

"Three Notes below the table in clause 393(2) have inadvertently been missed. Note 2 in the said clause as proposed is as under:–

Note 2.— In respect of serial numbers 10 and 15, the tax shall be deducted at the rate of—
(a) 20%; or
(b)Where an agreement referred to in section 159(1) or (2) applies to the payee and if the payee has furnished a certificate referred to in section 159(8) then, income-tax shall be deducted at the rate or rates of income-tax provided insuch agreement for such income, if such rate is lower than 20%.
On incorporation of the above Note in clause 393(2), ambiguity as indicated will be resolved. The suggestion is acceptable. "

393.5.13: With regard to the above suggestion for inclusion of provisions similar to ITA 1961 for withholding on winnings partly or wholly in kind, the Department in their written reply have furnished as under :

"Three Notes below the table in clause 393(3) have inadvertently been missed. Note 3 in the said clause as proposed had the provision related to tax deduction, when the winnings are in kind.
The text of the Note 3 is as under:--
Note 3.— In respect of serial numbers 1 and 2, where the winnings or net winnings, as the case may be,-
(a) is wholly in kind; or
(b) is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such winnings,
the person responsible for paying must ensure that the tax required to be deducted has been paid, before releasing the winnings.
On incorporation of the above Note in clause 393(3), there would not be any liability fastened on the recipient of the payment. The suggestion is acceptable."

393.5.14: With regard to the above suggestion for incorporating circulars/notifications providing exemption from TDS in the table in sec 393(4) of the Bill, the Department in their written reply have furnished as under :

"The stakeholder has suggested that all circulars/notifications providing exemption from TDS need to be incorporated in the table in sec 393(4) of the Bill.
The notifications/circulars issued from time to time provide non deduction of TDS for specific cases and are not applicable to all transactions. Incorporating all notifications/circulars may make Bill bulkier and complex.
Further, clause 536(2)(j) of the Bill already provides that all the notifications, instructions etc. issued under any provision of the repealed Act shall continue in force accordingly. All the notifications issued earlier will continue to apply for new provisions also. The word 'circular' does not find mention in cl. 536(2)(j). The same shall be considered for inclusion."

393.5.15 With regard to the above suggestion on clause 393(6) regarding continuation of tax benefit provided to senior citizen under Section 197A(1C) of the current Act, the Department in their written reply have furnished as under :

"Accepted. It is an inadvertent drafting error where provisions of section 197A(1C) are not completely brought into the Bill."

393.5.16 : With regard to the above suggestion on clause 393(6) for removal of persons mentioned in 2(a) from the common list, the Department in their written reply have stated the following:

"Accepted. The stakeholder has suggested to remove reference to senior citizen [sr. no. 2(a) of the table below clause 393(6)] on the ground that senior citizen is already covered in any person [sr. no. 2(b)]. The references in Sl. No. 2 of Table below 393(6) are required to be corrected. Col C of the table below clause 393(6), has been inadvertently made applicable for both 2(a) and 2(b). It is an drafting error. Appropriate drafting corrections shall be carried out."

393.5.17 : With regard to the above suggestion regarding removal of note in table below clause 393(6), the Department in their written reply have furnished as under :

'The stakeholder seeks to remove note in the table below clause 393(6) [which provides that declaration for no TDS cannot be given if income exceeds the exemption limit]. The request is made on basis that taxpayer should be trusted.

This is an anti-abuse provision. Where individual items of income exceed the threshold, there are reasonable grounds to presume that declaration route for no TDS cannot be allowed. The suggestion is not feasible."

393.5.18 With regard to the suggestion for prescribing uniform threshold limit for TDS provisions, the Department in their written reply have furnished as under :

"The rate of TDS is not just a measure of audit trail, but it is based on principle of 'pay as you earn'. Amount of TDS collected proportionately decreases the advance tax liability of the taxpayer which reduces compliance and also saves on the

interest payable by the taxpayer. Threshold has been significantly rationalised in the new Bill in line with the amendments in the IT Act.

The threshold has to be kept in accordance with the nature of payments. For example, a threshold of Rs. 50 lakh has been kept for immovable property. But the same can not be provided for interest, dividend etc. Therefore, there is merit in providing separate thresholds. Therefore, the suggestion has no merits. In some cases, the rate is also a measure of the income component embedded in the payment particularly in case of passive incomes like rent for immovable property, compensation, income in respect of units, certain royalties, dividend. There cannot be a same rate or threshold for all types of payments as the component of income embedded in any payment is different. ***For example****, On a lottery winnings of Rs 100, the income component is Rs. 100 only. Therefore, tax is required to be deducted on such payment @30%. For contractual payments, the income component in Rs. 100 payment is presumed to be in the range of 6-8%. Therefore, a rate of TDS of 1-2% is considered enough to capture the income component in such payments. Similarly, payment having larger component of income such as technical fees, royalty etc. have been provided TDS@10%. Where payments are in nature of sales, the income component is substantially lower. Therefore, 0.1% TDS is provided for. The same logic holds for thresholds also. Reducing the number of rates or having uniform thresholds will result in lesser alignment with incomes. "*

393.5.19 With regard to taxability of offshore supply of goods the Department in their written reply have furnished as under :

"It may not be practicable to cater to specific situations in the Income-tax Act, since they would run counter to the attempts to simplify the Act. Any clarifications, if considered desirable, could be issued through the Rules/Circulars/FAQs. The suggestion is administrative in nature"

393.5.20 With regard to the suggestion to allow payers making payments to Non residents to remit the amount based on a no PE (Permanent Establishment) declaration and no liability on the payer in case of any interpretative dispute , the Ministry in their written reply have furnished as under :

“The mechanism of tax deduction at source is based on the principle of Pay As You Earn (PAYE). The objective is not only to recover the tax liability of the payee at the earliest possible occasion but to also give a steady flow of revenue to the Government. Second, it is used to curb possible tax evasion/avoidance by the payee by providing tracking mechanism of the income. The TDS in the case of foreign remittances is governed by section 195 of the Act. TDS on foreign remittances to non-residents is highly sensitive as the point (and time) of exit of such remittances, in most of the scenarios, becomes the only time tax liabilities of such non-resident can be recovered. The Hon'ble Supreme Court again in the case of Vodafone International Holdings B.V. v. Union of India (2012) 341 ITR 1 (SC) reaffirmed the importance of section 195 of the Act. It held that“The object of Section 195 is to ensure that tax due from non-resident persons is secured at the earliest point of time so that there is no difficulty in collection of tax subsequently at the time of regular assessment.” The AAR in case of XYZ, In RE: P.No.18 of 1995(1999) 238 ITR 575 has also observed that “The objective is to ensure, as best as possible, that the tax liability on the income element, on the amount paid is got deducted at source itself so that the department is not put to the hassles of recovering it from the non-resident whose connections with India may be transient or whose assets in India may not be sufficient to meet the tax liability” The CBDT Circular No. 152 dated 27.11.1974 - 98 ITR (St.) 19 reads as under: “The object of section 195 is to ensure that the tax due from non-resident persons is secured at the earliest point of time so that there is no difficulty in collection of tax subsequently at the time of regular assessment. Failure to deduct tax at source from payments to a non-resident may result in loss of revenue as the non-resident may sometimes have no assets in India from which tax could be collected at a later stage. Tax should, therefore, be deducted in all cases where it is required to be deducted under section 195 before the payment is made to the credit of the Central Government as required by section 200 of the Income-tax Act read with rule 30 of the Income-tax rules, 1962. Failure to do so would render a person liable to penalty under section 201 read with section 221 of the Income-tax Act, and would also constitute an offence under section 276B of the Income-tax Act.” Therefore, it is a settled position of law that the tax deduction at source on foreign

remittances to non-residents is an interim arrangement to recover the tax liability of the non-resident payee in advance in order to plug the chances of any future default. As a result, the recommendation may not be feasible. In view of the above, the suggestion has no merit."

393.5.21(a) On the issue regarding Withholding tax on interest payments on listed Non-Convertible Debentures, the Ministry in their written reply submitted as under:
"The stakeholder seeks concessional rate of tax for FPIs on interest income on NCD. The suggestion of the stakeholder is in the nature of policy change and beyond the scope of IT Bill, 2025. The provisions of the Act are same vis a vis Bill. 20% rate on debt is not a high rate. Further, they can avail lower treaty rate on interest income, where applicable."

393.5.21(b) During the Oral Submission on 10.06.2025, the representative of the Ministry stated as under:

"For FPI and interest income on non-convertible debentures, the rate is one per cent at present. The request is that this rate may be reduced. We are saying 20 per cent because it is in nature of debt instrument. On debt instrument, 20 per cent is a reasonable rate. If the treaty allows a lesser rate, they can claim that."

393.5.22 On the issue of reduction of TDS rate from 1% to 0.1% u/s 194S, the Ministry in their written reply submitted as under:
"The suggestion is in the nature of policy change which is beyond the scope of the IT Bill, 2025.There is no change in the provisions of the Bill vis a vis Act. The suggestion is not acceptable. The rates and monetary threshold have been fixed based on the nature of income."

393.5.23 On the issue of usage of Tables for TDS and TCS, the Ministry in their written reply submitted as under:

“The usage of Tables for TDS and TCS has been well appreciated. It will ease the burden of deductors as well as deductees in understanding and applying the provisions of the Bill. There is no ground of any apprehension of litigation. If there is any specific suggestion, the same may be examined.
The suggestion has no merit.”

393.5.24 On the suggestion regarding mentioning the amount on which TDS to be deducted by Non Resident in TDS Section, the Ministry in their written response stated as under :
“The amount on which TDS is to be made is variable. It cannot be mentioned in the section. The suggestion has no merits.”

393.5.25 On the suggestion regarding no penalty for non-deduction/ non- collection, the Ministry furnished the written reply given below:
“Prosecution provisions have already been rationalised and are not applicable if TDS is deposited before the date of filing of quarterly statement. CBDT issued Circular No. 24/2019, dated 9 September 2019. In that circular the Central Government has provided relief from prosecution proceedings in cases where the non-payment of TDS amounts to Rs 25 lakh or less, and the delay in deposit is less than 60 days from the due date. “

393.5.26 Regarding change in threshold limits, in their written reply the Ministry have responded as under:
“Suggestion is not acceptable because the threshold limits for TDS u/s 194D and 194DA have already been increased to Rs. 20,000 and Rs 1,00,000 vide Finance Act 2025.”

393.5.27 On the suggestion for inclusion of clarification issued vide the Circular, the Ministry in written reply have submitted as below:
“The stakeholder through the suggestion seeks inclusion of clarification issued vide circular no 715 dated 08.08.1995 in the IT Bill.
The suggestion is not acceptable as it pertains to clarification with respect to provisions

of the IT Bill. Clarifications are issued separately through circulars from time to time by CBDT to remove any difficulty/ambiguity in interpretation of the provisions of the Act."

393.5.28 On various other suggestions at Para 393.4.28, the Ministry in their written reply have submitted as below:

"Issues raised are in nature of seeking regular systemic improvements. These are already taken care of."

393.6.<u>Observations/Recommendations of the Committee</u>

The Committee note that numerous suggestions have been received from various stakeholders concerning Clause 393 of the Bill, which provides for tax deduction at source on various payments. All sections in the Income-Tax Act, 1961 specifying various sums liable to TDS have been merged into a single section in the Bill providing 3 tables based on three broad categories of Payees: (i) Residents, (ii) Non-residents, and (iii) any person. The Committee observe that the clause primarily exhibits certain inconsistencies attributable to drafting oversights. After detailed, in-depth deliberation, and having considered both the views of stakeholders and the response of the Department, the Committee recommends the following revisions:-

(i) Duplication Rectification (Clause 393(1)(4)(ii)): The Committee note that "Serial Number 4 of Schedule V in the Table under the Head 'Income from Capital Market' has been referred to twice. As agreed to by the Department, this duplication may be rectified.

(ii) Threshold Limit Clarification (Clause 393(1)(6)(iii)): The Committee note that stakeholders suggested providing an independent threshold of ₹50,000 for five different sums referred to in Clause 393(1) Table Sl. No. 6(iii). While the threshold limits have been changed by Finance Act, 2025, there is a drafting error as limits have not been provided for 3 out of 5 sums. Since the threshold limits, as accepted by the Department, are to be aligned with the existing provisions of the Act, the Committee recommend to amend the clause suitably.

(ii) Tax Deduction Basis Correction (Clause 393(1) & 393(1)(8)(ii)): The Committee note that a stakeholder pointed out a contradiction: Clause 393(1) requires deduction of tax at source on the entire amount of such income or sum where it exceeds the specified threshold, while Clause 393(1)(8)(ii) specifies the rate of tax to be applied only on such sum exceeding ₹50 lakhs. The Department has acknowledged this as an inadvertent drafting error which requires redrafting to provide that TDS shall be deducted only on the sum exceeding ₹50 lakhs. Accordingly, the Committee recommend that the same may be redrafted.

(iii) "Benefit or Perquisite" Definition (Clause 393(1)(8)(iv)) : The Committee note that stakeholders pointed out the ambiguity in Note 2 appended to Serial No. 8(iv) in the Table, with respect to the nature of the "benefit or perquisite" mentioned therein, as it does not explicitly clarify whether such benefits include monetary payments effected through non-cash modes like cheque, demand draft, or bank transfer. The Department has concurred with the view of the stakeholder and agreed to make drafting corrections appropriately. The Committee approve the same.

(iv) Missing Notes Incorporation: The Committee observe that all sections in the Act specifying various sums liable to TDS have been merged into a single section providing 3 tables based on three broad categories of Payees. There are Notes supplied in the table itself which provide explanations specific to a clause. However, the Committee note that the following notes, as pointed out by the stakeholders, are missing, which creates ambiguity:

(a) Non-Resident Deduction Rate (Clause 393(2)): Note 2 as mentioned in Serial No. 10 and 15 in Column E of the Table under Clause 393(2), which specifies the rate of deduction of income tax when such income is credited to a non-resident.

(b) Winnings in Kind (Clause 393): Note 3 in Column D of the Table in Clause 393 related to tax deduction when the winnings are in kind.

In this regard, the Department has admitted that "Three Notes below the table in Clause 393(2) and Clause 393(3) respectively have inadvertently been missed." The Committee, therefore, recommend rectifying this anomaly by incorporating Notes suitably in Clause 393(2) and Clause 393(3) respectively as proposed.

(v) Inclusion of "Circular" (Clause 536(2)(j)): Responding to the suggestion that circulars/notifications providing exemption from TDS need to be incorporated in the table in Clause 393(4) of the Bill, the Department has clarified that notifications/instructions etc. have already been covered in Clause 536(2)(j) of the Bill, and the word "circular" will be considered for inclusion. As agreed to by the Department, the Committee recommend including the word "circular" in Clause 536(2)(j).

(vi) Zero Tax Liability for Senior Citizens (Income-Tax Bill, 2025): It has been brought to the notice of the Committee that provisions similar to Section 197A(1C) of the current Act for zero tax liability benefit to senior citizens are missing in the Income-Tax Bill, 2025. The Department has admitted to the

inadvertent drafting error (Clause 393(6)). The Committee, therefore, recommend the Department to rectify this drafting error.

(vii) Redundant Senior Citizen Reference (Clause 393(6)): Clause 393(6) deals with entitlement for no deduction at source for such persons. A stakeholder has suggested removing the reference to senior citizens in Sl. No. 2(a) of the table below Clause 393 as senior citizens are already covered in Sl. No. 2(b) of the table. The Department has admitted to the inadvertent drafting error. Accordingly, the Committee recommend carrying out this drafting correction.

(viii) Typographical error: For Clause 393(3) in Column D at Serial No. 3 the word 'lilmit' may be replaced with 'limit'.

(ix) The reference of the repealed Act viz. Income-Tax Act, 1961 may be removed from the Table at sl.no.7(c)(i) in sub-clause (3) of Clause 393 and incorporated in Clause 536 which provides for Repeals and Savings.

Apart from the above drafting corrections, the Committee accept Clause 393 as proposed by the Department.

Clause -394- Collection of tax at source.394.

394.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) Every person, as specified in column C of the Table below shall collect tax—(*a*) on receipts specified in column B;(*b*) at the rate as specified in column D; and (*c*) at the time of debiting of the amount payable by the buyer or licensee or lessee to the account of the buyer or licensee or lessee or at the time of receipt of such amount from the said buyer or licensee or lessee in cash or by way of a cheque of a draft or any other mode, whichever is earlier.

Table TAX COLLECTION AT SOURCE

Sl. No.	Nature of receipt	Person	Rate of Tax Collected at Source
A	B	C	D
1.	Sale of alcoholic liquor for human consumption.	Seller.	1%.
2.	Sale of tendu leaves.	Seller.	5%.
3.	Sale of timber whether obtained under a forest lease or otherwise; or any other forest produce (not being timber or tendu leaves) obtained under a forest lease.	Seller.	2%.
4.	Sale of scrap.	Seller.	1%.
5.	Sale of minerals, being coal or lignite or iron ore.	Seller.	1%.
6.	Sale consideration exceeding ₹10,00,000 in case of—(*a*) motor vehicle; or(*b*) any other goods, as notified by the Central Government.	Seller.	1%.

A	B	C	D
7.	Remittance under the Liberalised Remittance Scheme of an amount or aggregate of the amounts exceeding ₹10,00,000—	Authorised dealer.	(*a*) 5% for purposes of education or medical treatment;(*b*) 20% for purposes other than education or medical treatment.
8.	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure.	Seller.	(*a*) 5% of amount of aggregate of amounts upto ₹10,00,000;(*b*) 20% of amount or aggregate of amounts exceeding ₹ 10,00,000.
9.	Use of parking lot or toll plaza or mine or quarry for the purpose of business, excluding mining and quarrying of mineral oil (including petroleum and natural gas).	Licensor or Lessor.	2%.

(*2*) The collection of tax shall not to be made in respect of receipts specified in sub-section (*1*) (Table: Sl. No. 1 to 5) in respect of the buyer, who is a resident in India, if he furnishes a written declaration in duplicate in such form and manner, as prescribed, to the person responsible for collecting tax, mentioning that such goods are to be utilised––(*a*) for the purposes of manufacturing, processing or producing articles or things or for generating power; and(*b*) not for trading purposes.(*3*) Where no collection of tax is to be

made under sub-section (*2*), the person responsible for collecting tax shall deliver, one copy of the declaration referred to in that sub-section, to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month of receipt of that declaration.(*4*) The collection of tax shall not be made by the authorised dealer in respect of receipt specified in serial number 7 of the Table in sub-section (*1*) on such amount on which tax has been collected by the seller referred to in serial number 8 of the Table in sub-section (*1*).(*5*) The collection of tax shall not be made by the authorised dealer or seller, in respect of receipt specified in sub-section (*1*) (Table: Sl. No. 7 and 8), if the buyer is liable to deduct tax at source under any other provisions of this Act and he has deducted such tax.(6) For the purposes of this sub-section, "forest produce" shall have the same meaning as defined in any State Act for the time being in force, or in the Indian Forest Act, 1927.

394.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

206C. (1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:TABLE

Sl. No.	*Nature of goods*	*Percentage*
(1)	*(2)*	*(3)*
(*i*)	Alcoholic Liquor for human consumption	One per cent
(*ii*)	Tendu leaves	Five per cent

(*iii*)	Timber [18][*or any other forest produce (notbeingtendu leaves*)] obtained under a forest lease	[19][*Two*] per cent
(*iv*)	Timber obtained by any mode other than under a forest lease	[19][*Two*] per cent
(*v*)	[20][***]	
(*vi*)	Scrap	One per cent
(*vii*)	Minerals, being coal or lignite or iron ore	One per cent:

Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Act, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.[21][Explanation.—*For the purposes of this sub-section, "forest produce" shall have the same meaning as defined in any State Act for the time being in force, or in the Indian Forest Act, 1927 (16 of 1927)*.](1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.(1B) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.(1C) Every person, who grants a lease or a licence or enters into a

contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter in this section referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sl. No.	*Nature of contract or licence or lease, etc.*	*Percentage*
(1)	*(2)*	*(3)*
(*i*)	Parking lot	Two per cent
(*ii*)	Toll plaza	Two per cent
(*iii*)	Mining and quarrying	Two per cent.

Explanation 1.—For the purposes of this sub-section, "mining and quarrying" shall not include mining and quarrying of mineral oil.*Explanation 2.*—For the purposes of *Explanation 1*, "mineral oil" includes petroleum and natural gas.(1D) [***](1E) [***][22][*(1F) Every person, being a seller, who receives any amount as consideration for sale of—*

*(*i*) a motor vehicle; or*

*(*ii*) any other goods, as may be specified by the Central Government by notification in the Official Gazette,*

of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to one per cent of the sale consideration as income-tax.](1G) Every person,—

(*a*) being an authorised dealer, who receives an amount, for remittance [23][***] from

a buyer, being a person remitting such amount [23][***] under the Liberalised Remittance Scheme of the Reserve Bank of India;

(*b*) being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package,

shall, at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier, collect from the buyer, a sum equal to [24][five] per cent of such amount as income-tax:Provided that the authorised dealer shall not collect the sum, if the amount or aggregate of the amounts being remitted by a buyer is less than [25][*ten*] lakh rupees in a financial year [26][***]:Provided further that the sum to be collected by an authorised dealer from the buyer shall be equal to [27][twenty] per cent of the amount or aggregate of the amounts in excess of [25][*ten*] lakh rupees remitted by the buyer in a financial year, where the amount being remitted [28][[29][is for purposes other than] education or medical treatment]:[30][Provided also*that the authorised dealer shall not collect the sum if the amount being remitted out is a loan obtained from any financial institution as defined in clause (*b*) of sub-section (3) of section 80E, for the purpose of pursuing any education:*][31][Provided also that the seller of an overseas tour programme package shall collect a sum of twenty per cent of the amount or aggregate of amounts in excess of [32][*ten*] lakh rupees received from the buyer in a financial year:]Provided also that the authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller:Provided also that the provisions of this sub-section shall not apply, if the buyer is,—

(*i*) liable to deduct tax at source under any other provision of this Act and has deducted such amount;

(*ii*) the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the *Explanation* to clause (*20*) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein:

[33][Provided also that the sum to be collected under this sub-section on or after the 1st day of July, 2023 and before the 1st day of October, 2023, shall be collected in accordance with the provisions of this sub-section as they stood on the 1st day of April, 2023.]*Explanation.*—For the purposes of this sub-section,—

(*i*) "authorised dealer" means a person authorised by the Reserve Bank of India under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999) to deal in foreign exchange or foreign security;

(*ii*) "overseas tour programme package" means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relationthere to.

(1H) Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax:Provided that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause (*ii*) of sub-section (1) of section 206CC shall be read as if for the words "five per cent", the words "one per cent" had been substituted:Provided further that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount:[34][Provided also*that nothing contained in the provisions of this sub-section shall apply from the 1st day of April, 2025.*]*Explanation.*—For the purposes of this sub-section,—

(*a*) "buyer" means a person who purchases any goods, but does not include,—

(*A*) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(*B*) a local authority as defined in the *Explanation* to clause (*20*) of section

10; or

(*C*) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;

(*b*) "seller" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

(1-I) If any difficulty arises in giving effect to the provisions of sub-section (1G) or sub-section (1H), the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty. (1J) Every guideline issued by the Board under sub-section (1-I) shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to collect the sum. (2) The power to recover tax by collection under this section shall be without prejudice to any other mode of recovery. (3) Any person collecting any amount under this section shall pay within the prescribed time the amount so collected to the credit of the Central Government or as the Board directs : Provided that the person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed. (3A) In case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed

income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed. (3B) The person referred to in the proviso to sub-section (3) may also deliver to the prescribed authority under the said proviso, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said proviso in such form and verified in such manner, as may be specified by the authority:[35][Provided *that no correction statement shall be delivered after the expiry of six years from the end of the financial year in which the statement referred to in the proviso to sub-section (3) is required to be delivered.*] (4) Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person [36][*or any other person eligible for credit*] for the amount so collected in a particular assessment year in accordance with the rules as may be prescribed by the Board from time to time. (5) Every person collecting tax in accordance with the provisions of this section shall within such period as may be prescribed from the time of debit or receipt of the amount furnish to the buyer or licensee or lessee to whose account such amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed :

Provided that the prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) shall, within the prescribed time after the end of each financial year beginning on or after the 1st day of April, 2008, prepare and deliver to the buyer referred to in sub-section (1) or, as the case may be, to the licensee or lessee referred to in sub-section (1C), a statement in the prescribed form specifying the amount of tax collected and such other particulars as may be prescribed. (5A) Every person collecting tax before the 1st day of April, 2005 in accordance with the provisions of this section shall prepare within the prescribed time after the end of each financial year, and deliver or cause to be delivered to the prescribed income-tax authority or such other authority or agency as may be prescribed such returns in such form and verified in such manner and setting forth such particulars and within such time

as may be prescribed : Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section. (5B) Without prejudice to the provisions of sub-section (5A), any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, may at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme: Provided that where the person collecting tax is a company or the Central Government or a State Government, such person shall, in accordance with the provisions of this section, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme. (5C) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein. (5D) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (5B) is defective, he may intimate the defect to the person collecting tax and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return. (6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the

Central Government in accordance with the provisions of sub-section (3). (6A) If any person responsible for collecting tax in accordance with the provisions of this section does not collect the whole or any part of the tax or after collecting, fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax:

Provided that any person responsible for collecting tax in accordance with the provisions of sub-section (1) and sub-section (1C), who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

(*i*) has furnished his return of income under section 139;

(*ii*) has taken into account such amount for computing income in such return of income; and

(*iii*) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed: Provided further that no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without good and sufficient reasons failed to collect and pay the tax.(7) Without prejudice to the provisions of sub-section (6), if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple [37][*interest*—

*(*a*)* *at the rate of one per cent for every month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which such tax is collected; and*

*(*b*)* *at the rate of one and one-half per cent for every month or part thereof on the amount of such tax from the date on which such tax was collected to the date on which such tax is actually paid,*

and such interest shall be paid] before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3): Provided that in case any person responsible for collecting tax in accordance with the provisions of this section,

fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee: Provided further that where an order is made by the Assessing Officer for the default under sub-section (6A), the interest shall be paid by the person in accordance with such order. [38][*(7A) No order shall be made under sub-section (6A) deeming a person to be an assessee in default for failure to collect the whole or any part of the tax from any person, at any time after the expiry of six years from the end of the financial year in which tax was collectible or two years from the end of the financial year in which the correction statement is delivered under sub-section (3B), whichever is later:*] [39][Provided*that the provisions of sub-sections (3), (5) and (6) of section 153 and* Explanation 1 *thereof shall, so far as may be, apply to the time limit specified in this sub-section.*] (8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the person responsible for collecting tax. (9) Where the Assessing Officer is satisfied that the total income of the buyer or licensee or lessee justifies the collection of the tax at any lower rate than the relevant rate specified in [40][sub-section (1) [41][*or sub-section (1C)*]], the Assessing Officer shall, on an application made by the buyer or licensee or lessee in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in [40][sub-section (1) [41][*or sub-section (1C)*]]. (10) Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate. (10A) In case the provisions of sub-section (1) [except the goods referred at serial number (*i*) in the TABLE], [42][*(1C) or (1F)*] require collection of tax at source during the period commencing from the 14th day of May, 2020 to the 31st day of March, 2021, then, notwithstanding anything contained in these sub-sections the collection of tax shall be made at the rate being the three-fourth of the rate specified in these sub-sections. (11) The Board may, having regard to the

convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (9) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith. [43-45][(12) Notwithstanding anything contained in this section, no collection of tax shall be made or collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as the Central Government may, by notification in the Official Gazette specify in this behalf.]*Explanation.*—For the purposes of this section,—

(*a*) "accountant" shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288;

(*aa*) "buyer" with respect to—

(*i*) sub-section (1) means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (1) or the right to receive any such goods but does not include,—

(*A*) a public sector company, the Central Government, a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(*B*) a buyer in the retail sale of such goods purchased by him for personal consumption;

(*ii*) [***]

(*iii*) sub-section (1F) means a person who obtains in any sale, goods of the ıre specified in the said sub-section, but does not include,—

(*A*) the Central Government, a State Government and an embassy, igh Commission, legation, commission, consulate and the trade esentation of a foreign State; or

(*B*) a local authority as defined in *Explanation* to clause (*20*) ection 10; or

(*C*) a public sector company which is engaged in the business of ying passengers.

(*ab*) [***]

(*b*) "scrap" means waste and scrap from the manufacture or chanical working of materials which is definitely not ble as such because of breakage, cutting up, wear and er reasons;

(*c*) "seller" with respect to sub-section (1) and sub-section) means the Central Government, a State Government or local authority or corporation or authority established by nder a Central, State or Provincial Act, or any company firm or co-operative society and also includes an vidual or a Hindu undivided family whose total sales, ss receipts or turnover from the business or profession ied on by him exceed one crore rupees in case of iness or fifty lakh rupees in case of profession during the ncial year immediately preceding the financial year in ch the goods of the nature specified in the Table in sub- tion (1) are sold.

Tax collection account number.

206CA. (1) Every person collecting tax in accordance with the provisions of section 206C, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a tax collection account number. (2) Where a tax collection account number has been allotted to a person, such person shall quote such number—

(*a*) in all challans for the payment of any sum in accordance with the provisions of sub-section (3) of section 206C;

(*b*) in all certificates furnished under sub-section (5) of section 206C;

(*c*) in all the returns delivered in accordance with the provisions of sub-section (5A)

or sub-section (5B) of section 206C to any income-tax authority; and

(*d*) in all other documents pertaining to such transactions as may be prescribed in the interest of revenue:

Provided that the provisions of this section shall not apply on or after the 1st day of October, 2004.Special provision for collection of tax at source for non-filers of income-tax return.206CCA.[47][*Omitted by the Finance Act, 2025, w.e.f.* 1-4-2025.]

394.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 394 of the Bill provides for tax collection at source on various transactions. Redundant provisions have been removed. A table has been provided to make TCS related provisions easier to comprehend. The provision related to exemption of remittance for education purposes out of loan from specified financial institution from TCS has been brought via Finance Act, 2025. However, the same has been inadvertently remained to be added in the clause 394 of the Bill. The said provision will be added in clause 394 of the Bill. The clause corresponds to section 206C of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause(The Finance Act, 2025 provided exemption from TCS on remittances made from loans for education purposes obtained from financial institutions defined in clause 129(3)(b). This amendment is also required to be made in the IT Bill, 2025.)

394.4.1 Important views/Suggestions given by Experts/Stakeholders

394.4.1: In clause 394(1)(4) Scrap and waste may be removed from scope of TCS. The rationale for introduction of levy of TCS on scrap around 30 years back was to prevent excise duty evasion, because manufacturing industries used to sell fresh goods by wrongly classifying as scrap on which no excise duty was payable. To track sale of such scrap by excise department and by income tax department, TCS was introduced on scrap. However, since GST is now leviable on scrap and waste it may not be necessary to continue TCS on sale of scrap.

394.4.2: In clause 394(1) (7) The TCS rate on remittance for education purposes funded from educational loan from qualifying financial institution be modified to NIL as proposed by FB 2025.Insert a provision in ITB 2025 to provide exemption from TCS on remittances for education financed by loans from specified financial institutions, similar to Section 80E of ITA 1961.

394.4.3**:** In clause Clause 394(1)(8) Applicability of TCS provisions to non-resident seller of tour packages, operating outside India but offering services to Indian tourists may be included. Clause 394(1)(8) of the new Bill provides for levy of TCS on sale of overseas tour programme package including expenses for travel or hotel stay or boarding or lodging or related expenditure at the rate of 5% upto Rs 10 Lakh and at the rate of 20% on amount exceeding Rs 10 Lakhs The section is silent on the applicability of TCS provisions to non-resident seller of tour packages, operating outside India but offering services to Indian tourists. Clarity be issued that the said levy would not be attracted in case of non-resident seller of overseas tour package

394.4.4: For Clause 394(3) Two issues regarding the Clause has been raised by the Stakeholders

(i) With the transition to digital platforms, the declarations are submitted online only to prescribed authority in the manner prescribed. It is not clear as to the point of time when the declaration should be obtained from the buyer, which may be incorporated in the section. For Section 394(3):- (*3*) Where no collection of tax is to be made under sub-section (*2*), the person responsible for collecting tax shall deliver, one copy of the declaration referred to in that sub-section **to the prescribed authority in the manner prescribed**, ~~to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,~~ on or before the seventh day of the month following the month of receipt of that declaration.

(ii) It is not clear as to the point of time when the declaration should be obtained from the buyer, which may be incorporated in the section as below :

The person responsible for collecting shall obtain such declaration from the buyer at the time of each sale transaction or at the time of receipt or debit of first amount in respect of any such sale, whichever is earlier.

394.5 Examination by the Committee

The Department has responded to the above suggestions in their written reply have as under (mentioned correspondingly):

394.5.1 "The stakeholder seeks to omit the TCS provisions on sale of scrap on the ground that since GST is now leviable on scrap and waste it may not be necessary to continue TCS on sale of scrap. The suggestion is in the nature of policy. The trade of scrap is sensitive and evasion prone. If TCS is not collected, scrap buyers would go out of tax net. The suggestion is not feasible."

394.5.2 "The Finance Act, 2025 provided exemption from TCS on remittances made from loans for education purposes obtained from financial institutions defined in clause 129(3)(b). This amendment is also required to be made in the IT Bill, 2025.The suggestion is acceptable."

394.5.3: "The stakeholder seeks clarification on applicability of TCS provisions to non-resident seller of tour packages, operating outside India but offering services to Indian tourists."

394.5.3(a) In their oral submission on 10.06.2025, the representative of the Department deposed as under:

"The stakeholder is asking for clarification on applicability of TCS provisions to non-resident seller of tour packages. This is not something which is related to provisions of the Bill. So, if clarification is required, it can be provided by CBDT by way of circular."

394.5.4: "The suggestion seeks to know whether the declaration for no collection of tax (on a/c of usage in manufacturing etc.) is to be obtained at the time of first sale or for each of the sale. The declaration is to be given by the buyer at the time of sale. Where

there are multiple sale transactions, it is for the seller to satisfy himself that the declaration is in respect of which of the transactions. The responsibility lies with the seller to satisfy himself. This is not a matter of the Bill or the Rules. “

394.6 Observations/Recommendations of the Committee:

The Committee note that Clause 394(1) of the Bill corresponds to Section 206C(1G) of the Income-Tax Act, 1961, which mandates Tax Collection at Source (TCS) on remittances for educational purposes where the funds are sourced from loans obtained from specified financial institutions. However, a stakeholder has identified a significant oversight: the Bill fails to incorporate the exemption from TCS on educational remittances that was introduced by the Finance Act, 2025.

The Committee is cognizant that, under the Liberalized Remittance Scheme, educational loans procured from specified financial institutions (as defined in Clause 129(3)(b) of the Income-Tax Bill) are exempt from TCS. Furthermore, as per the substitution made by the Finance Act, 2025, Section 206C(1G) of the Income-Tax Act, 1961, effective from April 1, 2025, explicitly states that an authorized dealer is not required to collect tax if the remitted amount is a loan obtained from a financial institution for educational pursuits. The Department has acknowledged this omission, confirming the necessity of this amendment in the Income-Tax Bill, 2025. Consequently, the Committee strongly recommend that the Department incorporate this crucial provision into the Bill.

Apart from this essential addition, there is a change in Clause 394(1)(c) where in the phrase "cheque of a draft" the word 'of' may be replaced with 'or' . Besides the above changes, the Committee accept the Clause 394 as proposed.

Clause-395 - Certificates

395.1 Provisions proposed in the Income-Tax Bill, 2025:

395 (1) Where tax is required to be deducted on any income or sum under this Chapter, then subject to the rules made under this Act,—

(a)the payee may make an application before the Assessing Officer for deduction of tax at a lower rate; and

(b) the Assessing Officer on being satisfied that the total income of the payee justifies a lower deduction, shall issue a certificate as appropriate; and

(c) when a certificate is issued under clause (b), the person responsible for paying the income or amount shall deduct the tax at the rate specified in such certificate till its validity.

(2) (a) The person responsible for paying to a non-resident any sum chargeable under this Act (other than salary), may make an application to the Assessing Officer in such form and manner as prescribed, where he considers that the whole of such sum would not be chargeable in the case of the recipient;

(b) the application under clause (a) shall be for determination of the appropriate proportion of the sum chargeable to tax, by the Assessing Officer in the manner as prescribed; and

(c) when the determination is made by the Assessing Officer as per clause (b), the tax shall be deducted under section 393(2)(Table: Sl. No. 17) only on that proportion of sum which is chargeable to tax under the Act.

(3) Where tax is required to be collected on any amount under this Chapter, then subject to the rules made under this Act,—

(a) the buyer or licensee or lessee may make an application before the Assessing Officer for collection of tax at a lower rate; and;

(b) the Assessing Officer on being satisfied that the total income of the buyer or licensee or lessee justifies a lower collection, shall issue a certificate as may be appropriate; and(c)when a certificate is issued under clause (b), the person responsible for collecting tax shall collect it at the rates specified in such certificate till its validity.

(4)

(a) Every person deducting or collecting tax shall issue a certificate to the deductee or collectee, as the case may be, specifying—

(i) the amount of tax that has been deducted or collected;

(ii) the rate at which tax has been deducted or collected; and

(iii) any other particulars, as prescribed,within such period as prescribed.

(b) An employer referred to in section 392(2)(a) shall issue a certificate to the employee, in respect of whose income payment of tax has been made by the employer, that the tax has been paid to the Central Government, and specify—

(i) the amount of tax so paid;

(ii) the rate at which tax has been paid; and

(iii) any other particulars, as prescribed,

within such period, as prescribed.

(5) The assessing officer may cancel the certificate granted under sub-section (1) or (3) after giving reasonable opportunity to the applicant.

395.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Other sums.

195 (2) Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.**Certificate for deduction at lower rate.**

197. (1) Subject to rules made under sub-section (2A), where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-

I, 194J, 194K, 194LA, [9][194LBA], 194LBB, 194LBC, 194M, 194-O, [10][194Q] and 195, the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

(2A) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (1) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

(3) [***]No deduction to be made in certain cases.

197A. (1) Notwithstanding anything contained in section 194 or section 194EE, no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 194 or, as the case may be, section 194EE, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

(1A) Notwithstanding anything contained in section 192A or section 193 or section 194A or section 194D or section 194DA or section 194-I or section 194K, no deduction of tax shall be made under any of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in section 192A or section 193 or section 194A or section 194D or section

194DA or section 194-I or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.(1B) The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (1) or sub-section (1A), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.

(1C) Notwithstanding anything contained in section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K or sub-section (1B) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty years or more at any time during the previous year, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(*a*) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or

(*b*) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

Explanation.—For the purposes of this sub-section "Offshore Banking Unit" shall have the same meaning as assigned to it in clause (*u*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10.

(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.

(2) The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1) or sub-section (1A) or sub-section (1C) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Certificate for tax deducted.

203. (1) Every person deducting tax in accordance with the foregoing provisions of this Chapter shall, within such period as may be prescribed from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any dividend to a shareholder, furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.

(2) Every person, being an employer, referred to in sub-section (1A) of section 192 shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.

(3) [***]

206C(9) Where the Assessing Officer is satisfied that the total income of the buyer or licensee or lessee justifies the collection of the tax at any lower rate than the relevant

rate specified in [40][sub-section (1) [41]**[***or sub-section (1C)***]**], the Assessing Officer shall, on an application made by the buyer or licensee or lessee in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in [40][sub-section (1) [41]**[***or sub-section (1C)***]**].**206C**(10) Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate.

395.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 395 of the Bill provides for issuance of certificate for lower deduction/collection of tax. The clause corresponds to section 195(2), 197, 197A,203, 206C(9), 206C(10) of the Act. Provisions relating to issuance of certificate for lower deduction and lower collection of tax have been merged into clause 395. The scope of lower deduction/collection certificate has been expanded to all the sections to rationalize and simplify the provisions. The term Nil deduction used in section197 of the Act has been removed as it is included in lower deduction itself. The language of the existing sections has also been simplified. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

395.4 Important views/Suggestions given by Experts/Stakeholders

Time limit for issue of Certificate

395.4.1 As per the citizens Charter issued by CBDT, there is 30 days time limit to issue certificate u/s 197 (ITA, 1961) or 395 (ITB 2025) Practically it takes more than 30 days even for a medium sized trust to get the certificate – It is suggested that window to apply for the same be opened 90 days before the start of new tax year Fixed time limit may also be prescribed under the ITB 2025 for issuance of certificate so that unnecessary TDS deductions can be avoided Otherwise it will lead to compliance requirements by assessee, banks and Income tax department.

395.4.2 **:** Clause 395(1) of ITB 2025 continues the facility to obtain lower TDS certificate but makes no reference to NIL TDS certificate facility. The NIL TDS certificate is generally obtained by foreign banks operating in India which relieves its customers from TDS compliance on all payments. It is also availed by loss making entities or non-residents availing treaty benefits. Removal of NIL TDS certificate facility will result in unnecessary TDS compliance burden, loss to Govt. in the form of interest on refunds. etc. Customers of foreign banks will need to obtain TAN, do TDS on each & every payment without threshold, file quarterly TDS returns and issue TDS certificates. To avoid the administrative hassles of TDS compliance burden for payers and payees seeking refunds, it is recommended to reinstate provisions of facility of obtaining NIL TDS certificate u/s 395(1) of ITB 2025.

395.4.3 In Transmission Corporation of A.P. Ltd. vs. Commissioner of Income Tax (1999) 239 ITR 587, the Supreme Court has held that the obligation of the assessee to deduct tax at source under section 195 of the Income-tax Act, 1961 is limited only to the appropriate proportion of income chargeable under the Act. Accordingly, the deductee may not be made to undergo such a cumbersome process for obtaining lower tax deduction certificate, if tax at the applicable rate is deducted on the sum chargeable to tax and not the entire consideration.

Considering the decision of the Supreme Court in Transmission Corporation of A.P. Ltd.' s case, a report of a chartered accountant in the prescribed form certifying the sum chargeable to tax be obtained. Tax@12.5% to be deductible where the sum chargeable to tax represents capital gains on transfer of a long-term capital asset and tax@ 30% to be deductible where the sum chargeable to tax represents capital gains from transfer of a short-term capital asset. This would alleviate the requirement of having to obtain certificate for lower deduction of tax at source.

395.4.4 Drawing a parallel reference to section 194-IA (which applies to resident transferors), where a transferee responsible for paying to a resident transferor any sum by way of consideration for transfer of any immovable property is required to deduct tax@1% on actual consideration or stamp duty value of the property, whichever is

higher, without the requirement to obtain a TAN. A similar provision may be introduced where a transferee is responsible for paying to a non-resident transferor any sum by way of consideration for transfer of any immovable property. In such cases, the resident transferee may be allowed to deduct tax at source on payments made to a non-resident seller at the applicable rate without obtaining a TAN.

The transferee responsible for paying to a non-resident transferor may be exempted from the requirement to obtain TAN.

395.5 Examination by the Committee

395.5.1 On the suggestion for timely issue of TDS certificate, the Department in their written submission has stated as under :

"The stakeholder seeks fixed time limit be prescribed under the ITB 2025 for issuance of certificate under section 197 of the IT Act.
The suggestion is not acceptable as it is not related to any provision of the Bill.
The suggestion is administrative in nature."

395.5.1(a). However, when the Committee deliberated upon the above suggestion during the oral evidence on 10.06.2025, the representative of the Department agreed to consider the suggestion and added as follows:-

"The request is that the time limit be prescribed for issuance of that certificate. So, administratively, we have divided time limit of 30 days. The process also is electronic. It can be electronically monitored".

395.5.2 Regarding the suggestion for issue of NIL TDS certificate, the Department in their written submission has stated as under :

"*Clause 395 relates to provision for lower deduction or lower collection certificate. In the Income-tax Act, the certificate could be provided even at Nil rate. This facility has not been withdrawn. In clause 395, simplification was sought to be made by removal of the word 'Nil' as it was considered that 'lower' includes 'Nil'. The issue will be clarified through administrative instructions/*

guidance. The suggestion is acceptable. The word 'Nil' has been removed as the term 'lower' includes 'Nil'. Clause 395(1) (a) relates to provision for lower deduction or lower collection certificate. In the Income-tax Act, the certificate could be provided even at Nil rate. This facility has not been withdrawn. The issue will be clarified through administrative instructions/ guidance. The suggestion is acceptable".

395.5.3 With regard to suggestion for substituting the lower deduction certificate with the report from Chartered Accountant, the Department in their written submission has stated as under :

"The stakeholder has suggested that for the purposes of provisions of cl 395(2) of the Bill (sec 195 of the Act) (related to lower deduction certificate on payment to non-residents) instead of following the process of obtaining lower deduction certificate from AO, a report of chartered accountant in prescribed form certifying the sum chargeable to tax be obtained.

Clause 395(2) of the Bill provides that the person responsible for paying to a non-resident may make application before the AO to determine the appropriate proportion of sum changeable to tax where whole of such sum is not chargeable in the hands of recipient.

Presently, the person responsible for paying to non-resident makes an application before the AO who verifies the details submitted by the person. Only after being satisfied with the detail submitted, the AO grants lower deduction certificate to the payer.

The process of obtaining lower deduction certificate cannot be substituted with the report from the chartered accountant as it may lead to misuse of the provisions of the Bill/Act. "

395.5.4 Regarding the suggestion for allowing resident transferee to deduct TDS for payment made to NRI seller without TAN, the Department in their written submission has stated as under :

"The stakeholder has suggested that the resident transferee may be allowed to deduct tax at source on payments made to a non-resident seller at the applicable rate without obtaining a TAN. The suggestion is in the nature of policy. The existing provisions of the Act have been retained in the Bill. "

395.6 Observations/Recommendations of the Committee

The Committee note that Clause 395 of the Bill, which simplifies and merges several Sections (195(2), 197, 197A, 203, 206C (9), 206C (10)) of the current Income Act, 1961 concerning certificates for lower tax deduction or collection. The intent remains the same. A key change in this simplification is the removal of the term "Nil deduction," previously found in Section 197 of the Act. The Department's rationale is that "Nil" is already encompassed within "lower deduction." The Committee however feel that the Department's clarification that "lower certificate" includes "Nil" creates ambiguity and could lead to administrative difficulties for taxpayers. While the Department has agreed to issue administrative instructions to clarify this, the Committee believe that simply adding the word "NIL" back into Clause 395 would more effectively resolve this confusion. After considering stakeholder input, departmental views, and extensive deliberation the Committee therefore recommend reinstatement of term "NIL" in the Clause.

Apart from this, the Committee accept Clause 395 as proposed.

Clause - 396 - Tax deducted is income received.

396.1 Provisions proposed in the Income-Tax Bill, 2025:

396. The following sums shall be deemed as income received for the purposes of computing the income of an assessee—

(a) amount deducted under this Chapter; and

(b) income-tax paid outside India by way of deduction in respect of which an assessee is allowed a credit against the tax payable under this Act,except tax paid under section 392(2)(a) and tax deducted as per section 393(3)(Table: Sl. No. 5).

396.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Tax deducted is income received.

198. All sums deducted in accordance with the foregoing provisions of this Chapter [*and income-tax paid outside India, by way of deduction, in respect of which an assessee is allowed a credit against the tax payable under this Act,*] shall, for the purpose of computing the income of an assessee, be deemed to be income received :Provided that the sum being the tax paid, under sub-section (1A) of section 192 for the purpose of computing the income of an assessee, shall not be deemed to be income received:

Provided further that the sum deducted in accordance with the provisions of section 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received.

396.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 396 of the Bill seeks to provide that the following sums shall be deemed as income received for the purposes of computing the income of the assessee:(a) amount deducted under Chapter XIX of the Bill; and(b) income-tax paid outside India by way of deduction in respect of which an assessee is allowed a credit against the tax payable under the Act. The clause corresponds to section 198 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

396.4 Examination by the Committee

In reply to a specific query on changes (addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

"The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961."

396.6.Observations/Recommendations of the Committee

The Committee note that Clause 396 of the Income-Tax Bill, 2025, mapped to Section 198A of the Income-Tax Act, 1961, seeks to provide the certain sums which shall be deemed as income received for the purposes of computing the income of the assessee. The Committee approve Clause 396 as proposed, noting its simplified approach to existing provisions.

Clause - 397 - Compliance and reporting

397.1 Provisions proposed in the Income-Tax Bill, 2025:

397. (1) (a) Every person deducting or collecting tax shall apply to the Assessing Officer for allotment of a tax deduction and collection account number within such time as prescribed, if that person has not already been allotted such number;

(b) where a tax deduction and collection account number has been allotted to a person, such person shall quote such number in all challans, statements, certificates, and in all documents pertaining to such transactions as prescribed in the interests of revenue;

(c) the provisions of clause (a) shall not apply—

(i) to a person required to deduct tax under provisions of section 393(1)[Table: Sl. No. 2(i), 3(i) and 5(ii)];

(ii) to a person referred to in section 393(4) [Table: Sl. No. 12.C(a)]; and

(iii) a person notified in this regard by the Central Government.

(2) (a) Irrespective of anything contained in any other provision of this Act, every person, entitled to receive any amount on which tax is deductible or, paying any amount on which tax is collectible, shall furnish his valid Permanent Account Number to the person responsible for deducting or collecting tax;

(b) in case of failure to comply with provisions of clause (a)—

(i) tax be deducted at the higher of the following rates—

(A) at the rate specified in the relevant provision of this Act; or

(B) at the rate or rates in force; or

(C) at the rate of 5% where tax is required to be deducted under section 393(1)[Table: Sl. No. 8(ii) or 8(v)]; or 20% in any other case;

(ii) tax shall be collected at the higher of the following rates, not exceeding 20%—

(A) at twice the rate specified in the relevant provision of this Act; or

(B) at the rate of 5%;

(*c*) the provisions of clause (b)(i) shall not apply to a non-resident, not being a company or a foreign company in respect of—

(i) payment of interest on long-term bonds as specified in section 393(2)(Table: Sl. No. 2, 3 and 4); and

(ii) any other payment subject to such conditions, as prescribed;

(d) the provisions of clause (b)(ii) shall not apply to a non-resident who does not have permanent establishment in India (which includes a fixed place of business through which the business of the enterprise is wholly or partly carried on);

(e) in respect of rent specified in section 393(1) [Table: Sl. No. 2(i)], if the tax is required to be deducted as per clause (b)(i), then such deduction shall not exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy, as the case may be;

(f) if a person does not furnish his Permanent Account Number in—

(i) any declaration under section 393(6) or 394(2), then such declaration becomes invalid;

(ii) any application made under provisions as per section 395(1) or (3), then no certificate under such provisions shall be granted;

(g) if any declaration becomes invalid under clause (f)(i), then the deductor or collector shall deduct or collect tax as per the provisions of clause (b)(i) or (ii) as the case may be;

(h) the deductee or collectee shall furnish his Permanent Account Number to the deductor or collector, as the case may be, and the same shall be indicated in all bills, vouchers, correspondence and other documents which are sent to each other.

(3) (a) Every person responsible for deduction or collection of tax or employer referred to in section 392(2)(a) shall pay the amount so deducted or collected or determined as per section 392(2)(b) to the credit of the Central Government, in such time as prescribed;

(b) every person responsible for deduction or collection of tax or employer referred to in section 392(2)(a), after paying the tax to the credit of the Central Government as per clause (a), shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(c) every prescribed authority as per clause (b), shall deliver a statement in such form and manner as prescribed, to the buyer or licensor or lessee referred to in section 394(1)(Table: Sl. Nos. 1 to 4 or 9);

(d) every person responsible for paying to a non-resident, not being a company or a foreign company, any sum, whether or not chargeable under this Act, shall furnish the information relating to payment of such sum, in such form and manner as prescribed;

(e) in case of an office of the Government,—

(i) where the sum deducted under this Chapter or tax referred to in section 392(2)(a); or

(ii) where the amount collected under section 394(1)(Table: Sl. Nos. 1to 5 or 9),

has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(f) every person referred to in clause (b) or (e) may correct any discrepancy or update the information furnished, in the statement delivered under such clauses, by filing a correction statement in such form and verified in such manner as prescribed, within of six years from the end of the tax year in which such statement is required to be delivered;

(g) (i) any banking company or co-operative society or public company referred to in note 1 to section 393(1)(Table: Sl. No. 5) responsible for paying to a resident any income by way of interest, less than the amount mentioned in section 393(1)[Table: Sl. No. 5(ii) and (iii)], shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(ii) the Board may require any person, other than the person mentioned in sub-clause (i), responsible for paying to a resident any income which is liable for deduction of tax at source under this Chapter to deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(iii) the person referred to in sub-clause (i) or sub-clause (ii) may deliver a correction statement to correct any discrepancy or update the information furnished, in the

statement delivered under sub-clause (i) or sub-clause (ii) in such form and manner of verification, as prescribed;

(h) Any person responsible for collecting the tax who fails to collect the tax as per the provisions of section 394, shall, irrespective of such failure, be liable to pay the tax to the credit of the Central Government as per the provisions of clause (a).

397.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Duty of person deducting tax. 200.

(1) Any person deducting any sum in accordance with the foregoing provisions of this Chapter shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

(2) Any person being an employer, referred to in sub-section (1A) of section 192 shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.

(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

(3) Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such

authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:

Tax deduction and collection account number.

203A.

(1) Every person, deducting tax or collecting tax in accordance with the provisions of this Chapter, who has not been allotted a tax deduction account number or, as the case may be, a tax collection account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a "tax deduction and collection account number".

(2) Where a "tax deduction account number" or, as the case may be, a "tax collection account number" or a "tax deduction and collection account number" has been allotted to a person, such person shall quote such number—

(*a*) in all challans for the payment of any sum in accordance with the provisions of section 200 or sub-section (3) of section 206C;

(*b*) in all certificates furnished under section 203 or sub-section (5) of section 206C;

(*ba*) in all the statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200 or sub-section (3) of section 206C;

(*c*) in all the returns, delivered in accordance with the provisions of section 206 or sub-section (5A) or sub-section (5B) of section 206C to any income-tax authority; and

(*d*) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.

(3) The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.

Requirement to furnish Permanent Account Number.

206AA. (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIB (hereafter referred to as deductee) shall furnish his Permanent

Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—

(*i*) at the rate specified in the relevant provision of this Act; or

(*ii*) at the rate or rates in force; or

(*iii*) at the rate of twenty per cent:

Provided that where the tax is required to be deducted under section 194-O, the provisions of clause (*iii*) shall apply as if for the words "twenty per cent", the words "five per cent" had been substituted:

Provided further that where the tax is required to be deducted under section 194Q, the provisions of clause (*iii*) shall apply as if for the words "twenty per cent", the words "five per cent" had been substituted.

(2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.

(7) The provisions of this section shall not apply to a non-resident, not being a company, or to a foreign company, in respect of—

(*i*) payment of interest on long-term bonds as referred to in section 194LC; and

(*ii*) any other payment subject to such conditions as may be prescribed.

Requirement to furnish Permanent Account number by collectee.

206CC. (1) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—

(*i*) at twice the rate specified in the relevant provision of this Act; or

(*ii*) at the rate of five per cent:

[46][Provided that the rate of tax collection at source under this section shall not exceed twenty per cent.]

(2) No declaration under sub-section (1A) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under sub-section (9) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (1) shall apply accordingly.

(7) The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

397.3 Reasons/Justification given by the Department of Finance for the proposed provision Clause 397 of the Bill seeks to provide for compliance and reporting requirements for tax deduction at source and tax collection at source. The clause corresponds to section 200, 203A, 206AA, 206CC of the Act. TDS and TCS provisions related to compliance and reporting have been merged and placed together as an independent clause in the Bill. Tax deduction account number and Tax collection account number have been merged as "tax deduction and collection account number." The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

397.4 Important views/Suggestions given by Experts/Stakeholders

397.4.1 The clause 397(1)(b) in the Bill reads as "where a tax deduction and collection account number has been allotted to a person, such person shall quote such number in all challans, statements, certificates, and in all documents pertaining to such transactions as prescribed in the interests of revenue;" Quoting of TAN on all challans, statements and certificates without referencing them to relevant TDS and TCS provisions makes the provision vague and unworkable.

397.4.2 : In Clause 397(1)(c) Reference in 397(1)(c) to Table: Sl5(ii) should read as reference to Table :Sl 6(ii) the bill presently incorrectly refers to Sl 5(ii) which deals with interest other than on securities.

397.4.3: In Clause 397(3)(b) Missing reference to period for which TDS/TCS statements are to be filed needs to be added by incorporating the words "for such period" in 397(3)(b) as mentioned in the Section 200(3) of the Act…..397(3) should read as under: (b) every person responsible for deduction or collection of tax or employer referred to in section 392(2)(a), after paying the tax to the credit of the Central Government as per clause (a), shall deliver or cause to be delivered to the prescribed authority or the

person authorised by such authority, a statement for such period in such form, verified in such manner, giving such particulars and within such time, as prescribed;

397.5 Examination by the Committee

397.5.1 While accepting the above suggestion pertains to redrafting the provisions related to compliance and reporting of TDS/TCS, the Department in their written reply submitted as under :

"It is an inadvertent drafting error. The provisions of clause 397 related to compliance and reporting of TDS/TCS s provisions are to be redrafted to align it with the provisions of the Act."

397.5.2 With regard to the above suggestion for providing correct reference to Table:sl.6(ii) in Clause 397(1)(c), the Department in their written reply submitted as under :

"Accepted as It is an inadvertent drafting error. In clause 397(1)(c)(i) of the Bill, while referring to Sl. No. in the Table, 5(ii) has been inadvertently written in place of 6(ii), which corresponds to section 194M of the Income-tax Act, 1961."

397.5.3 Regarding suggestion for inclusion of words "for such period" in Clause 397(3), the Department in their written reply submitted as under :

"Accepted. It is an inadvertent drafting error. The phrase "for such period" has to be inserted in clause 397(3) (b) of the Bill."

397.6. Observations/Recommendations of the Committee

The Committee note that Clause 397 of the Bill, which consolidates and simplifies the compliance and reporting requirements for Tax Deducted at Source (TDS) and Tax Collected at Source (TCS), is a merger of provisions from existing Sections 200, 203A, 206AA, and 206CC of the current Act, streamlining them into a single, independent clause. Notably, the separate Tax Deduction Account Number (TAN) and Tax Collection Account Number (TCSAN) have been merged into a single "tax deduction and collection account number." The Committee also note that the intent of the original provisions has been retained despite the textual simplification. Stakeholders, however, have raised concerns about certain discrepancies within this Clause. After considering these views and the Department's responses, the Committee recommend the following:

i. **Clarity on TAN Quoting: The current drafting of Clause 397(1) (b)requires quoting the Tax Deduction and Collection Account Number (TAN) on all challans, statements, and certificates without explicitly linking it to relevant TDS and TCS provisions. The Department has acknowledged this as an inadvertent drafting error and has agreed to re-draft these provisions to align them with the current Act. The Committee concur with the Department's commitment to rectify this.**

ii. **Correction of Table Reference: In Clause 397(1)(c)(i), there's an incorrect reference to Sl. No. 5(ii) in the Table, which should be 6(ii). This corresponds to Section 194M of the Income-tax Act, 1961. The Department has admitted this drafting error, and the Committee expect the necessary correction to be made.**

iii. **Inclusion of "for such period" in Statements: Clause 397(3)(b) currently omits the phrase "for such period" when referring to the filing of TDS/TCS statements, a phrase present in Section 200(3) of the current Act. The Department has acknowledged this inadvertent drafting error and agreed to add "for such period" into Clause 397(3(b). The Committee recommend this proposed correction.**

Besides these drafting corrections, the Committee approve Clause 397 as proposed.

Clause-398 - Consequences of failure to deduct or pay or, collect or pay

398.1 Provisions proposed in the Income-Tax Bill, 2025:

398. (1) If a person, including the principal officer of a company,—
(a) who is required to deduct or collect any amount under this Act; or
(b) referred to in section 392(2)(a), being an employer,—
(i) does not deduct or pay; or
(ii) does not collect or pay; or
(iii) after deducting or collecting fails to pay,
the whole or any part of the tax, as required by or under this Act, he shall be deemed to be an assessee in default in respect of such tax in addition to any other consequences which that person may incur under this Act.
(2) Any person,—
(a) including the principal officer of a company, who fails to deduct; or
(b) responsible for collecting tax as per section 394(1) (Table: Sl. Nos. 1 to 5 and 9), who fails to collect,the whole or any part of the tax, as required under this Chapter, shall not be deemed to be an assessee in default if the payee or buyer or licensee or lessee has —
(i) furnished his return of income under section 263;
(ii) taken into account the amount for computing income in that return of income; and(iii) paid the tax due on the income declared by him in such return of income,
and the person furnishes a certificate to this effect from an accountant in the prescribed form.
(3) (a) Without prejudice to sub-section (1), if any person, as referred to in that sub-section does not deduct or collect the whole or any part of the tax or after deducting or

collecting fails to pay the tax as required under this Act, he shall be liable to pay simple interest—

(i) at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible or collectible to the date on which such tax is deducted or collected; and

(ii) at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted or collected to the date on which such tax is actually paid;

(b) the interest referred to in clause (a) shall be paid before furnishing the statement as per the provisions of section 397(3)(b).

(c) if the person referred to in sub-section (1) is not deemed to be an assessee in default under sub-section (2), then the interest as per clause (a)(i) is payable from the date on which that tax was deductible or collectible to the date of furnishing of return of income by the concerned payee or buyer or licensee or lessee, as the case may be;

(d) when an order is made by the Assessing Officer for the default under sub-section (1), the interest shall be paid by the person as per such order.

(4) Where the tax has not been paid after it is deducted or collected, the amount of the tax together with the amount of simple interest on it as referred to in sub-section (3)(a) shall be a charge upon all the assets of the person referred to in sub-section (1).

(5) The order shall not be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct or collect the whole or any part of the tax from any person—

(a) after six years from the end of the tax year in which tax was deductible or collectible; or

(b) after two years from the end of the tax year in which the correction statement is delivered under section 393(3)(f), whichever is later.

(6) The provisions of sections 286(1) and 286(3) shall apply to the time limit prescribed in sub-section (5).

(7) No penalty shall be charged under section 412 from the person mentioned in sub-section (1), unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.

398.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Consequences of failure to deduct or pay.

201. (1) Where any person, including the principal officer of a company,—

(*a*) who is required to deduct any sum in accordance with the provisions of this Act; or

(*b*) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee shall not be deemed to be an assessee in default in respect of such tax if such payee—

(*i*) has furnished his return of income under section 139;

(*ii*) has taken into account such sum for computing income in such return of income; and

(*iii*) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:

Provided further that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.

(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(*i*) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is

deducted; and

(*ii*) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid,

and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200:

Provided that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee but is not deemed to be an assessee in default under the first proviso to sub-section (1), the interest under clause (*i*) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such payee:

Provided further that where an order is made by the Assessing Officer for the default under sub-section (1), the interest shall be paid by the person in accordance with such order.

(2) Where the tax has not been paid as aforesaid after it is deducted, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A) shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from [15][*any person, at any time after the expiry of six years*] from the end of the financial year in which payment is made or credit is given or two years from the end of the financial year in which the correction statement is delivered under the [16][*first*] proviso to sub-section (3) of section 200, whichever is later.

(4) The provisions of sub-clause (*ii*) of sub-section (3) of section 153 and of *Explanation 1* to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).

Explanation.—For the purposes of this section, the expression "accountant" shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288.

398.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 398 of the Bill seeks to provide for consequence for failure to deduct or collect or pay tax. The clause corresponds to section 201 of the Act. There are certain exclusions provided in clause 286 regarding time limits for completion of assessment or reassessments. All such exclusions shall apply for computing the time limit for order deeming an assessee to be an assessee in default under clause 398. Under the Act, only certain exclusions mentioned in section 153applied for the purpose. The provisions of the existing sections have also been textually simplified and retained with the same intent in this clause.

398.4 Important views/Suggestions given by Experts/Stakeholders

398.4.1 There should be no penalty for non deduction/non collection of TDS as the payer acts as an agent of the Government and prosecution should only be there for major defaults.

398.4.2: In clause 398(2)(b) Provisions of existing Proviso to Sec 201 and Proviso to Sec 206C (6A) provide for relaxation from assessee in default status where the recipient of income /buyer has considered the corresponding transaction in the return of income. Under the Bill both the provisions have been merged into Clause 398(2)(b)(ii). However the sub-clause appears to be out of context as a reading does not indicate or clarify as what amount has to be taken into account to escape being assessee in default. It is suggested that the sub clause be read as under :- (ii) taken into account for computing income in the return of income the amount on which there is failure to collect or deduct tax at source.

398.4.3 In clause 398(5)(b) The provisions of Sec 398(5) incorrectly make reference to 393(3) (f) instead of correct provision being 397(3)(f).

398.5 Examination by the Committee

398.5.1 Regarding suggestion seeking no penalty for non deduction/non collection of TDS the Department in their written submission furnished as under :

"Prosecution provisions have already been rationalised and are not applicable if TDS is deposited before the date of filing of quarterly statement. CBDT issued Circular No. 24/2019, dated 9 September 2019. In that circular the Central Government has provided relief from prosecution proceedings in cases where the non-payment of TDS amounts to Rs 25 lakh or less, and the delay in deposit is less than 60 days from the due date. Therefore suggestion is already taken care of."

398.5.2 With regard to drafting error in Clause 398(2)(b), the Department in their written submission furnished as under:-

"Accepted. It is an inadvertent drafting error. Provisions of clause 398(2)(b) (relaxation from assessee in default status where the recipient of income /buyer has considered the corresponding transaction in the return of income) is to be redrafted to align it with the existing provisions of the Act to remove any ambiguity."

398.5.3: With regard to drafting error in Clause 398(5), the Department in their written submission furnished as under

"Accepted. It is an inadvertent drafting error. The reference in clause 398(5)(b) is to be corrected to 397(3)(f) instead of 393(3)(f)."

398.6 Observations/Recommendations of the Committee

The Committee note that Clause 398 provides relaxation from being considered an assessee in default if the recipient of income or the buyer has taken into account that transaction in their income return; this provision, previously in Sections 201 and 206C(6A) of the existing Act, has been merged into 398(2)(b)(ii). The Committee further note two drafting errors in Clause 398. Firstly, while Clause 398(2)(b)(ii) aims to prevent an assessee from being in default, the Committee agree with stakeholders that the subsection needs to clearly specify the "amount" to be taken into account for this exemption. The Department of Revenue has acknowledged this as an inadvertent drafting error, and the Committee, therefore, recommend redrafting this clause to remove any ambiguity.

Secondly, the Committee note that Clause 398(5)(b) incorrectly refers to "Section 393(3)(f)" for filing correction statements; this should be corrected to "397(3)(f)." The Committee, therefore, recommend that the reference in Clause 398(5)(b) be replaced accordingly.

Apart from these drafting corrections, the Committee approve Clause 398 as proposed.

Clause-399 - Processing

399.1 Provisions proposed in the Income-Tax Bill, 2025:Clause–

399.

(1) All statements of tax deducted at source or tax collected at source including a correction statement shall be processed in the following manner:—

(a) the amounts deductible or collectible under this Chapter shall be computed after making the following adjustments—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the amounts deductible or collectible as reflected in the statement;

(c) the fee, if any, shall be computed as per the provisions of section 427;

(d) (i) the amount payable by; or

(ii) the amount of refund due to,

the deductor or collector shall be determined after adjustment of the amount computed under clause (b) and (c) against any amount paid under section 397(3) or 398 or 427 and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor or collector specifying the amount determined to be payable by, or the amount of refund due to, him under clause (d);

(f) the amount of refund due to a deductor or collector in pursuance of the determination under clause (d) shall be granted to the deductor or collector.

(2) The intimation under this section shall be sent within of one year from end of the tax year in which the statement is filed.

(3) The Board may make a scheme for centralised processing of statements, as required under sub-section (1).

399.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Processing of statements of tax deducted at source[12-13]**[*and other statements*].**

200A. (1) Where a statement of tax deduction at source or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(*a*) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(*i*) any arithmetical error in the statement; or

(*ii*) an incorrect claim, apparent from any information in the statement;

(*b*) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(*c*) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(*d*) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (*b*) and clause (*c*) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(*e*) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (*d*); and

(*f*) the amount of refund due to the deductor in pursuance of the determination

under clause (*d*) shall be granted to the deductor:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.*Explanation.*—For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(*ii*) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section. [14][*(3) The Board may make a scheme for processing of statements made by any other person, not being a deductor.*]**Processing of statements of tax collected at source.** **206CB.** (1) Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:—

(*a*) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—

(*i*) any arithmetical error in the statement;

(*ii*) an incorrect claim, apparent from any information in the statement;

(*b*) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;

(*c*) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(*d*) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (*b*) and clause (*c*) against any amount paid under section 206C or section 234E and

any amount paid otherwise by way of tax or interest or fee;

(*e*) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (*d*); and

(*f*) the amount of refund due to the collector in pursuance of the determination under clause (*d*) shall be granted to the collector:

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed.*Explanation.*—For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(*ii*) in respect of rate of collection of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) The Board may make a scheme for centralised processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).

399.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 399 of the Bill seeks to provide for processing of statements of taxdeduction at source and tax collection at source filed. The clause corresponds tosection 200A and 206CB of the Act. The provisions pertaining to processing of theTDS/TCS statements have been merged. The provisions of the existing sectionhave been textually simplified and retained with the same intent in this clause.

399.4 Examination by the Committee

In reply to a specific query on changes (addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

399.5 Observations/Recommendations of the Committee

The Committee note that Clause 399 seeks to provide for processing of statements of tax deduction at source and tax collection at source filed, akin to Section 200A and 206CB of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

Clause - 400 - Power of Central Government to relax provisions of this Chapter

400.1 Provisions proposed in the Income-Tax Bill, 2025:

400.

(1) The Central Government may, by notification provide that deduction or collection of tax shall not be made or is to be made at such lower rate, from such payment or receipt and in respect of such person or class of persons. (2) The Board may issue guidelines with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter and these guidelines shall be laid before each House of Parliament.(3) The Board may notify, a class of person, or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, to make an application in such form and manner as prescribed to the Assessing Officer, to determine the appropriate proportion of sum chargeable in the manner as prescribed, and accordingly tax shall be deducted under section 393(2)(Table: Sl. No. 17) on that proportion of the sum which is so chargeable.(4) The Board may by notification, make rules specifying the cases in which, and the circumstances under which, an application may be made for grant of a certificate under section 395(1) to (3), and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

400.2 Relevant provision of the Principal Act (Income-Tax Act 1961)195 (7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of sum chargeable, and upon such determination, tax

shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

197(2A) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (1) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

197A**(1F**) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.

206C(11) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (9) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

206C(12) Notwithstanding anything contained in this section, no collection of tax shall be made or collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as the Central Government may, by notification in the Official Gazette specify in this behalf.

400.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 400 of the Bill empowers the Central Government to relax the provisions oftax deduction at source and tax collection at source. The clause corresponds to various existing provisions in the Act. The existing provisions related to notification of persons or class of persons as exempt from TDS/TCS provided in

sections 195(7), 197(2A), 197A(1F), 206C(11), 206C(12) of the Act have been put as a separate clause 400 in the Bill. The TDS and TCS provisions have been merged in this clause. As per clause 400(2) of the Bill, the Board may issue guidelines with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter. In the Chapter XVII of the Act, such guidelines can presently be issued only under specific sections - sections 194BA, 194-O, 194Q, 194R, 194S, and 206C(1-I) of the Act. The power is now sought to be made available for removal of difficulties under all TDS/TCS provisions. This is done with a view to rationalise and consolidate the provisions. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

400.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

400.5 Observations/Recommendations of the Committee

The Committee observe that Clause 400 of the Bill grants the Central Government the authority to ease Tax Deduction at Source (TDS) and Tax Collection at Source (TCS) regulations. This clause aligns with several current provisions in the existing Act. Specifically, the provisions allowing for the exemption of certain persons or classes of persons from TDS/TCS, previously detailed in sections 195(7), 197(2A), 197A(1F), 206C(11), and 206C(12) of the Act, have been unified into this new Clause 400. As a result of this merger of TDS and TCS provisions within this single clause, the Committee approve Clause 400 as proposed by the Department of Revenue.

Clause - 401 - Bar against direct demand on assessee.

401.1 Provisions proposed in the Income-Tax Bill, 2025:

401. Where tax is deductible at the source under this Chapter, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

401.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Bar against direct demand on assessee.205. Where tax is deductible at the source under the foregoing provisions of this Chapter, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

401.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 401 of the Bill seeks to provide for bar against the demand on assessee to the extent tax has been deducted. The clause corresponds to section 205 of the Act.The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

401.4 Important views/Suggestions given by Experts/Stakeholders

Clause 401, provides for Bar against direct demand on the assesseeto pay the tax himself. However, in actual practice, many a times even where tax has been deducted, the assessee is made to pay the tax himself. Therefore, it will be more prudent to place the provision of Section 401 as sub clause (7) under Clause 390.

401.5 Examination by the Committee

The Department in response to the above suggestion by the stakeholder have submitted in their written reply as under:

> *"The stakeholder has suggested that clause 401 which provides for baragainst direct demand against assessee should be moved upfront at the start of the Chapter so that the provision is made clear right at the start. The provision of clause 401 are clear in the sense that the once tax has been deducted at source on the income of the taxpayer, he cannot be asked to pay tax to such extent on that income. The assessee cannot be made to pay tax on income on which tax has already been deducted. The placement is correct and movement will disturb the sequencing and cross-referencing."*

401.6 Observations/Recommendations of the Committee

The Committee note that Clause 401 of the Income-Tax Bill, 2025 aims to simplify the text while preserving the original intent of Section 205 of the Income Act, 1961, which bars the demand on an assessee to the extent tax has been deducted. After considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 401 as proposed.

Clause - 402 – Interpretation

402. 1 Provisions proposed in the Income-Tax Bill, 2025:

In this chapter,—(*1*) "Administrator" shall have the same meaning as assigned to it in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;(*2*) "agricultural land" means agricultural land in India,—(*a*)not being a land situate in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(*1*)[Table: Sl. No. 3(*i*)];(*b*)including a land situated in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(*1*)[Table: Sl. No. 3(*iii*)];(*3*) "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—(*a*) of an item, which is inconsistent with another entry of the same or some other item in such statement;(*b*) in respect of rate of deduction of tax at source, where such rate is not as per the provisions of the Act;(*4*) "authorised dealer" means a person authorised by the Reserve Bank of India under section 10(*1*) of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security;(*5*) "banking company" means a banking company to which the Banking Regulation Act, 1949 applies;(*6*) "buyer" for the purposes of provisions in column B of the Table below means any person as specified in column C but does not include any person as specified in column D:—Table

Sl. No	Provisions	Person	Person not to be included
A	B	C	D
1.	Purchase of goods referrred to in section 393(*1*)	Person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹10,00,00,000 during the tax year immediately preceding	Any person, as the Central Government may notify for this purpose, subject to specified conditions

	[Table: Sl. No. 8(*ii*)]	the tax year in which the purchase of goods is carried out	therein.
2.	Sale of goods referred to in section 394(*1*) (Table: Sl. No. 1 to 5)	Person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in section 394(1)(Table: Sl. No. 1to 5), or the right to receive any such goods	(a) A public sector company; or(b) the Centralor a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State; or(c) a club; or
			(*d*) a buyer in the retail sale of such goods purchased by him for personal consumption.
3.	Sale of motor vehicle or any other goods referred to in section 394(*1*)(Table: Sl. No. 6).	Person who obtains in any sale, goods of the nature specified in section 394(*1*)(Table: Sl. No. 6).	(*a*) A person as per Sl. No. 2.D(*b*); or(*b*) a local authority as defined at Schedule III (Table: Sl. No. 22); or(*c*) a public sector company which is engaged in the business of carrying passengers.
4.	Remittance under Liberallised Remittance Scheme	A person remitting amount under the Liberalised Remittance Scheme of Reserve Bank of India.	(*a*) A person as per Sl. No. 3.D(*a*) or (b);(*b*) a person, as per Sl.No. 1.D.

		referred to in section 394(*1*)(Table : Sl.No. 7).		
5.	Sale of overseas tour programme package referred to in section 394(*1*) (Table: Sl. No. 8).	A person who purchases overseas tour programme package.	A person as per Sl. No. 4.D.	

(*7*) “commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person,—(*a*) for services rendered (not being professional services); or(*b*) for any services in the course of buying or selling of goods; or(*c*) in relation to any transaction relating to any asset, valuable article or thing, not being securities;(*8*) “computer resource”, “internet” and “online game” shall have the meanings respectively assigned to them in section 194(*2*);(*9*) “consideration for transfer of any immovable property” shall include all charges of the nature of,—(*a*) club membership fee; or(*b*) car parking fee; or(*c*) electricity or water facility fee; or(*d*) maintenance fee; or(*e*) advance fee;(*f*) or any other charges of similar nature, which are incidental to transfer of the immovable property;(*10*) “contract” shall include sub-contract;(*11*) “designated person”, for the purposes of section 393(*1*) (Table: Sl. No. 6), means—(*a*) the Central Government or any State Government; or(*b*) any local authority; or(*c*) any corporation established by or under a Central Act or State Act or Provincial Act; or(*d*) any company; or(*e*) any co-operative society; or(*f*) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or(*g*) any society

registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or(*h*) any trust; or(*i*) any University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or(*j*) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or(*k*) any firm; or(*l*) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—(*i*) does not fall under any of the preceding sub-clauses; and(*ii*) has total sales, gross receipts or turnover from business or profession carried on by him exceeding one crore rupees in case of business or fifty lakh rupees rupees in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor;(12) “electronic commerce” means the supply of goods or services, or both, including digital products, over digital or electronic network;(13) “e-commerce operator” means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;(14) “e-commerce participant” means a person resident in India selling goods or providing services, or both, including digital products, through digital or electronic facility or platform for electronic commerce;(15) “fees for technical services” shall have the meaning as assigned to it in section 9(7)(*b*); (16) “foreign exchange asset” means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;(*17*) “Foreign Institutional Investor” shall have the meaning as assigned to it in section 210(*6*)(*a*);(*18*) “goods carriage” shall have the meaning as assigned to it in section 58(*10*)(*d*);(*19*) “immovable property” means any land (other than agricultural land) or any building or part of a building;(*20*) “investor” shall have the meaning assigned to it in section 221(*6*)(*a*), for the purposes of section 393(*1*) [Table: Sl. No. 4(*iv*)] and section 393(*2*) (Table: Sl. No. 9);(*21*) “licensee or lessee” means any person, other than a public sector company, who has been granted a lease or a license or entered into a contract or otherwise received any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, from the licensor or lessor for the use of parking lot or toll plaza or mine or quarry for the purposes of business;(*22*) “licensor or lessor” means any person who grants a lease or a license or enters into a

contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company for the use of such parking lot or toll plaza or mine or quarry for the purposes of business;(*23*) “non-resident Indian” shall have the meaning assigned to it in section 212(*d*);(*24*) “Offshore Banking Unit” shall have the same meaning as assigned to it in section 2(*u*) of the Special Economic Zones Act, 2005;(*25*) “online gaming intermediary” means an intermediary who offers one or more online games;(*26*) “overseas tour programme package” means any tour package which offers visit to any country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto;(*27*) “person responsible for paying” means—(*a*) in the case of payments of income chargeable under the head “Salaries”, other than payments by the Central Government or the State Government—(*i*) the employer himself; or(*ii*) if the employer is a company, the company itself, including the principal officer thereof;(*b*) in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or State Government, or local authority, or corporation or company, including the principal officer thereof;(*c*) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the authorised person responsible—(*i*) for remitting such sum to the non-resident Indian; or(*ii*) for crediting such sum to his Non-resident (External) Account maintained as per the provisions of the Foreign Exchange Management Act, 1999, and any rules made thereunder;(*d*) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act—(*i*) the payer himself; or(*ii*) if the payer is a company, the company itself including the principal officer thereof;(*e*) in the case of credit, or, as the case may be, payment of any other sum chargeable under the provisions of this Act—(*i*) the payer himself; or(*ii*) if the payer is a company, the company itself including the principal officer thereof;(*f*) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the State Government—(*i*) the drawing and

disbursing officer; or(*ii*)any other person, by whatever name called,responsible for crediting, or paying such sum;(*g*) in the case of a person not resident in India—(*i*) the person himself; or(*ii*)any person authorised by such person; or(*iii*) the agent of such person in India including any person treated as an agent under section 306, where the expression "authorised person" shall have the same meaning as assigned to it in section 2(*c*) of the Foreign Exchange Management Act, 1999;(*28*) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as notified by the Board for the purposes of this section, or of section 62;(*29*) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any—(*a*) land; or(*b*) building (including factory building); or(*c*) land appurtenant to a building (including factory building); or(*d*) machinery; or(*e*) plant; or(*f*) equipment; or(*g*) furniture; or(*h*) fittings,whether or not any or all of the above are owned by the payee, and for the purposes of section 393(*1*)[Table: Sl. No. 2(*i*)], only the payment with reference to assets mentioned in sub-clauses (*a*), (*b*) and (*c*) shall be treated as rent;(*30*) "royalty" shall have the meaning assigned to it in section 9(*6*)(*b*);(*31*) "scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;(*32*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956;(*33*) "seller" means—(*a*) for the purposes of section 394(1)(Table: Sl. No. 1 to 6),—(*i*) the Central Government; or(*ii*) a State Government; or(*iii*) any local authority or corporation or authority established by or under a Central Act or State Act or Provincial Act; or(*iv*) any company or firm or co-operative society; or(*v*)an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which the goods of the nature specified in such serial numbers are sold;(*b*) for the purposes of section 394(*1*)(Table: Sl. No. 8), a person who sells overseas tour program package; (*34*) "services" for the purposes of

section 393(*1*)[Table: Sl. No. 8(*v*)], includes “fees for technical services” and fees for “professional services”, as defined in this section;(*35*) “specified bank” means a banking company as the Central Government may, by notification, specify;(*36*) “specified company” means for the purposes of section 393(*1*)[Table: Sl. No. 4(*i*)] and 393(*2*)(Table: Sl. No. 10), a company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;(*37*) “specified person” means—(*a*) any person, not being an individual or Hindu undivided family; or(*b*) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crorerupeesin case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such income is credited or paid;(*38*) “special purpose vehicle” shall have the meaning in Schedule V (Note 2);(*39*) “specified senior citizen” means an individual, being a resident in India—(*a*) who is of the age of seventy-five years or more at any time during the tax year;(*b*) who is having pension income and no other income except the interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and(*c*) has furnished a declaration to the specified bank containing particulars, in such form and verified in such manner as prescribed;(*40*) “specified undertaking” shall have the same meaning as assigned to it in section 2(*i*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;(*41*) “time deposits” means deposits (including recurring deposits) repayable on the expiry of fixed periods;(*42*) “unit” for the purposes of section 393(*1*)[Table: Sl. No. 4(*iii*)] and section 393(*2*)(Table: Sl. No. 8) shall have the meaning assigned to it in section 224(*10*)(*c*);(*43*) “Unit Trust of India” means the Unit Trust of India as referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;(*44*) "University", referred in section 392(*4*), means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956, to be a University for the purposes of that Act;(*45*) “user” means any person who accesses or avails any computer resource of an online gaming intermediary;(*46*) “user account” means account of a user registered with an online gaming intermediary;(*47*) “work” shall include—(*a*) advertising;(*b*) broadcasting and telecasting including production of programmes for

such broadcasting or telecasting;(*c*) carriage of goods or passengers by any mode of transport other than by railways;(*d*) catering;(*e*) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from—(*i*) such customer; or(*ii*) its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in section 36(*3*),but does not include—(*A*) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or(*B*) any sum referred to in section 393(*1*)[Table: Sl. No. 6(*iii*)].

402. 2 Relevant provision of the Principal Act (Income-Tax Act 1961)

NIL

402.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 402 of the Bill seeks to provides for definition of certain expressions used inthe chapter of collection and recovery of tax. All the definitions have been provided n a single section at the end of the Chapter to improve readability. The provisions of the existing section has been textually simplified and retained with the same intent in this clause.

402.4 Important views/Suggestions given by Experts/Stakeholders

402.4.1. Clause 402(3) defines “an incorrect claim apparent from any information in the statement” only with reference to TDS statements and not TCS statements. This phrase was explained separately in the Income-tax Act, 1961 in section 200A and 206CB with reference to TDS and TCS, respectively. Accordingly, Section 402(3) has to be amended to include reference to TCS statements. In Section 402(3), there is no reference in respect of TCS as was in section 206CB of the Income-tax Act, 1961 for an incorrect claim apparent from any information in the statement under section 397(3)(d).

Section 402(3) to be worded as follows:**(c) in respect of rate of tax collection at source, where such rate is not as per the provisions of the Act** .

402.4.2 Clause 402(18) does not specify where the unladen weight is to be considered and where the gross vehicle weight is to be used, therefore, only “gross vehicle weight” will suffice. Alternatively, it may be clarified that unladen weight is to be applied only in case of road roller and tractors.

402.4.3: The definition of authorised person is wrongly placed as a continuation to Clause 402(27)(g)(iii). Sub-clause (iii) should end with “Section 306” .And the definition can be placed below clause (g).

402.4.4: Clause 402(27)(b) which provides for definition of “person responsible for paying” needs rephrasing as the current wordings exclude everything. Current phrase- in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or State Government, or local authority, or corporation or company, including the principal officer thereof; It should be reworded as - in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or State Government- (i) local authority (ii) corporation or (iii) company, including the principal officer thereof;

402.5 Examination by the Committee

402.5.1 With regard to drafting error in Clause 402(3), The Department have submitted in their written reply as under:

> ***“****Accepted. It is an inadvertent drafting error.The definition of “an incorrect claim apparent from any information in the statement” is to be amended to include TCS related provision.*

402.5.2 With regard to clarity on gross vehicle weight or unladen weight in Clause 402(18), the Department have submitted in their written reply as under:-

> *"The stakeholder seeks to omit the definition of "unladen weight" from clause 58(10)(d) of the Bill on the ground that it is not clear from the provisions of the section where the unladen weight is to be considered and where the gross vehicle weight is to be used. Alternatively, it has been suggested to clarify that unladen weight is to be applied only in case of road roller and tractors.*
>
> *The present provisions of the Act provides that gross vehicle weight or unladen weight, as the case may be, shall be used to calculate profit and gains of a heavy goods vehicle.*
>
> *In the Bill, the words "as the case may be" may be added to provide better clarity and to align it with the existing provisions of the Act."*

402.5.3 With regard to wrong placement of definition of authorized person in clause 402(27)(g)(iii), the Department have submitted in their written reply as under:

> *"Accepted. It is an inadvertent drafting error. Definition of "authorised person" may be omitted from clause 402(27)(g)(iii)."*

402.5.4: Regarding redrafting the Clause 402(27)(b), the Department have ubmitted in their written reply as under:

> ***"**Accepted. The suggestion has provided redrafted version for clause 402(27)(b) of the Bill which is related to the definition of "person responsible for paying". The draft suggested by the stakeholder is acceptable."*

402.6 Observations/Recommendations of the Committee

The Committee note that Clause 402 of the Bill aims to consolidate and simplify definitions for expressions used in the chapter on collection and recovery of tax, improving readability while retaining the original intent of existing provisions. However, based on feedback from stakeholders and experts, the Committee recommend following to improve clarity:-

(i) The Committee note that the definition of "an incorrect claim apparent from any information in the statement" in Clause 402(3) is incomplete due to the omission of TCS statements, an acknowledged drafting error by the Department. The Committee, therefore, recommend that this definition be suitably amended to include TCS-related provisions, aligning with Section 206CB of the Income-tax Act, 1961.

(ii) The Committee also note a stakeholder's concern regarding the clarity of the "unladen weight" definition in Clause 58(10)(d) and the suggestion to restrict its application to road rollers and tractors. The Department has accepted this concern; and agreed to add the words “as the case may be” to provide better clarity and to align it with the existing provisions of the Act. The Committee concur with the Department's submission.

(iii) The Committee further note the inadvertent insertion of the definition of "authorized person" in Clause 402(27)(g)(iii), which appears to be a typographical error. As agreed by the Department, the Committee recommend omitting this definition from Clause 402(27)(g)(iii).

(iv) The phrasing of Clause 402(27)(b), which defines "person responsible for paying" for "Interest on securities" (excluding government payments), is incorrect and unclear, likely causing confusion. A stakeholder provided a re-drafted version as: "in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or State Government- (i) local authority (ii) corporation or (iii) company, including the principal officer thereof", which the Department has agreed to adopt. Accordingly, the Committee recommend that Clause 402(27)(b) be rephrased.

(v) Typographical error: For Clause 402(2)(a) the word 'situate' may be replaced with 'situated.'

Besides these recommended drafting corrections, the Committee accept Clause 402 as proposed.

C.—Advance payment of tax

Clause- 403- Liability for payment or advance tax

403. 1 Provisions proposed in the Income-Tax Bill, 2025:

. (*1*) Advance tax shall be payable during any tax year in respect of the current income of the assesse, as per the provisions of this Part. (*2*) For the purposes of this Part, “current income” means the total income of the assessee which would be chargeable to tax for that tax year.(*3*) The provisions of sub-section (*1*) shall not apply to an individual resident in India, who—(*a*) does not have any income chargeable under the head “Profits and gains of business or profession”; and(*b*) is of the age of sixty years or more at any time during the tax year.

403. 2 Relevant provision of the Principal Act (Income-Tax Act 1961)

207.

(1) Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as "current income".(2) The provisions of sub-section (1) shall not apply to an individual resident in India, who—

(*a*) does not have any income chargeable under the head "Profits and gains of business or profession"; and

(*b*) is of the age of sixty years or more at any time during the previous year

403.3 Reasons/Justification given by the Ministry of Finance for the posed provision

Clause 403 of the Bill provides for liability for payment of advance tax. Clause 403 of the Bill corresponds to Section 207 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

403. 4 Important views/Suggestions given by Experts/Stakeholders

403.4.1: The heading of Chapter XIX-C may be - XIX-C- Estimated payment of tax Advance tax" to be substituted with "Estimated tax". The use of words "advance tax" is appropriate in the context of "assessment year" under the Income- tax Act 1961. However, in the context of the Income-tax Bill, 2025, since tax is being paid in the tax year itself, therefore, this is an estimated tax on current income. The heading and the provisions of this chapter may be appropriately modified .

403.4.2 : E ledger System- Under the Income-tax Act, 1961, there are several instances of mismatches in case of TDS claimed and TDS allowed while processing return u/s 143(1)(a) of the Income- tax Act, 1961. In some cases, such mismatches also lead to issuance of intimation u/s 139(9). For example, some deductee taxpayers are facing an issue where higher income from an earlier previous year is reflected in their Form 26AS in the current financial year. This may be on account of tax of an earlier previous year being deducted in the current financial year by the deductor at the time of payment, whereas, the income was reflected in the return of an earlier year by the deductee taxpayer on an accrual basis. The prior year's income on which tax is deducted at source (TDS) in the current year is being matched with the income of the current year. In cases where the prior year's income (as shown in Form No. 26AS of the current year) is higher and the current year's income reflected in the return of income is lower, the consequent mismatch results in the return of income of the current year of the deductee- taxpayer being wrongly treated as

defective and issuance of intimation under section 139(9) to him to rectify the defect. This is one such example. In order to address this issue, in the new Income-tax regime, an year-wise E-ledger mechanism, similar to the one implemented in respect of the Goods and Services Tax (GST), be introduced for income-tax payments also to reduce interface between the assessee and the department. The key benefits of the e-Ledger system in GST include providing a transparent, real-time overview of tax credits, cash balances, and set off of liabilities. A similar system can be effectively implemented for income tax to improve ease of doing business, enhance compliance, and increase operational efficiency. The year-wise income-tax e-Ledger would capture all advance tax payments made, the TDS/TCS credits which can be adjusted against the tax due for the current previous year. The balance credit, after adjusting the tax due, may be refunded to the assessee or allowed to be carried forward to the next year for adjustment against tax due in that year. On the other hand, if the tax due is more than the credit, the assessee can pay the same by way of self-assessment tax.

403.5 Examination by the Committee

403.5.1 With regard to suggestion seeking replacement of word “advance tax” with “estimated tax”, the Department have submitted their written reply as under:

> *“Suggestion seeks to replace the word "advance tax" with "estimated tax". The request is in nature of drafting improvement. The term "advance tax" is more appropriate because tax is being paid in advance, before the tax year has ended. Replacing the word with term "estimated tax" will not lead to any tangible benefit and will create confusion which is avoidable. Thus, suggestion is not feasible. “*

403.5.2 With regard to adoption of e-ledger system for TDS/TCS, similar to GST, the Department has submitted written submission as under :

“ The suggestion is in the nature of policy change which is beyond the scope of objectives of Income-Tax Bill 2025”

403.5.2(a): When further queried on the matter in view of the fact that one of the key objectives of the bill is to ensure transparency and clarity in order to avoid litigation and introduction of an e ledger system on the lines of GST would be a more efficient and convenient system for processing of returns the Department in their written replies submitted as under :

“This system may not possible for administration in Income Tax Department for the following reasons: - The principle of taxation is applicable for separate years. The principle is that the TDS shall be allowed only in respect of the income which is offered to tax. If there is any additional liability or refund, there are consequences in respect of interest which are to be met with reference to the same tax year. However, it has been provided that where excess TDS is deducted and the income is not shown in the year of deduction but accrues or arises in a subsequent year, the claim of TDS can be carried forward to that year. Thus a system of ledger year wise is already in place. The problem of mismatch arises only when the taxpayer claims TDS and the corresponding income is not offered for tax. In case proper processes are followed by the taxpayer while filling up his return form, these mismatch issues would not occur. Any e-ledger system spanning across years would disturb the year wise scheme of collecting demand or providing refunds. Any e-ledger scheme would be detrimental for two reasons (i) the excess TDS would not be refunded as is presently being done & (ii) the dispute in respect of refund/ liability to pay would spread across years. “

403.5.2(b): During oral deliberations on 04.06.2025 the representative of the Department deposed as under :

"we have examined e-ledger system also and found it not practicable for income tax purposes. The TDS has to be accounted for every year. If there is any refund due, it has to be claimed in that year only. If we go by e-ledger system, then it will be carrying forward the TDS claims to a number of years and there will be question as to which year it should be claimed. Then the scrutiny will have to be done, to see whether this claim is correct or not. "

403.5.2(c): When queried further as to why the e-ledger system cannot be linked with the relevant tax year a representative of the Department deposed before the Committee as under:

"One is, in the GST system, it is transaction-based and in the income tax, it is basically income-based. Now, TDS is conceptually pay-as-you-earn. Therefore, when you earn, you earn for a year. This is a tax on the income that has been received for that year. Now, what is being suggested is that the person can actually accumulate the TDS credits across the years for four or five years and then show the income of a year? Should the income be of all the four years? It is only going to complicate the system. However, what we have presently also done is that suppose there is a TDS which has been made but because of the system of accounting, maybe it is an accrual basis or on a cash basis, some component of that TDS is not to be taken credit of in a particular year, that he can actually carry forward to the next year also. So, that facility is already there. Some sort of a ledger to that extent is there. But it has to be linked to the income rather than the transactions. We will be complicating the system. "

403. 6 Observations/Recommendations of the Committee

The Committee observe that Clause 403 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 207 of the Income-Tax Act, 1961 regarding liability for payment of advance tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 403 as proposed.

Clause- 404- Conditions of liability to pay advance tax.

404.1 Provisions proposed in the Income-Tax Bill, 2025:

Advance tax shall be payable by the assessee during a tax year, where the amount of such tax during that year, as computed under this Part, is ten thousand rupees or more.

404.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

208. Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ten thousand rupees or more.

404.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 404 of the Bill provides for conditions of liability to pay advance tax.Clause 404 of the Bill corresponds to Section 208 of the Act. There is no policychange. The provisions of the existing section have been textually simplified andretained with the same intent in this clause

404.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

404.5 Observations/Recommendations of the Committee

The Committee observe that Clause 404 of the Bill provides for conditions of liability to pay advance tax which corresponds to Section 208 of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 404 as proposed by the Department of Revenue.

405. Clause No. & Title

Clause- 405-Computation of advance tax.

405.1 Provisions proposed in the Income-Tax Bill, 2025

. (*1*) The amount of advance tax payable by an assessee under section 404, on his own accord under section 406, or in pursuance of an order of an Assessing Officer under section 407, in the tax year shall, subject to the provisions of sub-section (*2*), be computed as under—A=B-C where,—A = the amount of advance tax payable in a tax year;B = income-tax on the specified sum calculated at the rates in force in the tax year, where "specified sum" shall have the meaning assigned to it in section 406 or 407;C = amount of income-tax which would be deductible or collectible at source during the said tax year under any provision of this Act from any income subject to the following:—(*a*) such income is computed before allowing any deduction admissible under this Act and has been taken into account in computing the specified sum; and(*b*) the person responsible for deducting tax has paid or credited such income after deduction of tax; or(*c*) the person responsible for collecting tax has received or debited such income after collection of tax.(*2*) In the case of any class of assessees, where the Finance Act of the relevant year provides that, net agricultural income shall be taken into account for the purposes of computing advance tax, then,—(*a*) for the purposes of order as mentioned in section 407(1) and (4), the net agricultural income shall be the amount that has been taken into account for the purposes of charging income-tax on the specified sum as mentioned in sub-sections (*3*) and (*6*) of the said section; or(*b*) in any other situation, the net agricultural income as estimated by the assessee for the tax year.

405.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

209. (1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows, namely :—

(*a*) where the calculation is made by the assessee for the purposes of

payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(d) the income-tax calculated under clause (*a*) or clause (*b*) or clause (*c*) shall, in each case, be reduced by the amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable:

Provided that for computing liability for advance tax, income-tax calculated under clause (*a*) or clause (*b*) or clause (*c*) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without

deduction of tax or it has been received or debited by the person responsible for collecting tax without collection of such tax.(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessees, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

(a) in cases where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210,—

(i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

(ii) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;

(*b*) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the Assessing Officer shall, for making an order under sub-section (3) or sub-section (4) of section 210 in the case of any such Hindu undivided family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(a) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case;

(b) in a case where the total income of the previous year in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142 forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case.

405.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 405 of the Bill provides for computation of advance tax. Clause 405 of the Bill corresponds to Section 209 of the Act. There is no policy change. However, formula has been incorporated in the said clause for the calculation of advance tax for ease of computation.

405.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

405.5 Observations/Recommendations of the Committee

The Committee note that Clause 405 of the Bill provides for computation of advance tax, akin to 209 of the Income-Tax Act, 1961 with no policy change. They, therefore, approve Clause 405 as proposed by the Department of Revenue.

Clause- 406-Payment of advance tax by the assessee on his own accord.

406.1 Provisions proposed in the Income-Tax Bill, 2025:

.(*1*) Every person, who is liable to pay advance tax under section 404 (whether or not he has been previously assessed by way of regular assessment) shall, on his own accord, pay advance tax on the specified sum, calculated in the manner laid down in section 405, at the appropriate percentage, and on or before the due date of each instalment, as specified in section 408. (*2*) A person who pays any instalment or instalments of advance tax under sub-section (*1*), may increase or reduce the amount of advance tax to accord with specified sum and the advance tax payable thereon, and make payment of the said tax in the remaining instalment or instalments, accordingly.(*3*) In this section, the expression “specified sum” means current income as estimated by the assessee.

406.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209. (2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid. (4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a

return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made. (5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation. (6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.

406.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 406 of the Bill provides for payment of advance tax by assessee on his own accord. Clause 406 of the Bill corresponds to Section 210 of the Act. There is no policy change. The provisions of the existing section 210 of the Act have been divided into two separate clauses i.e. clause 406 and clause 407 for clear distinction.

406.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

"The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. "

406.5 Observations/Recommendations of the Committee

The Committee observe that Clause 406 deals with payment of advance tax by assessee on his own accord which corresponds to Section 210 of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 406 as proposed by the Department of Revenue.

Clause- 407- Payment of advance tax by assessee in pursuance of order of Assessing Officer.

407.1 Provisions proposed in the Income-Tax Bill, 2025:

407. (*1*) Where a person has already been assessed for the total income of any tax year by way of regular assessment and the Assessing Officer is of the opinion that such person is liable to pay advance tax, he may require such person to pay advance tax on the specified sum, calculated in the manner laid down in section 405, by an order in writing, and specifying the instalment or instalments in which such tax is to be paid, on or before the due date of each instalment specified in section 408.(*2*) The order referred to in sub-section (*1*) may be passed at any time during the tax year but not later than the last day of February of such tax year and it shall be followed by a notice of demand under section 289.(*3*) In sub-section (*1*), "specified sum" means a sum, being higher of,—(*a*) the total income of the latest tax year in respect of which the assessee has been assessed by way of regular assessment; or (*b*) total income returned by the assessee in any return of income furnished by him for any subsequent tax year.(*4*) The Assessing Officer may amend the order referred to in sub-section (*1*), and may require such person to pay advance tax on the specified sum, calculated in the manner laid down in section 405, ifafter passing an order under sub-section (*1*),—(*a*) a return of income is furnished by the assessee, under section 263 or in response to a notice under section 268; or (*b*) a regular assessment of the income is made in respect of a tax year later than the assessment referred to in sub-section (*1*), on or before the due date of each instalment specified in section 408.(*5*) The order referred to in sub-section (*4*) may be passed at any time before the 1st March of that tax year and it shall be followed by issuance of a demand notice under section 289.(*6*) In sub-section (*4*), "specified sum" means the total income declared in the return of income or computed in regular assessment mentioned in sub-section (*4*)(a) and (b), respectively.(*7*) If the notice of demand issued under section 289, as referred in sub-sections (*2*) and (*5*), is served after any of the due dates specified in section 408, the appropriate part or, the whole of the amount of the advance tax specified in such notice, shall be payable on or before each of the due date falling after the date of service of the notice of demand.(*8*) Where

a person, who is served with an order referred to in sub-sections (*1*) and (*4*), estimates the advance tax payable on his current income to be lower than the amount of advance tax specified in the said order, then, he may send an intimation in the prescribed form to the Assessing Officer to that effect, and pay such advance tax on the current income, calculated in the manner laid down in section 401 as accords with his estimate, at an appropriate percentage thereof on or before the due date of each instalment specified in section 408 falling after the date of such intimation.(*9*) Where a person, who is served with an order referred in sub-sections (*1*) and (*4*), estimates that advance tax payable on his current income would exceed the amount of advance tax specified in such order or intimated by him under sub-section (*8*), he shall pay such advance tax on the current income, calculated in the manner laid down in section 405 at the appropriate part or whole of such higher amount of advance tax as accords with his estimate, on or before the due date of the last instalment specified in section 408.

407.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.(4) If, after the making of an order by the

Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.

407.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 407of the Bill provides for payment of advance tax by assessee in pursuance of order of Assessing Officer. Clause 407 of the Bill corresponds to Section 210 of the Act. There is no policy change. The provisions of the existing section 210 of the Act have

been divided into two separate clauses i.e. clause 406 and clause 407 for clear distinction.

407.4 Important views/Suggestions given by Experts/Stakeholders

407.4.1: In Clause 407, Sub-section (1) may be redrafted to include reference to "current tax year" for the sake of clarity and Sub-section (1) may be redrafted as follows – (1) Where a person has already been assessed for the total income of any assessment year or tax year by way of regular assessment and the Assessing Officer is of the opinion that such person is liable to pay **advance estimated** tax in the c**urrent tax year**, he may require such person to pay **advance estimated** tax on the specified sum, calculated in the manner laid down in section 405, by an order in writing, and specifying the instalment or instalments in which such tax is to be paid, on or before the due date of **any** instalment specified in section 408 .

407.4.2 In Clause 407, Sub-section (4) may be redrafted to include reference to "in relation to the current tax year" for the sake of clarity. Section 407(4) may be redrafted as follows – *(4*) The Assessing Officer may amend the order referred to in sub-section (*1*), and may require such person to pay **advance estimated** tax on the specified sum, calculated in the manner laid down in section 405, **in relation to the current tax year,** if after passing an order under sub-section (*1*),— (a) a return of income is furnished by the assessee, under section 263 or in response to a notice under Section 268.

407.4.3 Advance tax" to be substituted with "Estimated tax". In subsection 1 and subsection 4reference to "current tax year" needs to be added for the sake of clarity. (1) Where a person has already been assessed for the total income of any assessment year or tax year by way of regular assessment and the Assessing Officer is of the opinion that such person is liable to pay **advance estimated** tax **in the current tax year**, he may require such person to pay **advance estimated** tax on the specified sum, calculated in the manner laid down in section *(4*) The Assessing Officer may amend the order referred to in sub-section (*1*), and may require such person to pay **advance**

estimated tax on the specified sum, calculated in the manner laid down in section 405, **in relation to the current tax year,** if after passing an order under sub-section (*1*),— b) a regular assessment of the income is made in respect of a tax year later than the assessment referred to in sub-section (*1*), on or before the due date of **any** instalment specified in section 408.

407.4.4 A stakeholder has suggested that in Clause 407(9) replace “and” with “or”.

407.4.5 Clause 407 provides for issue of notice to an assesse for payment of advance tax. There is no need of this Clause as now all advance tax is paid voluntarily. There are enough safeguards to protect interest of revenue Practically no notices have been issued in last 5 years.

407.5.1 Examination by the Committee

407.5.1 With regard to suggestion on 407(1), the Department has submitted written reply as follows:-

> *“The suggestion seeks to add the phrase “in the current tax year” in clause 407(1). It is in the nature of over-drafting. Sub-clause 407(1) has been simplified and it opens with reference to “total income of any tax year”. It is clear that the rest of the sentence is also referring to the same tax year. There is no requirement to overtly specify it again in the same sentence. It will make the reading of the sub-clause cumbersome. Thus, suggestion is not feasible”.*

407.5.2 With regard to suggestion on 407(4), the Department has submitted written reply as follows:-

> *“The suggestion seeks to add the phrase “in relation to the current tax year” in sub-clause 407(4). It is in the nature of over-drafting. Sub-clause 407(4) has been simplified and it refers to an order passed under sub-clause 407(1). Sub-clause 407(1) itself refers to an order passed for a tax year. It is clear that the rest of the sentence in sub-clause 407(4) is also referring to the same tax year.*

There is no requirement to overtly specify it again in the same sentence. It will make the reading of the sub-clause cumbersome. Thus, suggestion is not feasible" .

407.5.3 With regard to Suggestion seeks to replace the word "advance tax" with "estimated tax", the Department has submitted written reply as follows:-

"Suggestion seeks to replace the word "advance tax" with "estimated tax". The request is in nature of drafting improvement. The term "advance tax" is more appropriate because tax is being paid in advance, before the tax year has ended. Replacing the word with term "estimated tax" will not lead to any tangible benefit and will create confusion which is avoidable. Thus, suggestion is not feasible"

407.5.4 With regard to drafting error in clause 407(9), the Department has submitted written reply as follows:-

"Accepted. The suggestion seeks to replace "and" with "or" in sub-clause 407(9). Drafting correction".

407.5.5 With regard to the above suggestion the Department in their written submission has stated as follows :

"The suggestion seeks to delete the clause 407 Payment of advance tax. It is in the nature of Policy Change which is outside the scope of the Bill.There is no change in the provisions of the Bill vis-a-vis Act. There are cases where a taxpayer may deliberately delay payment of advance tax for not so good reasons. In such situations, this saving provision becomes effective to protect interest of exchequer. Thus, the suggestion is not feasible."

407.5.5(a) During the sitting of the Committee on 10.06.2025 the representative of the Ministry furnished as under :

"…….. there is a provision regarding payment of advance tax that assessing officer can also determine that this is the advance tax liability and he can issue

notice to the taxpayer that he should pay this advance tax. The suggestion is that this provision itself should be deleted because maybe it is not required as there are advance tax liabilities already in-built into that. But this is a special provision to take care of such situations where the taxpayer is dodging his advance tax liability for whatever reasons. So, this is a rarely used provision only in rarest of rare cases.

407.6 Observations/Recommendations of the Committee

The Committee observe that Clause 407 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 210 of the Income-Tax Act, 1961, with no policy change, regarding payment of advance tax by assessee in pursuance of order of Assessing Officer. Further, the Committee notice that the Department of Revenue has accepted the drafting error concerning replacement of "and" with "or" in the sub-clause (9) in Clause 407. The Committee, therefore, recommend that this drafting correction be made in the Clause.

Clause- 408- Instalments of advance tax and due dates.

408.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) All the assessees who are liable to pay advance tax, other than the assessee referred to in sub-section (*2*), shall pay the same on the current income calculated in the manner laid down in section 405 in four instalments during each tax year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below.Table

Sl. No.	Due date of instalment	Amount payable
A	B	C
1.	On or before the 15th June.	Not less than 15% of such advance tax.
2.	On or before the 15th September.	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
3.	On or before the 15th December.	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
4.	On or before the 15th March.	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(2) An assessee, who declares profits and gains as per the provisions of section 58(*2*)(Table: Sl. No. 1 or 3), shall pay the whole amount of advance tax on the current income, calculated in the manner laid down in section 405 during each tax year, on or before the 15th March.(*3*) Any amount paid by way of advance tax on or before the 31st March, shall be treated as advance tax paid during the tax year ending on that day for all the purposes of this Act.

408.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

211.

(1) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

(*a*) all the assessees, other than the assessee referred to in clause (*b*), who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below:

TABLE

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent of such advance tax.
On or before the 15th September	Not less than forty-five per cent of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

(b) an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be, to the extent of the whole amount of such advance tax during each financial year on or before the 15th March:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.

408.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 408 of the Bill provides for instalments of advance tax and due dates.Clause 408 of the Bill corresponds to Section 211 of the Act. There is no policychange. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

408.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

408.5 Observations/Recommendations of the Committee

The Committee note that Clause 408, which outlines the installments of advance tax and due dates, aligns with Section 211 of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.

Clause 409. When assessee is considered to be in default.

409.1 Provisions proposed in the Income-Tax Bill, 2025:

A person shall be deemed to be an assessee in default, if such person—(*a*) does not pay on the date specified in section 408, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under section 407(*1*) and (*4*); or(*b*) does not send to the Assessing Officer an intimation under section 407(*8*) on or before the date on which any such instalment as is not paid becomes due; or (*c*) does not pay on the basis of his estimate of his current income, the advance tax payable by him under section 407(*9*),in respect of such instalments.

409.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

218. If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

409.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 409 of the Bill provides for the condition when assessee is deemed to be in default. Clause 409 of the Bill corresponds to Section 218 of the Act. There is nopolicy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

409.5 Examination by the Committee

The margin title of clause 409 seems wrongly mentioned as “when assessee is considered to be in default” rather than “When assessee is deemed to be in default” as per arrangement of clauses and clause 409. When asked by the Committee, the Department has accepted the drafting correction.

409.6 Observations/Recommendations of the Committee

Clause 409 prescribes condition when assessee is deemed to be in default, aligns with Section 218 of the existing Act. From the justification submitted by the Department of Revenue, the Committee observe that no policy change has been proposed in this Clause. Only textual simplification has been carried out while retaining the intent. However, the Committee find an error in the margin title of Clause 409, which incorrectly states "when assessee is considered to be in default" instead of "When assessee is deemed to be in default." The Department has acknowledged and accepted this drafting error. Therefore, the Committee recommend that this specific drafting correction be made in Clause 409. Apart from this drafting correction, the Committee approve the Clause 409 as proposed.

Clause 410. Credit for advance tax

410.1 Provisions proposed in the Income-Tax Bill, 2025:

Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Part shall be treated as a payment of tax in respect of the income of the tax year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

410.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

219.

Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

410.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 410 of the Bill provides the provisions relating to credit for advance tax.Clause 410 of the Bill corresponds to Section 219 of the Act. There is no policychange. The provisions of the existing section have been textually simplified andretained with the same intent in this clause.

410.4 Important views/Suggestions given by Experts/Stakeholders

The word “therefor” is to be replaced with “thereof”.

410.5 Examination by the Committee

With regard to the above suggestion the Department in their written submission has stated as follows:

“There is no change in the provision of the Bill vis-à-vis the Act so word ’therefor’ is retained. “

410.6 Observations/Recommendations of the Committee

The Committee observe that Clause 410 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 219 of the Act regarding credit for advance tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 410 as proposed.

D.—Collection and Recovery

Clause 411 When tax payable and when assessee deemed in default.

411.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 289 at the place and to the person mentioned in the notice shall be paid within—(*a*) thirty days of the service of the notice; or (*b*) such lesser period, as specified in the notice with the previous approval of the Joint Commissioner, where the Assessing Officer has any reason to believe that it shall be detrimental to revenue if the full period of thirty days is allowed.(*2*) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then—(*a*) such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings; and (*b*) any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964.(*3*) If the amount specified in any notice of demand under section 289 is not paid within the period limited under sub-section (*1*),—(*a*) theassessee shall be liable to pay simple interest at 1% for every month or part of a month; and(*b*) such period shall commence from the day immediately following the end of the period mentioned in sub-section (*1*) and end with the day on which the amount is paid.(*4*) No interest shall be charged under sub-section (*3*) on any amount for any period, where interest is charged on the same amount for the same period under section 398(*3*) on the amount of tax specified in the intimation issued under section 399.(*5*) Nothing contained in sub-section (*3*) shall prevent the Assessing Officer,where an application is made by the assessee before the expiry of the due date under sub-section (*1*), to extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.(*6*) Where as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 378 or an order of the Settlement Commission under section 245D (*4*) of the Income-tax Act, 1961,—(*a*) the

amount on which interest was payable under sub-section (*3*) had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded; and(*b*) if subsequent to such reduction, as a result of an order under said sections or section 377, the amount on which interest was payable is increased, the assessee shall be liable to pay interest under sub-section (*3*),—(*i*) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (*1*); and(*ii*) ending with the day on which the amount is paid.(*7*) In respect of any period commencing on or before the 31st March, 1989 and ending after that date, interest under sub-section (*3*) shall, in respect of so much of such period as falls after that date, be calculated at the rate of 1.5% for every month or part of a month.(*8*) Irrespective of the provisions contained in sub-section (*3*), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, on an application by the assessee, reduce or waive the amount of interest paid or payable by an assessee under sub-section (*3*) if he is satisfied that—(*a*) payment of such amount has caused or would cause genuine hardship to the assessee;(*b*) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the assessee; and(*c*) theassessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.(*9*) The order under sub-section (*8*) accepting or rejecting the application of the assessee, either in full or in part, shall be passed within twelve months from the end of the month in which the application is received.(*10*) No order under sub-section (*8*) rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard.(*11*) If the amount is not paid within the specified time under sub-section (*1*) or extended under sub-section (*5*), at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.(*12*) If, in a case where payment by instalments is allowed under sub-section (*5*), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section,—(*a*) the assessee shall be deemed to be in default as to the whole of the amount then outstanding; and (*b*) the other instalment or instalments shall be

deemed to have been due on the same date as the instalment actually in default.(*13*) Where an assessee has presented an appeal under section 356 or 357 the Assessing Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, till the time such appeal remains undisposed of.(*14*) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall— (*a*) not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India; and (*b*) continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.(*15*) For the purposes of sub-section (*14*), income shall be deemed to have been brought into India, if—(*a*) it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India; or (*b*) the income, whether capitalised or not, has been brought into India in any form.

411.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

220.

(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of the notice at the place and to the person mentioned in the notice :**Provided** that, where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may, with the previous approval of the Joint Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in the notice of demand.(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be

deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at one per cent for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid:**Provided** that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded :**Provided further** that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid:**Provided also** that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent for every month or part of a month.(2A) Notwithstanding anything contained in sub-section (2), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may reduce or waive the amount of interest paid or payable by an assessee under the said sub-section if he is satisfied that—

i) payment of such amount has caused or would cause genuine hardship to the assessee ;

ii) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the assessee ; and

iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:

Provided that the order accepting or rejecting the application of the assessee, either in full or in part, shall be passed within a period of twelve months from the end of the month in which the application is received:**Provided further** that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:**Provided also** that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.(2B) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (1A) of section 201 on the amount of tax specified in the intimation issued under sub-section (1) of section 200A for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Assessing Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits defaults in paying any one of the instalments

within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.(6) Where an assessee has presented an appeal under section 246 or section 246A the Assessing Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.*Explanation.*—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

411.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 411 of the Bill provides the provisions that when tax payable and when assessee deemed in default. Clause 411 of the Bill corresponds to Section 220 of the Act. There is no policy change. The provisions of the existing section havebeen textually simplified and retained with the same intent in this clause.

411.4 Important views/Suggestions given by Experts/Stakeholders

The opening portion of Section 411(1) may be reworded as follows:-Any amount, otherwise, than by way of advance tax, specified as payable in a notice of

demand under section 289 **at the place and** to the person mentioned in the notice shall be paid within – *(11*) If the amount is not paid within the specified time under sub-section (*1*) or extended under sub-section (*5*), **at the place and** to the person mentioned in the said notice, the assessee shall be deemed to be in default. The words, “at the place, may be removed because tax is not paid at a place but mostly paid online or in bank. Section 411(11) also to be amended similar to Section 411(1).

411.5 Examination by the Committee

With regard to the above suggestion the Department in their written submission has stated as follows ;

“Demand other than advance tax is required to be paid at place and to person specified in the notice. The suggestion seeks to remove the phrase "at the place".

The suggestion is in nature of drafting correction.

The phrase "at the place" needs to be retained as there are non-residents in shipping business who are required to discharge their tax liabilities before the ship departs from any port in India. There are other cases also where a non-resident leaving India may be asked to discharge tax liabilities at a particular place. Further, there are taxpayers including senior citizens who are not well versed with the digital technology and who still make payments over-the-counter at select Authorised Banks branches. It may be noted that online challan payment is not the only mode of tax payment and offline payments are also accepted at designated bank branches. Suggestion rationale itself uses the phrase "tax is not paid at a place but mostly paid online", so it can not be said for certainty that all tax payments are being made online. Besides, dropping the phrase "at the place" will not lead to any tangible benefit and will create undue hardship. Thus, suggestion is not feasible. “

411.6 Observations/Recommendations of the Committee

The Committee has examined Clause 411 of the Income-Tax Bill, 2025, which addresses the credit for advance tax. They observe that this clause textually simplifies Section 219 of the existing Act while maintaining its original intent. No policy change is introduced in this provision. The reference of the repealed Act viz. Income-Tax Act, 1961 may be removed from sub-clause (6) of Clause 411 and incorporated in Clause 536 which provides for Repeals and Savings. After having considered feedback from stakeholders and the Department's response, the Committee concur with the views of the Department and accept Clause 411 subject to the above drafting corrections.

Clause 412 Penalty payable when tax in default.

412.1 Provisions proposed in the Income-Tax Bill, 2025:

412.(*1*) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under section 411(*3*), be liable, by way of penalty, to pay—(*a*) such amount as the Assessing Officer may direct; and (*b*) in the case of a continuing default, such further amount or amounts as the Assessing Officer may, from time to time, direct.(*2*) The total amount of penalty under sub-section (*1*) shall not exceed the amount of tax in arrears.(*3*) No penalty under sub-section (*1*) shall be levied—(*a*) unless the assessee has been given a reasonable opportunity of being heard; and(*b*) where the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.(*4*) The assessee shall not cease to be liable to any penalty under sub-section (*1*) merely by reason of the fact that before the levy of such penalty he has paid the tax.(*5*) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

412.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

221. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the Assessing Officer may direct, and in the case of a continuing default, such further amount or amounts as the Assessing Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears :**Provided** that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard :**Provided further** that where the assessee proves to the satisfaction of the Assessing Officer

that the default was for good and sufficient reasons, no penalty shall be levied under this section.*Explanation.*—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

412.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 412 of the Bill provides for penalty payable when tax in default. Clause 412of the Bill corresponds to Section 221 of the Act. There is no policy change. Theprovisions of the existing section have been textually simplified and retained withthe same intent in this clause.

412.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

412.5 Observations/Recommendations of the Committee

The Committee note that Clause 412, corresponding to Section 221 of the Income-Tax Act, 1961, seeks to provide for penalty payable when tax in default. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.

Clause 413. Certificate by Tax Recovery Officer and Validity thereof.

413.1 Provisions proposed in the Income-Tax Bill, 2025:

413.(*1*) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in such form as prescribed specifying the amount of arrears due from the assessee (such statement being hereafter referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, as per the rules prescribed in this regard,—(*a*)attachment and sale of movable property of the assessee;(*b*) attachment and sale of immovable property of the assessee;(*c*) arrest of the assessee and his detention in prison;(*d*) appointing a receiver for the management of movable and immovable properties of the assessee. (*2*) The Tax Recovery Officer may take action under sub-section (*1*), whether or not proceedings for recovery of the arrears by any other mode have been taken. (*3*) The assessee shall not be entitled to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground. (*4*) The Tax Recovery Officer may cancel the certificate if, for any reason, he considers it necessary so to do, or may correct any clerical or arithmetical mistake therein.(*5*) In this section, the movable or immovable property of the assesseeshall include any property—(*a*) which has been transferred, directly or indirectly on or after the 1st June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the said persons; and(*b*) so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the movable or immovable property of the assessee for recovering any arrears due from the assessee in respect of any period prior to such date.

413.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Certificate to Tax Recovery Officer.

222. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—

a) attachment and sale of the assessee's movable property;

b) attachment and sale of the assessee's immovable property;

c) arrest of the assessee and his detention in prison;

d) appointing a receiver for the management of the assessee's movable and immovable properties.

Explanation.—For the purposes of this sub-section, the assessee's movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the assessee's movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.(2) The Tax Recovery Officer may take action

under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

413.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 413 of the Bill deals with provisions for certificate by Tax Recovery Officer and Validity thereof. Clause 413 of the Bill corresponds to Section 222 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

413.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

Observartions/Recommendations of the Committee

The Committee note that Clause 413 of the Income-Tax Bill 2025, mirroring Section 222 of the Income-Tax Act, 1961, deals with provisions for certificate by Tax Recovery Officer and Validity thereof. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 413 as proposed by the Department.

Clause 414 Tax Recovery Officer by whom recovery is to be effected.

414.1 Provisions proposed in the Income-Tax Bill, 2025:

. (*1*) For the purposes of section 413, the Tax Recovery Officer shall be—(*a*) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or has the principal place of his business or profession; or(*b*) the Tax Recovery Officer within whose jurisdiction the assessee resides or any of his movable or immovable property is situated, the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by any income-tax authority not below the rank of Commissioner who is authorised in this behalf by the Board in pursuance of section 241.(*2*) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction; or(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Part, it is necessary so to do,he may send—(*i*) the certificate; or(*ii*) a copy of the certificate certified in the manner as prescribed and specifying the amount to be recovered, where only a part of the amount is to be recovered, to a Tax Recovery Officer referred to in sub-section (*1*)(*b*) and, thereupon, such officer shall also proceed to recover the amount under this Part as if the certificate or copy thereof had been drawn up by him.

414.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Tax Recovery Officer by whom recovery is to be effected.

223. (1) The Tax Recovery Officer competent to take action under section 222 shall be—

(*a*) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(*b*) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of section 120.(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

414.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 414 of the Bill deals with provisions for the Tax Recovery Officer by whom recovery is to be effected. Clause 414 of the Bill corresponds to Section 223 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. In place of words “by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner”, the words “by an income-tax authority not below the rank of Commissioner” for simplification.

414.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

414,5 Observations/Recommendations of the Committee

The Committee note that Clause 414 of the Bill dealing with provisions for the Tax Recovery Officer by whom recovery is to be effected, aims to simplify the existing provisions of Section 223 of the current Act with no policy change. In place of words "by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner", the words "by an income-tax authority not below the rank of Commissioner" have been substituted for simplification. The Committee, therefore, accept Clause 414 as proposed as it meets its objectives.

Clause 415 Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

415.1 Provisions proposed in the Income-Tax Bill, 2025:

415.(*1*) The Tax Recovery Officer may grant time for the payment of any tax and, till the expiry of such time, shall stay the recovery proceedings for such tax.(*2*) Where a certificate has been drawn up and subsequently, the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall—(*a*) if the order is the subject-matter of further proceeding under this Act, stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending; or(*b*) if the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it.

415.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Validity of certificate and cancellation or amendment thereof.

224. It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.**Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.225.** (1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.(3) Where a certificate has been

drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.

415.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 415 of the Bill provides for Stay of proceedings in pursuance of certificateand amendment or cancellation thereof Clause 415 of the Bill corresponds toSection 224 and section 225 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

415.4 Examination by the Committee

In reply to a specific query on changes (addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

415.5 Observations/Recommendations of the Committee

The Committee note that Clause 415 provides for stay of proceedings in pursuance of certificate and amendment or cancellation thereof, aligns with the existing Section 225 and involves no policy shift. They, therefore, accept Clause 415 as proposed by the Department of Revenue.

CLAUSE 416 Other modes of recovery.

416.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) Where no certificate has been drawn up under section 413, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.(*2*) Where a certificate has been drawn up under section 413, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.(*3*) If any assessee is in receipt of any income chargeable under the head “Salaries”, the Assessing Officer or Tax Recovery Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee and such person shall comply with the said requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs.(*4*) Nothing contained in sub-section (*3*) shall apply to any part of the salary exempted from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.5. (*a*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, by notice in writing require any person—(*i*) from whom money is due or may become due to the assessee; or (*ii*) who holds or may subsequently hold money for or on account of the assessee, to pay to the Assessing Officer or Tax Recovery Officer—(*I*) either forthwith upon the money becoming due or being held; or(*II*) at or within the time specified in the notice (not being before the money becomes due or is held),so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount;(*b*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person;(*c*) For the purposes of this sub-section, the shares of the joint holders in the account, as referred in clause (*b*), shall be presumed, until the contrary is proved, to be equal;(*d*) A copy of the notice under this sub-section shall be forwarded to— (*i*) the assessee; and(*ii*) in the case of a joint account to all the joint holders, at his or their last addresses known to the Assessing Officer or Tax Recovery Officer;(*e*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under

that sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, irrespective of any rule, practice or requirement to the contrary;(*f*) Any claim respecting any property in relation to which a notice under thissub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice;(*g*) Where a person, to whom a notice under thissub-section is issued, objects to it by a statement on oath that— (*a*) the sum demanded or any part thereof is not due to the assessee; or (*b*) he does not hold any money for or on account of the assessee, then nothing contained in that sub-section shall be deemed to require such person to pay any such sum or part thereof;(*h*) Where it is discovered that the statement under was false in any material particular, such person shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less;(*i*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of a notice issued under the said sub-section;(*j*) The Assessing Officer or Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid;(*k*) Any person discharging any liability to the assessee after receipt of a notice under thissub-section shall be personally liable to the Assessing Officer or the Tax Recovery Officer— (*i*)to the extent of his own liability to the assessee so discharged; or (ii) to the extent of the assessee's liability for any sum due under this Act,whichever is less.(*l*) If the person to whom a notice under thissub-section is issued fails to make payment in pursuance thereof to the Assessing Officer or Tax Recovery Officer,—(*i*)he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 413 to 415; and (*ii*) the notice shall have the same effect as an

attachmentof a debt by the Tax Recovery Officer in exercise ofhis powers under section 413.(*6*) The Assessing Officer or Tax Recovery Officer may apply to the court in whose custody there is money belonging to the assessee—(*a*) for payment to him of the entire amount of such money; or(*b*) if it is more than the tax due, an amount sufficient to discharge the tax.(*7*) The Assessing Officer or Tax Recovery Officer may, if so authorised by an income-tax authority not below the rank of commissioner by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner as prescribed.

416.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Other modes of recovery

226. (1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.(1A) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.(2) If any assessee is in receipt of any income chargeable under the head "Salaries", the Assessing Officer or Tax Recovery Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs :**Provided** that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this sub-section.(3) (*i*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Assessing Officer or Tax Recovery Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is

sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.(*ii*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.(*iii*) A copy of the notice shall be forwarded to the assessee at his last address known to the Assessing Officer or Tax Recovery Officer, and in the case of a joint account to all the joint holders at their last addresses known to the Assessing Officer or Tax Recovery Officer.(*iv*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.(*v*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.(*vi*) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less.(*vii*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.(*viii*) The Assessing Officer or Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the

amount so paid.(*ix*) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.(*x*) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Assessing Officer or Tax Recovery Officer, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.(4) The Assessing Officer or Tax Recovery Officer may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.(5) The Assessing Officer or Tax Recovery Officer may, if soauthorised by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner laid down in the Third Schedule.

416.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 416 of the Bill provides for other modes of recovery. Clause 416 of the Bill corresponds to Section 226 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. In place of words “by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner”, the words “byan income-tax authority not below the rank of Commissioner” for simplification.

416.4 Important views/Suggestions given by Experts/Stakeholders

In sub-section (5)(h), reference to statement under “(g) above” is missing and needs to be included.

416.5 Examination by the Committee

With regard to the above suggestion the Department in their written submission has stated as follows

“Accepted. The phrase "clause (g)" needs to be added in the sub-clause 416(5)(h). “

416.6 Observations/Recommendations of the Committee

The Committee observe that Clause 416 provides for other modes of recovery. aligning with Section 226 of the Income-Tax Act, 1961. The Clause has been only textually simplified, retaining its original intent. However, the Committee note that inadvertent omission of "clause (g)" in sub-clause 416(5)(h) has been accepted by the Department of Revenue. The Committee, therefore, recommend the Department to amend Clause 416 accordingly.

CLAUSE 417 Recovery through State Government.

417.1 Provisions proposed in the Income-Tax Bill, 2025:

. If the recovery of tax in any area has been entrusted to a State Government under article 258(1) of the Constitution, the State Government may direct, with respect to that area or any part thereof that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

417.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Recovery through State Government.

227. If the recovery of tax in any area has been entrusted to a State Government under clause (*1*) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof; that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

417.2 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 417 of the Bill provides for recovery through State Government. Clause 417of the Bill corresponds to Section 227 of the Act. There is no policy change. Theprovisions of the existing section have been textually simplified and retained withthe same intent in this clause.

417.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

417.5 Observations/Recommendations of the Committee

The Committee observe that Clause 417, which deals with recovery through State Governments, corresponding to Section 227 of the existing Act, and incorporates no policy changes. Given this, the Committee recommend that the Clause be retained as proposed.

Clause 418 Recovery of tax in pursuance of agreements with foreign countries.

418.1 Provisions proposed in the Income-Tax Bill, 2025:

.(*1*) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from—(*a*) a resident; or (*b*) a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer having jurisdiction over the resident, or within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—(*i*) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate drawn up by him under section 413; and (*ii*) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.(*2*) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may,—(*a*) if the assessee is a resident of a country being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country; or (*b*) has any property in that country,forward to the Board a certificate drawn up by him under section 413 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

418.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Recovery of tax in pursuance of agreements with foreign countries.

228A. (1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement

sends to the Board a certificate for the recovery of any tax due under such corresponding law from a resident, or a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer having jurisdiction over the resident, or within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(*a*) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate drawn up by him under section 222; and

(*b*) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee is a resident of a country (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), or has any property in that country, forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

418.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 418 of the Bill provides for recovery of tax in pursuance of agreements with foreign countries. Clause 418 of the Bill corresponds to Section 228A of the Act.There is no policy change. The provisions of the existing section have beentextually simplified and retained with the same intent in this clause.

418.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

418.5 Observations/Recommendations of the Committee

The Committee note that Clause 418 provides for recovery of tax in pursuance of agreements with foreign countries. They observe that the Department's submission indicates no policy change has been occurred; rather the provisions have been merely simplified textually from the existing Section 228A. The Committee, therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.

Clause 419 Recovery of penalties, fine, interest and other sums.

419.1 Provisions proposed in the Income-Tax Bill, 2025:

Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Part for the recovery of arrears of tax.

419.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Recovery of penalties, fine, interest and other sums.229. Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

419.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 419 of the Bill provides for recovery of penalties, fine, interest and other sums. Clause 419 of the Bill corresponds to Section 229 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

419.4 Important views/Suggestions given by Experts/Stakeholders

The word ‘fee’ may also be specifically included in the clause.

419.5 Examination by the Committee

The Ministry has submitted written reply as follows:-

“Suggestion seeks to add the word fee in the clause dealing with recovery of penalties, fine, interest and other sums.It is submitted that the phrase "Any sum imposed by way of interest, fine, penalty, or any other sum" is consistent throughout the Bill. This is a settled position of law and there is no documented litigation over non-inclusion of the word fee in this section. Due to the dynamic

nature of economy, it is practically not possible to envision every nature of sum and mention the same in the said clause. In any case, the words "any other sum" takes care of any nature of sum which has not been mentioned in the clause. However, the same shall still be examined in consideration with the Department of Law"

419.6 Observations/Recommendations of the Committee

The Committee note that Clause 419 of the Bill, which addresses the recovery of penalties, fines, interest, and other sums, corresponds to Section 229 of the existing Act. The Committee also note that there is no policy change proposed, and the existing provisions have been textually simplified while retaining their original intent.

Regarding the suggestion from expert/stakeholder to specifically include the word "fee" in Clause 419, the Committee are given to understand that the phrase "Any sum imposed by way of interest, fine, penalty, or any other sum" is consistent throughout the Bill and represents a settled position of law with no documented litigation concerning the non-inclusion of "fee." The Department has further stated that "any other sum" is broad enough to cover any unmentioned sums, given the dynamic nature of the economy. However, the Department is also committed to examine the suggestion further in consultation with the Ministry of Law and Justice. Given the Department's assurance that "any other sum" adequately covers "fee" and their commitment to further examination with the Department of Law, the Committee, for now, accept Clause 419 as proposed.

Clause 420 Tax clearance certificate.

420.1 Provisions proposed in the Income-Tax Bill, 2025:

420.(*1*) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, no person,—

(*a*) who is not domiciled in India;

(*b*) who has come to India in connection with business, profession or employment; and

(*c*) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (*i*) or the person referred to in clause (*ii*), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India.

(*2*) Nothing contained in sub-section (*1*) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(*3*) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as prescribed—

(*a*) the Permanent Account Number allotted to him under section 262;

(*b*) the purpose of his visit outside India; and

(*c*) the estimated period of his stay outside India.

(*4*) Where no such Permanent Account Number has been allotted to him, or his total income is not chargeable to income-tax, or he is not required to obtain a Permanent Account Number under this Act, such person shall furnish a certificate in such form, as prescribed.

(*5*) No person—

(*a*) who is domiciled in India at the time of his departure; and

(*b*) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liability under this Act, or the Wealth-tax Act, 1957 or the Gift-tax Act, 1958 or the Expenditure-tax Act, 1987 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person.

(*6*) No income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless—

(*a*) he records the reasons therefor; and

(*b*) obtains the prior approval of Principal Chief Commissioner or Chief Commissioner.

(*7*) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (*1*) or (*5*) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by those sub-sections, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Assessing Officer may, having regard to the circumstances of the case, determine.

(*8*) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (*7*),—

(*a*) the owner or charterer, shall be deemed to be an assessee in default for such sum; and

(*b*) such sum shall be recoverable from him in the manner provided in this Part as if it were an arrear of tax.

(*9*) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

(*10*) In this section, "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

420.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Tax clearance certificate.

230. (1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(*a*) who is not domiciled in India;

(*b*) who has come to India in connection with business, profession or employment; and

(*c*) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(*i*) an undertaking in the prescribed form from his employer; or

(*ii*) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (*i*) or the person referred to in clause (*ii*), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(*a*) the permanent account number allotted to him under section 139A:

Provided that in case no such permanent account number has been allotted to

him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

(*b*) the purpose of his visit outside India;

(*c*) the estimated period of his stay outside India:

Provided that no person—

(*i*) who is domiciled in India at the time of his departure; and

(*ii*) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 1987), [48][or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015),] or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person :

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Principal Chief Commissioner or Chief Commissioner of Income-tax.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) or the first proviso to sub-section (1A) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Assessing Officer may, having regard to the circumstances of the case, determine.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to

be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax.

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

Explanation.—For the purposes of this section, the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

420.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 420 of the Bill provides for tax clearance certificate Clause 420 of the Billcorresponds to section 230 of the Act. There is no policy change. The provisions ofthe existing section have been textually simplified and retained with the same intentin this clause.

420.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

420.5 Observations/Recommendations of the Committee

The Committee note that Clause 420 of the Bill provides for tax clearance certificate, corresponding to Section 230 of the existing Act. They also note that no policy change has been effected by the Department; and only a textual simplification of the current Act. The Committee, therefore, accept Clause 420 as proposed.

Clause 421 Recovery by suit or under other law not affected.

421.1 Provisions proposed in the Income-Tax Bill, 2025:

421. The several modes of recovery specified in this Part shall not affect in any way;—

(*a*) any other law for the time being in force relating to the recovery of debts due to Government; or

(*b*) the right of the Government to institute a suit for the recovery of the arrears due from the assessee; and

(*c*) it shall be lawful for the Assessing Officer or the Government, as the case may be, to have recourse to any such law or suit, irrespective of the fact that the tax due is being recovered from the assessee by any mode specified in this Part.

421.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Recovery by suit or under other law not affected.

232. The several modes of recovery specified in this Chapter shall not affect in any way—

a) any other law for the time being in force relating to the recovery of debts due to Government; or

b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee;

and it shall be lawful for the Assessing Officer or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter.

421.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 421 of the Bill deals with recovery by suit or under other law not affected. Clause 421 of the Bill corresponds to Section 232 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

421.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

421.5 Observations/Recommendations of the Committee

Clause 421 of the Income-Tax Bill 2025, corresponding to Section 232 of the Income-Tax Act, 1961, seeks to provide that recovery by suit or under other law will not be affected notwithstanding tax due being recovered under any mode prescribed in the proposed legislation. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 421 as proposed by the Department.

Clause 422 Recovery of tax arrears in respect of non-resident from his assets.

422.1 Provisions proposed in the Income-Tax Bill, 2025:

422. Irrespective of the provisions of sections304(*1*) or(*5*), where the person entitled to the income referred to in section 9(*2*) is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee—

(*a*) may be recovered by deduction under the provisions of Chapter XIX-B; and

(*b*) any arrears of tax may also be recovered as per the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

422.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Recovery of tax in respect of non-resident from his assets.

173. Without prejudice to the provisions of sub-section (1) of section 161 or of section 167, where the person entitled to the income referred to in clause (*i*) of sub-section (1) of section 9 is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered by deduction under any of the provisions of Chapter XVII-B and any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

422.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 422 of the Bill provides for recovery of tax arrear in respect of non-residentfrom his assets. Clause 422 of the Bill corresponds to Section 173 of the Act.There is no policy change. The provisions of the existing section have beentextually simplified and retained with the same intent in this clause.

422.4 Examination by the Committee

In reply to a specific query on changes (addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

422.5 Observations/Recommendations of the Committee

Noting that Clause 422 of the Bill, which seeks to provide for recovery of tax arrears from a non-resident from his assets, is a textual simplification of Section 173 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.

Clause 423 Interest for defaults in furnishing return of income.

423.1 Provisions proposed in the Income-Tax Bill, 2025:

423. (*1*) Where the return of income for any tax year is furnished after the due date or is not furnished, the assessee shall be liable to pay simple interest as per the following formula:—

I= 1%x A x T

where,—

I = the interest payable;

A = the amount of tax on which interest is payable, as specified in sub-section (*2*);

T = number of months comprised in the period commencing on the date immediately following the starting date and ending on the end date, both specified in sub-section (*2*).

(*2*) For sub-section (*1*), in respect of the circumstances specified in column B of the Table below, the starting date shall be the date specified in column C, the ending date shall be the date as specified in column D and the amount of tax on which interest is payable is specified in column E.Table

Sl. No.	Circumstances	Starting date	Ending date	The amount of tax on which interest is payable
A	B	C	D	E
1.	Where the return is furnished—(*a*) under section 263(*1*), (*4*) or (*6*); or	Due date for furnishing the return of income under section 263(*1*).	Date of furnishing of the return.	(*a*) Where a regular assessment is not made, tax on the total income as determined under section 270(*1*) as reduced by tax paid;
	(*b*) in response to a notice under section 268(*1*) after the due			(*b*) Where a regular assessment is made, tax on the total income determined under regular assessment as

	date.			reduced by tax paid.
2.	(i)Where no return has been furnished under section 263(*1*), (*4*) or (*6*) or in response to a notice under section 268(*1*).	Due date for furnishing the return of income under section 263(*1*).	Date of completion of the assessment under section 271.	Tax on the total income determined under regular assessment as reduced by tax paid.
3.	(*a*) Where return of income is required by a notice under sectionissued after the determination of income under section 270(*1*) or after the completion of an assessment under section 270(*10*) or 271 or 279; and(*b*) such return is furnished after the expiry of the time allowed under such notice.	Date immediately following the last date of time allowed under such notice.	Date of furnishing the return.	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under section 270(*1*) or on the basis of the earlier assessment under the section referred to against serial number 3(*a*).
4.	(*a*) Where return of income is required by a notice under section280 issued after the determination of	Date immediatelyfollowing the last date of time allowed under such notice.	Date of completion of the reassessment or recomputatio	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds

	income under section 270(*1*) or after the completion of an assessment under section 270(*10*) or 271 or 279; and(*b*) no return is furnished.	n under section 279.	the tax on the total income determined under section 270(*1*) or on the basis of the earlier assessment under the section referred to against serial number 4(*a*).

(3) Where as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount of tax on which interest was payable under sub-sections (*1*) and (*2*) has been increased or reduced, the interest shall be increased or reduced accordingly, and in a case —

(*a*) where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the form as prescribed specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;

(*b*) where the interest is reduced, the excess interest paid, if any, shall be refunded.

(*4*) For the purposes of this section,—

(*a*) tax on total income as determined under section 270(*1*) shall not include the additional income-tax, if any, payable under section 267;

(*b*) tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 267;

(*c*) interest payable under sub-section (*1*) shall be reduced by the interest, if any, paid under section 266 towards the interest chargeable;

(*d*) “tax paid” means—

(*i*) advance tax, if any, paid;

(*ii*) any tax deducted or collected at source;

(iii) any relief of tax allowed under section 157;

(iv) any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;

*(*v) any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;

(*vi*) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(*vii*) any tax credit allowed to be set off as per section 206(*13*).

(*5*) Where for any tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

423.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Interest for defaults in furnishing return of income.

234A. (1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) or sub-section (8A) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(*a*) where the return is furnished after the due date, ending on the date of furnishing of the return; or—

(*b*) where no return has been furnished, ending on the date of completion of the assessment under section 144,

on the amount of the tax on the total income as determined under sub-section (1) of section 143, and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the amount of,—

(i) advance tax, if any, paid;

(ii) any tax deducted or collected at source;

(iia) any relief of tax allowed under section 89;

(iii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iv) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(v) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(vi) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Explanation 1.—In this section, "due date" means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.*Explanation 2.*—In this sub-section,—

(i) "tax on total income as determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 140B or section 143; and

(ii) tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 140B.

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.*Explanation 4.*—[* * *](2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.(3) Where the return of income for any assessment year, required by a notice under section 148 or section 153A issued after the determination of income under sub-section (1) of section 143 or after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of

the reassessment or recomputation under section 147 or reassessment under section 153A,

on the amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the earlier assessment aforesaid.*Explanation.*—[* * *](4) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

423.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 423 of the Bill provides for interest for defaults in furnishing return of income. Clause 423 of the Bill corresponds to Section 234A of the Act. There is no policy change. The provisions of the existing section have been textually simplified by providing a formula to calculate the interest payable. Further, various circumstances, starting date, last date and corresponding amount of tax on which interest is payable has been tabulated for easy understanding and simple calculation of the interest for defaults in furnishing return of income.

423.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

423.5 Observations/Recommendations of the Committee

The Committee note that Clause 423 of the Bill, prescribing interest for defaults in furnishing return of income, aligns with existing Section 234A of the Income-Tax Act, 1961; but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 423 as it is.

Clause 424 Interest for defaults in payment of advance tax.

424.1 Provisions proposed in the Income-Tax Bill, 2025:

(1) Subject to the other provisions of this section, where, in any tax year, an assessee who is liable to pay advance tax under section 404,—(*a*) has failed to pay such tax; or (*b*) the advance tax paid by such assessee under the provisions of section 406 or 407 is less than 90% of the assessed tax, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month, for the period, beginning from the 1st April following such tax year—(*i*) upto the date of determination of total income under section 270(*1*); or (*ii*) upto the date of completion of regular assessment,on an amount equal to the assessed tax in case where clause (*a*) is applicable or, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax in case where clause (*b*) is applicable.(*2*) In sub-section (*1*),"assessed tax" means the tax on the total income determined under section 270(*1*) and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—(*a*)any tax deducted or collected at source as per Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;(*b*)any relief of tax allowed under section 157;(*c*)any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;(*d*)any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;(*e*)any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and(*f*)any tax credit allowed to be set off as per section 206(*13*).(*3*) For the purposes of this section,—(*a*) where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular

assessment;(*b*) tax on total income as determined under section 270(*1*) shall not include the additional income-tax, if any, payable under section 267;(*c*) tax on the total income determined under such regular assessment shall not include the additional income-tax payable under section 267.(*4*) Where, before the date of determination of total income under section 270(*1*) or completion of a regular assessment, tax is paid by the assessee under section 266 or otherwise,—(*a*) interest shall be calculated as per the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 266 towards the interest chargeable under this section;(*b*) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.(*5*) Where, the amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year under sub-section (*1*) is increased, as a result of an order of reassessment or recomputation under section 279, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the 1st April immediately following such tax year and ending on the date of the reassessment or recomputation on such amount determined as per formula below:—A= B-Cwhere,—A = the increased amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year as a result of reassessment or recomputation—B = tax on total income determined on the basis of reassessment or recomputation;C = tax on total income determined under section 270(*1*) or regular assessment as referred to in sub-section (*1*).(6) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount on which interest was payable under sub-section (*1*) or (*3*) has been increased or reduced, the interest shall be increased or reduced accordingly, and—(*a*) in a case where the interest is increased, the Assessing Officer

shall serve on the assessee a notice of demand in the form as prescribed specifying the sum payable and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;(*b*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(2)

424.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Interest for defaults in payment of advance tax.

234B. (1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of determination of total income under sub-section (1) of section 143 and where a regular assessment is made, to the date of such regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.*Explanation 1.*—In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

any relief of tax allowed under section 89;

ia)

any relief of tax allowed under section 90 on account of tax paid

ii) in a country outside India;

any relief of tax allowed under section 90A on account of tax

iii) paid in a specified territory outside India referred to in that section;

any deduction, from the Indian income-tax payable, allowed

iv) under section 91, on account of tax paid in a country outside India; and

any tax credit allowed to be set off in accordance with the

v) provisions of section 115JAA or section 115JD.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.*Explanation 3.*—In *Explanation 1* and in sub-section (3),—

"tax on total income as determined under sub-section (1)

i) of section 143" shall not include the additional income-tax, if any, payable under section 140B or section 143; and

tax on the total income determined under such regular

ii) assessment shall not include the additional income-tax payable under section 140B.

(2) Where, before the date of determination of total income under sub-section (1) of section 143 or completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

interest shall be calculated in accordance with the foregoing

i) provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

thereafter, interest shall be calculated at the rate aforesaid on the

ii) amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(2A) (*a*) Where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;(*b*) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C;(*c*) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (*b*) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.(3) Where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be.(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the

amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

424.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 424 of the Bill provides for interest for defaults in payment of advance tax.Clause 424 of the Bill corresponds to Section 234B of the Act. There is no policy change. The provisions of the existing section have been textually simplified by providing a formula to calculate the interest for defaults in payment of advance tax for easy understanding and simple calculation.

424.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

424.5 Observations/Recommendations of the Committee

The Committee note that Clause 424 of the Bill, prescribing interest for defaults in payment of advance tax, aims to simplify the existing provisions of Section 234B of the Act by providing formula to calculate the interest for defaults in payment of advance tax for better comprehension. The Committee concur with the Department's justification for this simplification and, therefore, accept Clause 424 as proposed.

Clause 425 Interest for deferment of advance tax.

425.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) If an assessee, liable to pay advance tax under section 404, other than the assessee mentioned in sub-section (*3*), has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the date specified in column B of the Table below, is less than advance tax due on returned income, as specified in column C, then the assessee shall be liable to pay interest on the amount of shortfall of advance tax as specified in column D , at the rate of interest specified in column E:Table

Sl. No.	Due date of Instalment	Advance tax due on returned income	Amount of shortfall of advance taxbeing percentage of advance tax due as per column C, as reduced by advance tax already paid on or before the date specified in column B	Interest payable on shortfall as specified in column D
A	B	C	D	E
1.	15th day of June	15% of the tax due on returned income.	15%.	3% on the shortfall.
2.	15th day of September.	45% of the tax due on returned income.	45%.	3% on the shortfall.
3.	15th day of December.	75% of the tax due on returned income.	75%.	3% on the shortfall.
4.	15th day of	100% of the tax	100%.	1% on the

March. due on returned income. shortfall.

(*2*) The assessee shall not be liable to pay any interest under sub-section (*1*), if the advance tax paid by the assessee on the current income,—(*a*) on or before the 15th day of June is 12%or moreof the tax due on the returned income; or(*b*) on or before the 15th day of September is 36% or moreof the tax due on the returned income. (*3*) An assessee who declares profits and gains as per section 58(*2*)(Table: Sl. No. 1 or 3) or, who is liable to pay advance tax under section 404, has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on returned income, shall be liable to pay simple interest at the rate of 1% on the amount of shortfall from the tax due on returned income.. (*4*) No interest shall be payable under sub-section (*1*) or (*3*) in respect of shortfall in the payment of tax due on returned income, where,—(*a*) the shortfall is on account of underestimation or failure to estimate the following incomes:—(*i*)capital gains;(*ii*)income as per section 2(*49*)(*n*);(*iii*)income under the head profits and gains of business or profession accruing or arising for the first time; (*iv*)dividend income; and(*b*) theassessee has paid in full, the tax payable on the incomes referred to in clause (*a*), in any of the remaining instalments of advance tax, if any, or by the 31st day of March of the tax year. (*5*) For the purposes of this section “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the tax year in which the advance tax is paid or payable, as reduced by the amount of—(*a*) any tax deducted or collected at source as per the provisions of Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;(*b*) any relief of tax allowed under section 157;(*c*) any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;(*d*) any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;(*e*) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and(*f*) any tax credit allowed to be set off as per section 206(*13*).

425.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Interest for deferment of advance tax.

234C. (1) Where in any financial year,—

(*a*) an assessee, other than the assessee referred to in clause (*b*), who is liable to pay advance tax under section 208 has failed to pay such tax or—

(*i*) the advance tax paid by such assessee on its current income on or before the 15th day of June is less than fifteen per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent per month for a period of three months on the amount of the shortfall from fifteen per cent or forty-five per cent or seventy-five per cent, as the case may be, of the tax due on the returned income;

(*ii*) the advance tax paid by the assessee on the current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:

Provided that if the advance tax paid by the assessee on the current income, on or before the 15th day of June or the 15th day of September, is not less than twelve per cent or, as the case may be, thirty-six per cent of the tax due on the returned

income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates;

(*b*) an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:

Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

(*a*) the amount of capital gains; or

(*b*) income of the nature referred to in sub-clause (*ix*) of clause (*24*) of section 2; or

(*c*) income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time; or

(*d*) the amount of dividend income,

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by the 31st day of March of the financial year:**Provided further** that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000), as amended by the Taxation Laws (Amendment) Act, 2000 (1 of 2001), and the assessee has paid

the amount of shortfall, on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and the 15th day of December, 2000 :**Provided also** that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000) as amended by the Taxation Laws (Amendment) Act, 2001 (4 of 2001) and the assessee has paid the amount of shortfall on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and 15th day of December, 2000.*Explanation 1.*—In this section, "tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of,—

(*i*) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*ia*) any relief of tax allowed under section 89;

(*ii*) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(*iii*) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(*iv*) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(*v*) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Explanation 2.—For the purposes of this sub-section, the term "dividend" shall have the meaning assigned to it in clause (*22*) of section 2, but shall not include sub-clause (*e*) thereof.(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

425.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 425 of the Bill provides for interest for deferment of advance tax. Clause425 of the Bill corresponds to Section 234C of the Act. There is no policy change.The provisions of the existing section have been textually simplified by providing atabular format to calculate the interest for deferment of advance tax for easyunderstanding and simple calculation.

425.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

425.5 Observations/Recommendations of the Committee

The Committee note that Clause 425 of the Income-Tax Bill, 2025, mapped to Section 234C of the Income-Tax Act, 1961, prescribes interest for deferment of advance tax. The Committee approve Clause 425 as proposed, noting its simplified approach to existing provisions.

Clause 426 Interest on excess refund.

426.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) Subject to the other provisions of this Act, where any refund is granted to the assessee under section 270(*1*), and—(*a*)no refund is due on regular assessment; or(*b*)the amount refunded under section 270(*1*) exceeds the amount refundable on regular assessment,theassessee shall be liable to pay simple interest at the rate of 0.5% on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment. (*2*) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount of refund granted under section 270(*1*) is held to be correctly allowed, either in whole or in part, then, the interest chargeable, if any, under sub-section (*1*) shall be reduced accordingly. (*3*) Where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

426.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Interest on excess refund.

234D. (1) Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section (1) of section 143, and—

(*a*) no refund is due on regular assessment; or

(*b*) the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of one-half per cent on the whole or the excess amount so refunded, for every month or part of a month

comprised in the period from the date of grant of refund to the date of such regular assessment.(2) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.*Explanation 1.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.*Explanation 2.*—For the removal of doubts, it is hereby declared that the provisions of this section shall also apply to an assessment year commencing before the 1st day of June, 2003 if the proceedings in respect of such assessment year is completed after the said date.

426.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 426 of the Bill provides for interest on excess refund. Clause 426 of the Bill corresponds to Section 234D of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

426.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

426.5 Observations/Recommendations of the Committee

The Committee observe that Clause 426 of the Bill prescribes interest on excess refund which corresponds to Section 234D of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 426 as proposed by the Department of Revenue.

F.—LEVY OF FEE IN CERTAINCASES

Clause 427 Fee for default in furnishing statements.

427.1 Provisions proposed in the Income-Tax Bill, 2025:

(*1*) Without prejudice to the provisions of this Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in section 393(*3*)(*b*), he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.(*2*) The amount of fee referred to in sub-section (*1*) shall,—(*a*) not exceed the amount of tax deductible or collectible; and(*b*) be paid before delivering or causing to be delivered the statement, as per sub-section (*1*)

427.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Fee for default in furnishing statements.

234E. (1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.(2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

427.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 427 of the Bill provides for fee for default in furnishing statements. Clause427 of the Bill corresponds to Section 234E of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

427.4 Important views/Suggestions given by Experts/Stakeholders

427(1). In Section 427, the reference to section 394(1)(c) i.e., for collection of Tax has not been made. As Section 427 (2) (a) has referred to the term“ collectible” therefore, it is necessary to include the amount collectible under section 394(1)(c) in Section 427 (1) .

427.5 Examination by the Committee

With regard to the above suggestion the Department in their written submission has stated as follows :

“This is drafting correction. Reference of section 394(1) (c) shall be added in 427(1).”

427.6 Observations/Recommendations of the Committee

The Committee observe that Clause 427 of the Bill, which provides for fees for default in furnishing statements and corresponds to Section 234E of the Income-Tax Act, 1961, requires a drafting correction. A stakeholder highlighted that Clause 427(1) omits a necessary reference to Section 394(1)(c), which deals with tax collection, despite Clause 427(2)(a) using the term "collectible." The Department has accepted this as a valid correction, agreeing to add the reference to Section 394(1)(c) in Clause 427(1), and the Committee therefore recommend to carry out the drafting correction. Apart from this, they accept the Clause 427 as proposed.

CLAUSE 428 Fee for default in furnishing return of income.

428.1 Provisions proposed in the Income-Tax Bill, 2025:

Without prejudice to the provisions of this Act, where, a person required to furnish a return of income under section 263 fails to do so within the time as prescribed in section 263(1) he shall pay, by way of a fee,—(*a*)a sum of five thousand rupees, if the total income of such person exceeds five lakh rupees;(*b*)a sum not exceeding one thousand rupees in any other case.

428.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Fee for default in furnishing return of income.

234F. (1) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (1) of the said section, he shall pay, by way of a fee, a sum of five thousand rupees :**Provided** that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.(2) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.

428.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 428 of the Bill deals with fee for default in furnishing return of income. Clause 428 of the Bill corresponds to Section 234F of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

428.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

428.5 Observations/Recommendations of the Committee

The Committee note that Clause 428 of the Bill pertains to refunds, aligns with the provisions of Section 234F of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 428 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

CLAUSE 429 Fee for default relating to statement or certificate.

429.1 Provisions proposed in the Income-Tax Bill, 2025:

(1) Without prejudice to the provisions of this Act, where,—

(a)the research association, University, college or other institution referred to in section45(3)(a) or the company referred to in section 45(3)(b) fails to deliver or cause to be delivered the documents as prescribed in section 45(4)(a) within the time as prescribed therein or furnish a certificate as prescribed under section 45(4)(a); or

(b)the institution or fund fails to deliver or cause to be delivered a statement within the time as prescribed under section 354(1)(e), or furnish a certificate as prescribed under section 354(1)(f), it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall,—

(a) not exceed the amount in respect of which the failure referred to therein has occurred;

(b) be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (1).

429.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Fee for default relating to statement or certificate.

234G. (1) Without prejudice to the provisions of this Act, where,—

(*a*) the research association, university, college or other institution referred to in clause (*ii*) or clause (*iii*) or the company referred to in clause (*iia*) of sub-section (1) of section 35 fails to deliver or cause to be delivered a statement within the time prescribed under clause (*i*), or furnish a certificate prescribed under clause (*ii*) of sub-section (1A) of that section; or

(*b*) the institution or fund fails to deliver or cause to be delivered a statement within the time prescribed under clause (*viii*) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (*ix*) of the said sub-section,

it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.(2) The amount of fee referred to in sub-section (1) shall,—

(*a*) not exceed the amount in respect of which the failure referred to therein has occurred;

(*b*) be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (1)

429.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 429 of the Bill deals with fee for default relating to statement or certificate Clause 429 of the Bill corresponds to Section 234G of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

429.4 Examination by the Committee

In reply to a specific query on changes(addition or omission or replacement of words etc.), if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished the following reply:

“The Provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of the IT Act, 1961. “

429.5 Observations/Recommendations of the Committee

The Committee note that Clause 429 is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the Department.

Clause 430 Fee for default relating to intimation of Aadhaar number.

430.1 Provisions proposed in the Income-Tax Bill, 2025:

Without prejudice to the provisions of this Act, where a person is required to intimate his Aadhaar number under section 262(*6*) and such person fails to do so on or before such date as prescribed, he shall be liable to pay such fee, as prescribed, not exceeding one thousand rupees, at the time of making intimation under that sub-section after the said date.

430.2 Relevant provision of the Principal Act (Income-Tax Act 1961)

Fee for default relating to intimation of Aadhaar number.

234H. Without prejudice to the provisions of this Act, where a person is required to intimate his Aadhaar number under sub-section (2) of section 139AA and such person fails to do so on or before such date, as may be prescribed, he shall be liable to pay such fee, as may be prescribed, not exceeding one thousand rupees, at the time of making intimation under sub-section (2) of section 139AA after the said date.

430.3 Reasons/Justification given by the Department of Finance for the proposed provision

Clause 430 of the Bill deals with fee for default relating to intimation of Aadhaar number. Clause 430 of the Bill corresponds to Section 234H of the Act. There isno policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

430.4 Important views/Suggestions given by Experts/Stakeholders

A consolidated section is suggested for levy of fee in certain cases covering sections 427 to 430

430.5 Examination by the Committee

With regard to the above suggestion the Department in their written submission has stated as follows

"The suggestion seeks to consolidate four clauses in a table. It is submitted that clauses 427 to 430 provide for levying of fees in certain cases. Each clause deals with specific cases, provides for specific conditions for imposition of the said fees and the amount of fees to be charged is also different. Consolidation and presentation in a single table will lead to confusion regarding the applicability of the conditions for charging certain fees. Further, it may also be the case where the table will give an impression that the fees are mutually inclusive which not the case is. Afore-mentioned clauses are mutually exclusive. In case there are multiple violations even in a single case, applicable fees shall be charged. It is further submitted that suggestions received from the stakeholders in earlier batches on the newly introduced tables in the Bill, have raised serious concerns regarding the applicability of row items in a single table, their readability and whether the conditions pertaining on row item of table are to be read in conjunction with each other. The afore-said clauses in their present state are fairly clear with definite readability and putting them in a single table may lead to taxpayer confusion and rise in unintended litigation. Thus, the suggestion is not feasible."

430.6 Observations/Recommendations of the Committee

Clause 430 of the Bill deals with fee for default relating to intimation of Aadhaar number. The Committee note that this Clause is simplified textual version of existing Section 234H of the extant Act and retaining the same intent. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 430 as proposed.

CHAPTER XX

REFUNDS

Clause 431 - REFUNDS

431.1 Proposed provision in the Income-Tax Bill, 2025

If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any tax year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

431.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

Existing provision of the Section 237 under Chapter XIXis as under:-

"237. If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess."

431.3 Reasons/Justification given by the Ministry of Finance (Department of Revenue) for the proposed provision

"Clause 431 of the Bill relates to refunds. Clause 431 of the Bill corresponds to Section 237 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

431.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

431.4 Observation/Recommendation by the Committee

The Committee note that Clause 431 pertains to refunds and aligns with the provisions of Section 237 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of Clause 431 is as per the objectives of the Bill and retains the same intent. The Committee, therefore, accept the Clause as proposed.

Clause 432 - Person entitled to claim refund in certain special cases.

432.1 Proposed provision in the Income-Tax Bill, 2025

432 (1) "Where the income of one person is included in total income of any another person under any provision of this Act, the latter shall be eligible for a refund under this Part in respect of such income.

(2) Where a person is unable to claim or receive a refund due to him on account of death, incapacity, insolvency, liquidation or other cause, his legal representative or the trustee or guardian or receiver, shall be entitled to claim or receive such refund for the benefit of such person or his estate."

432.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"238. (1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income.

(1A) Where the value of fringe benefits provided or deemed to have been provided by one employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this Chapter in respect of such fringe benefits.

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate."

432.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 432 of the Bill deals with person entitled to claim refund in certain special cases. Clause 432 of the Bill corresponds to Section 238 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

432.4 Important Views/Suggestions given by Experts/Stakeholders

A suggestion has been received that in Clause 432(1), the term 'any another', should be replaced by 'any other' or 'another'.

432.5 Examination by the Committee

432.5.1 The Committee note that the Department of Revenue, while accepting the above suggestion stated in their reply as under:

“Accepted. This is drafting correction. The phrase 'any another' shall be replaced by 'any other'.”

432.5.2 While examining Clause 432, it is noticed that the word “part” has been used, which is not there in the Chapter XX. The Department have accepted the above mentioned identical issue in Clause 436 as under:

“Accepted. The suggestion seeks to replace the words "this part" with "this chapter" in clause 436. The same is in the nature of drafting correction. Thus, same is acceptable.”

432.6 Observation/Recommendation by the Committee

The Committee note that Clause 432 textually simplifies and retains the same intent of Section 238 of the extant Act. However, few typographical errors in Clause 432 (1) which has been accepted by the Department of Revenue, necessitates an amendment. Therefore, the Committee recommend to amend the Clause accordingly. The amended Clause may be read as under:

> **432(1) Where the income of one person is included in total income of any other person under any provision of this Act, the latter shall be eligible for a refund under this Chapter in respect of such income.**

Clause 433 - Form of claim for refund and limitation

433.1 Proposed provision in the Income-Tax Bill, 2025

Every claim for refund under this Part shall be made by furnishing return as per section 263.

433.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"239.(1) Every claim for refund under this Chapter shall be made by furnishing return in accordance with the provisions of section 139.

(2) [***]"

433.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 433 of the Bill deals with form of claim for refund and limitation. Clause 433 of the Bill corresponds to Section 239 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

433.4 Important Views/Suggestions given by Experts/Stakeholders

433.4.1 Refunds may be granted in case of belated return in certain circumstances. Exceptions may be allowed for genuine cases (e.g., medical emergency, natural calamity, death in family) to ensures fairness and protect the rights of taxpayers with valid reasons for delay.

433.5 Examination by the Committee

433.5.1 With regard to the suggestion to allow refunds in case of belated returns in exceptional cases, the Department of Revenue have submitted following reply:

> *"The suggestion seeks to provide flexibility by allowing refund claims in cases where the return is not filed in due time, subject to safeguards. This is a drafting correction and Clause 263(1)(xi) should be deleted to enable taxpayers to claim refund even if they file belated or revised return. Therefore suggestion is acceptable".*

433.5.2 Further on examination of Clause 433, it is noticed that the word "part" has been used, which is not there in the Chapter XX. The Department have accepted the above mentioned identical issue in Clause 436 as under:

“Accepted. The suggestion seeks to replace the words "this part" with "this chapter" in clause 436. The same is in the nature of drafting correction. Thus, same is acceptable.”

433.6 Observation/Recommendation by the Committee

433.6.1 The Committee note that the suggestion to allow refunds in case of late/revised income tax returns filed due to exceptional/emergency circumstances such as medical emergency, natural calamity, death in the family, etc. has been accepted by the Department. Accordingly, the Committee recommend to carry out suitable modification in Clause 263 to enable refunds in case of filing belated or revised returns.

433.6.2 The Committee further note that Clause 433 of the Bill corresponds to Section 239 of the Income-Tax Act, 1961 dealing with form of claim for refund and limitation. They find that in Clause 433 'part' has been mentioned inadvertently while the intended word is 'Chapter'. They also find that this drafting error has been accepted by the Department in case of drafting of Clause 436 as well. The Committee, therefore, recommend that the same drafting correction may also be carried out in Clause 433.

Clause 434 - Refund for denying liability to deduct tax in certain cases

434.1 Proposed provision in the Income-Tax Bill, 2025

(1) Where,—

(a) under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest in section 393(2) (Table: Sl. No. 17), is to be borne by the person by whom the income is payable; and

(b) such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income, he may, within thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as prescribed.

(2) The Assessing Officer shall, by an order in writing, allow or reject the application.

(3) No application under sub-section (1) shall be rejected unless an opportunity of being heard has been given to the applicant.

(4) The Assessing Officer may, before passing an order under sub-section (2), make such inquiry as he considers necessary.

(5) The order under sub-section (2) shall be passed within six months from the end of the month in which application under sub-section (1) is received.

434.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"239A.(1) Where under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income, may, within a period of thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner as may be prescribed.

(2) The Assessing Officer shall, by an order in writing, allow or reject the application:

Provided that no application under sub-section (1) shall be rejected unless an opportunity of being heard has been given to the applicant.

(3) The Assessing Officer may, before passing an order under sub-section (2), make such inquiry as he considers necessary.

(4) The order under sub-section (2) shall be passed within six months from the end of the month in which application under sub-section (1) is received."

434.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 434 of the Bill deals with refund for denying liability to deduct tax in certain cases. Clause 434 of the Bill corresponds to Section 239A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

434.4 Important Views/Suggestions given by Experts/Stakeholders

Following suggestion has been received with regard to Clause 434(1)(b) to cover refunds arising under other circumstances such as deduction of TDS at higher rate though lower rate is applicable. The revised sub clause has been suggestedas under:

1. Clause (b) of sub-section (1) may be substituted as follows:
   (b) such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income or tax is required to be deducted at lower rate but deducted at higher rate,he may, within thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as prescribed.
   Refund may also arise under other circumstances such as deduction of TDS at higher rate though lower rate is applicable. To cover these cases, reference is to be made to Circular No. 7/2011 dated 27.9.2011 and Circular No. 7/2007 dated 23.10.2007. Inserting these words would cover some more genuine cases of refund.

434.5 Examination by the Committee

434.5.1 The Committee notice that the Department have not agreed to the above suggestion for the reasons as stated in their written reply as below:

> "The suggestion seeks to include the words "or tax is required to be deducted at lower rate but deducted at higher rate" so as to allow such deductor to claim refund who have deducted the TDS at higher rate on payments made to non-residents, though lower rate of TDS was applicable. It is in nature of policy change. The stakeholder has referred to a circular which is on the same issue but applicable to section 239 instead of section 239 A which has come on statute by FA 2022. There has to be higher discipline in cases of withholding where payment is made to non-residents. Therefore, the facility to claim that tax was not deductible at all is adequate. Where non-resident feels that tax has been deducted at higher rate, he can as well file a refund in such cases. Thus, the suggestion is not feasible."

434.5.2 When asked to explain this issue, during their deliberations held on 16.6.2025, a representative of the Department of Revenue stated as under:

> *"there is a provision in case of non-residents where tax has been deducted but then, tax was not required to be deducted. So, there, we have a provision that the person who has deducted that tax, where the tax was not required to be deducted from payment to non-resident, so, he may within 30 days from the date of payment file an application before the Assessing Officer for refund of such tax in form and manner as prescribed. So, instead of this tax or no tax, the suggestion is that where tax is required to be deducted at a lower rate, but then has been deducted at a higher rate, so, there also, the provision may be enabled. So, there also, an application could be made. We are saying that for non-residents, some discipline is required to be made in the withholding payments, and there the deductor is required to check as to what is the corresponding rate on which that TDS has to be made. So, facility to claim where tax was not deductible at all, that is adequate enough. If he was not required to deduct, but then, tax has been deducted, so, there, he can claim."*

434.5.3 When it was pointed out that there is no clarity of claiming refund in case tax has been paid at a higher rate than the rate he is required to pay, the representative of the Department further clarified:

> *"Sir, as far as I can understand, the refund will still be allowable to him. But we can examine this if the wording is causing any problem there. I do not think the wording should cause any problem."*

434.6 Observation/Recommendation by the Committee

The Committee note that Clause 434 of the Income-Tax Bill 2025, which deals with refund for denying liability to deduct tax, corresponds to Section 239A of the Income-Tax Act, 1961. While Clause 434 primarily addresses for refunds where no tax liability exists, there is no clarity regarding refund of deduction made at a rate higher than required. The ambiguity, in this regard, has been not only admitted by the Department of Revenue during their oral evidence before the Committee; but they also agreed to examine Clause 434 if the wording is causing any problem in this regard. The Committee, therefore, recommend the Department to look into the Clause and amend/rephrase the same to bring clarity even at the cost of few more words, if required, to make the proposed legislation clear and reduce potential disputes.

Clause 435 - Refund on appeal, etc.

435.1 Proposed provision in the Income-Tax Bill, 2025

(1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where, by the order as referred to in sub-section (1),—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.

435.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"240.Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf:

Provided that where, by the order aforesaid,—

(*a*) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(*b*) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee."

435.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 435 of the Bill provides for refund on appeal, etc. Clause 435 of the Bill corresponds to Section 240 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

435.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

435.4 Observation/Recommendation by the Committee

The Committee note that Clause 435 is in consonance with objectives of the Bill and therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.

Clause 436 - Correctness of assessment not to be questioned

436.1 Proposed provision in the Income-Tax Bill, 2025

In a claim under this part, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

436.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"242. In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess."

436.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 436 of the Bill provides for correctness of assessment not to be questioned. Clause 436 of the Bill corresponds to Section 242 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

436.4 Important Views/Suggestions given by Experts/Stakeholders

It has been suggested that in Clause 436, instead of the words "this part" words "this chapter" may be substituted as Chapter XX has no 'Parts'.

436.5 Examination by the Committee

Responding to this suggestion, the Department of Revenue submitted as follows:

"Accepted.

The suggestion seeks to replace the words "this part" with "this chapter" in clause 436. The same is in the nature of drafting correction. Thus, same is acceptable."

436.6 Observation/Recommendation by the Committee

The Committee note that the provisions of Clause 436 corresponding to Clause 242 of the extant Act have been only textually simplified while retaining its intent. The Committee, however, find that there is a drafting error in the provisions of Clause 436 as it mentions 'Part' instead of 'Chapter', which has been accepted by the Department of Revenue. Therefore, the Committee recommend to amend the Clause as under:

> **436. "In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess."**

Clause 437 - Interest on refunds

437.1 Proposed provision in the Income-Tax Bill, 2025

Where a refund is due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the refund, simple interest thereon calculated at the rate of 0.5% for each month (or part of a month), in the circumstances specified in column B of the Table below, for the period specified in column C of the said Table.

TABLE

Sl. No.	Circumstances	Period
A	B	C
1.	Such refund is out of— (a) tax collected at source under section 394; or (b) paid by way of advance tax; or © treated as paid under section 390(5), during the year.	(a) From the first day of April following the tax year to the date the refund is granted, where the income-tax return has been furnished on or before the due date as specified in section 263(1); (b) from the date of furnishing the income-tax return to the date on which the refund is granted; in any other case.
2.	Where the refund is out of any tax paid under section 266.	from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted.
3.	Any other case.	from the date or, as the case may be, dates on which the amount of tax or penalty specified in the notice of demand issued under section 289 is paid in excess of such demand to the date on which the refund is granted.

(2) No interest shall be payable under sub-section (1) (Table: Sl. No. 1 or 2), if the amount of refund is less than 10% of the tax as determined under section 270(1) or on regular assessment.

(3) Where refund, mentioned in sub-section (1) (Table: Sl. No. 1), arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee under section 288 (Table: Sl. No. 11), such interest shall be calculated at the rate of 0.5% for every month or part of a month comprised in the period from the date of such application to the date on which the refund is granted

(4) In a case where a refund arises as a result of giving effect to an order under section 359 or 363 or 365(10) or 368 or 377 or 378, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive an additional interest which shall be—

(a) over and above the interest payable under sub-section (1) or (3); and

(b) computed on such amount of refund calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under section 286(1) (Table: Sl. No. 10) to the date on which the refund is granted.

(5) For the purposes of sub-section (4)(b), in a case where proceedings for assessment or reassessment is pending, in computing the period for determining the additional interest payable, the period beginning from the date on which such refund is withheld by the Assessing Officer as per and subject to provisions of section 438(3) and ending with the date on which such assessment or reassessment is made, shall be excluded.

(6) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XIX-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of 0.5% for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in the form as prescribed; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 359 or 363 or 365(10) or 368,

to the date on which the refund is granted.

(7) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under this section.

(8) Where any question arises as to the period to be excluded under sub-section (7), it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(9) Where, as a result of an order under section 270(10) or 271 or 279 or 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount on which interest was payable under sub-section (1) has been increased or reduced, the interest shall be increased or reduced accordingly.

(10) In a case where the interest is reduced under sub-section (9), the Assessing Officer shall serve on the assessee a notice of demand in the form as prescribed specifying the amount of the excess interest paid and requiring him to pay such amount.

(11) The notice of demand under sub-section (10) shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly.

437.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"244A.(1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely :—

(*a*) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period,—

(*i*) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of section 139; or

(*ii*) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (*i*):

[Provided that where refund arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee under sub-section (20) of section 155, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period from the date of such application to the date on which the refund is granted;]

(*aa*) where the refund is out of any tax paid under section 140A, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date of furnishing of return of income

or payment of tax, whichever is later, to the date on which the refund is granted:

Provided that no interest under clause (*a*) or clause (*aa*) shall be payable, if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of section 143 or on regular assessment;

(*b*) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

(1A) In a case where a refund arises as a result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1), an additional interest on such amount of refund calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted:

[**Provided** that where proceedings for assessment or reassessment are pending in respect of an assessee, in computing the period for determining the additional interest payable to such assessee under this sub-section, the period beginning from the date on which such refund is withheld by the Assessing Officer in accordance with and subject to provisions of sub-section (2) of section 245 and ending [with the date up to which such refund is withheld], shall be excluded.]

(1B) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date on which—

(*a*) claim for refund is made in the prescribed form; or

(*b*) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted.

(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, as the case may be, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is

payable under sub-section (1) or (1A) or (1B), and where any question arises as to the period to be excluded, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(3) Where, as a result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or sub-section (3) of section 143 or section 144 or section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years :

Provided that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures "1989", the figures "2006" had been substituted."

437.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 437 of the Bill provides for interest on refunds. Clause 437 of the Bill corresponds to Section 244A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and table has been provided to calculate the interest on refund in different circumstances."

437.4 Important Views/Suggestions given by Experts/Stakeholders

1. Interest on Refunds to be at par with interest charged. It is proposed that the interest rate on refunds due to an assessee and on the amounts payable by the assessee to the Government should be same.

   Justification for the above suggestion has been furnished as under:
   To bring parity, to have a level playing ground between the interest charged to assessee and the revenue, and to avoid discrimination, the interest on refund payable to the assessee must be raised. The revenue is charging interest at the rate of 18% per annum for delay of tax payment by the assessee under section 398(3). Interest at the rate of 12% per annum is being charged by the revenue for

payment of demand if it is not paid within the prescribed time under section 411. Technically, matching rate of interest should be available to an assessee under section 437. The rate of interest under section 437 must therefore be raised to 1% per month or part of month."

2. The phrase "date on which refund is granted" be precisely defined to signify the date when the taxpayer actually receives the refund. This will be consistent with past judicial precedent wherein similar view has been adopted. This will aid in avoiding unnecessary litigation in the future. Clear instructions should be issued to the JAO to grant additional interest at the rate of 3% per annum. This will assist in preventing unwarranted litigation and ensure smoother process for granting interest.
   Elaborating further on this issue, the stakeholder has given following justification for the above suggestion:

   While S.244A(1A) of ITA 1961 (clause 437(4) of ITB 2025) grants additional interest of 3% p.a. for delays under 153(5) of ITA 1961, but refunds arising out of rectification attracts only 0.5% interest rate. There are persistent technical issues in data flow from CPC to the Jurisdictional AO's system, particularly for prepaid taxes, FTC, MAT credit, and TDS/TCS. This leads to prolonged delays in processing rectification applications. Further, the tickets raised by the JAO and taxpayer with CPC to resolve the said technical issue remain open without any solution from the technical team, despite relentless follow ups.

   Additionally, even when orders are passed, there are delays in uploading them to the system. This further holds up the refunds which are actually granted after a long time. Moreover, while Section 244A provides interest up to the refund date, but in practice, no interest is paid for the period between the refund order date and the actual receipt date.The rate of interest on refund payable to an assessee must be raised to 1% per month or part of a month."

3. With regard to sub clause (7) of Clause 437, a suggestion has been received to insert the words "as the case may be" to eliminate interpretational issues. Further, in sub-section (9) it has been suggested that after the words "sub-section (1)" the word "or (3)" may be inserted.

4. Another suggestion regarding sub Clause (9) of Clause 437 is stated as follows:
   "In sub-section (9) after the words "sub-section (1)" the word "or (3)" may be inserted. Sub-section (9) may be redrafted as follows – (9) Where, as a result of an order under section 270(10) or 271 or 279 or 287 or 288 or 359 or 363 or

365(10) or 368 or 377 or 378, the amount on which interest was payable under sub-section (1) or (3)has been increased or reduced, the interest shall be increased or reduced accordingly."

437.5 <u>Examination by the Committee</u>

The Committee examined the issue of parity in interest rates for refunds and dues to the Government. Responding to the suggestion to prescribe same rate of interest, the Ministry stated that the suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.

437.5.1 Asked about the underlying principles for charging a significantly higher rate of interest on delayed tax payments by assessees (1% - 1.5% per month) compared to the rate at which it compensates assessees for delayed refunds (0.5% per month), and reasons for considering it as a fundamental policy shift rather than a necessary correction for fairness within the tax system, the Department of Revenue, in their written submission, stated as under:

(i) "Presently an interest of 0.5% per month or part of month is granted to the assessee. This is higher than the commercial rate of interest on short-term deposits and comparable with long-term return of fixed deposits.
(ii) The present rate of 1% per month or part of month is to ensure discipline in payment of taxes, otherwise the taxpayers will be incentivised to not pay their due taxes or demands.
(iii) Having an equal rate may encourage the tax payer to postpone the payment of taxes indefinitely and instead use the funds for obtaining better returns from the market. This would cause serious damage to the exchequer.
(iv) The differential rates have been prevalent for a long time for these reasons."

437.5.2 Further, in a post evidence submission, the Department of Revenue stated following with regard to compensation to taxpayers:

"Section 244A of the Income-tax Act, 1961 provides for 'interest on refunds'. Compared to 35 years back, the rate of interest on refunds which was 18% has come down in a period of about 12 years in line with the decrease in rate of interest determined by the markets/banking institutions and has been at 6% since 2003. It is observed that the rate of interest on refunds has been at a reasonable level compared to Fixed Deposits and quite higher compared to Savings Accounts.

The interest rate of 6 % is in consonance with the prevailing Fixed Deposit rate ranging from 3 to 7 %. Presently an interest of 0.5% per month or part of month is granted to the assessee. This is higher than the commercial rate of interest on short-term deposits and comparable with long-tern return of fixed deposits.

In the cases identified as high pitched by the Local Committee, no coercive recovery of demand is made.

With a view to compensating the taxpayers for any delay in issue of refunds, section 244A was amended through Finance Act, 2016 (w.e.f. 01-06-2016) by increasing the rate of interest on refunds by 3% for the period which is in excess of the time limit given for giving appeal effect to orders issued by CIT(Appeals), ITAT, High Court or Supreme Court. This provision also expedites the process of issue of refunds by the Officers else Department will be liable for paying excess interest on refunds."

437.5.3 Regarding the suggestion to prescribe "the date on which refund is granted", the Department of Revenue have submitted as under:

"The suggestion seeks to define the phrase "date on which refund is granted". It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. With regard to defining the phrase 'date on which refund is granted', as per section 244A (clause 437 of the Bill), the same is not necessary. Defining each of such term, which are well understood in common parlance, will unnecessarily increase the volume of the Bill and may also create fresh litigation."

437.5.4 Further, during the course of oral evidence held on 10.6.2025, when specifically asked about the reasons for not accepting the above suggestion, a representative of the Department of Revenue informed as under:

"Sir, there is a reference to a phrase 'date on which refund is granted'. The stakeholder is asking that this phrase itself should be defined. We are saying that it is commonly understood. We need not go into such minute details."

437.5.5 Regarding the practice followed in major economies of the world with regard to the rate of interest on dues payable as compared to refunds to the assessee, the Department informed following in their written submission:

"In most of the major economies such as the UK, similar practice is followed where higher rate of interest is charged on the dues payable as compared to refunds to the assessee. In UK the interest on tax demands is 7.75% while the interest on tax refunds is 4.25%."

437.5.6 Responding to the suggestion to insert the words "as the case may be", the Department of Revenue have furnished following written submission:

"Accepted.

The suggestion seeks to include the words "as the case may be" in sub-clause 437(7). The suggestion is in the nature of drafting correction. Thus, same is acceptable."

437.5.7 With regard to the suggestion received onsub Clause (9), of Clause 437, the Department of Revenue, stated as under:

> *"Accepted.*
> *The suggestion seeks to include the words "or (3)" in sub-clause 437(9). The suggestion is in the nature of drafting correction and in line with provisions of the Act. Thus, same is acceptable."*

437.6 <u>Observation/Recommendation by the Committee</u>

The Committee note that Clause 437, relating to interest on refunds, corresponds to Section 244A of the Income-Tax Act, 1961. They find that besides simplification

of the language and prescription of interest on refund in a tabular format, no policy change has been effected. They acknowledge the demand for interest rate parity for both dues and refunds. However, after considering the Department's contention that (i) more interest burden on dues and (ii) interest on refunds being more than commercial rate of interest on short-term deposits and comparable with long-term return of fixed deposits; are required for tax payment discipline, the Committee are of the view that *status quo* may be maintained. Nevertheless, they recommend the Department to incorporate the accepted drafting corrections for Clause 437, as pointed out in various suggestions.

Clause 438 - Set off and withholding of refunds in certain cases

438.1 Proposed provision in the Income-Tax Bill, 2025

(1) Where a refund becomes due or is found to be due to any person under this Act, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, may instead of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by such person.

(2) Any action under sub-section (1) shall only be taken after giving intimation in writing to such person of the action proposed to be taken.

(3) Where,— (a) a part of the refund is set off under sub-section (1); or (b) no such amount is set off,

and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of the person, may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, withhold the refund up to sixty days from the date on which such assessment or reassessment is made.

438.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"245.(1) Where under any of the provisions of this Act, a refund becomes due or is found to be due to any person, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this sub-section.

(2) Where a part of the refund is set off under the provisions of sub-section (1), or where no such amount is set off, and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, as the case may be, withhold the refund up to [sixty days from] the date on which such assessment or reassessment is made.]"

438.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

“Clause 438 of the Bill provides for set off and withholding of refunds in certain cases. Clause 438 of the Bill corresponds to Section 245 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

438.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *“The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961.”*

438.4 Observation/Recommendation by the Committee

The Committee note that Clause 438 relating to 'Set off and withholding of refunds in certain cases' is a textual simplification of Section 245 of the existing Act. The Ministry of Finance (Department of Revenue) have confirmed no policy change during its drafting. As the proposed Clause is in consonance with the objectives of the Bill, the Committee are of the view that it may be made part of the Bill, as proposed by the Department.

CHAPTER XXI

PENALTIES

Clause 439 - Penalty for under reporting and misreporting of income.

439.1 Proposed provision in the Income-Tax Bill, 2025

(1) The Competent Authority may, during the course of any proceedings under this Act, impose penalty on any person who has under-reported his income and such penalty shall be payable in addition to tax, if any.

(2) A person shall be deemed to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under section 270(1)(a);

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(d) the amount of deemed total income assessed or reassessed as per section 206, is greater than the deemed total income determined in the return processed under section 270(1)(a);

(e) the amount of deemed total income assessed as per section 206, is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(f) the amount of deemed total income reassessed as per section 206, is greater than the total income assessed or reassessed under the said sections immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(a) if income has been assessed for the first time,—

(i) Where return has been furnished, the difference between the amount of income assessed and the amount of income determined under section 270(1)(a);

(ii) Where no return of income has been furnished or if return has been furnished for the first time under section 280,—

(A) the amount of income assessed, in the case of a company, firm or local authority; and

(B) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (A);

(b) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order.

(4) If under-reported income arises out of determination of deemed total income as per section 206, the amount of total under-reported income shall be determined as under—

(A-B) + (C-D)

where,—

A = the total income assessed as per the provisions other than the provisions contained in section 206 (herein referred to as “general provisions”);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per section 206;

D = the total income that would have been chargeable had the total income assessed as per section 206 been reduced by the amount of under-reported income.

(5) (a) If the amount of under-reported income on any issue is considered both under section 206 and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under D referred to in sub-section (4);

(b) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-

reported income shall be the difference between the loss claimed and the income or loss, assessed or reassessed.

(6) Subject to sub-section (8), where the source of any receipt, deposit or investment in any tax year is claimed to be an amount added to income or deducted while computing loss, in the assessment of such person in any year prior to the tax year in which such receipt, deposit or investment appears (herein referred to as “the preceding year”) and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(7) The amount referred to in sub-section (6) shall be deemed to be income under-reported for the preceding year in the following order—

(a) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(b) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(8) The under-reported income, for the purposes of this section, shall not include the following:—

(a) the amount of income in respect of which the assessee offers an explanation and the Competent Authority, is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered;

(b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Competent Authority, but the method employed is such that the income cannot properly be deduced therefrom;

(c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance; and

(d) the amount of under-reported income represented by any addition made in conformity with the arm’s length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 171, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction.

(9) The penalty referred to in sub-section (1) shall be 50% of the tax payable on under-reported income.

(10) Irrespective of anything contained in sub-section (8) or (9), where under reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be 200% of the tax payable on under reported income.

(11) The cases of misreporting of income referred to in sub-section (10) shall be the following:—

(a) misrepresentation or suppression of facts;

(b) failure to record investments in the books of account;

(c) claim of expenditure not substantiated by any evidence;

(d) recording of any false entry in the books of account;

(e) failure to record any receipt in books of account having a bearing on total income; and

(f) failure to report any international transaction or any transaction considered to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(12) The tax payable in respect of the under-reported income shall be—

(a) where no return of income has been furnished or where return has been furnished for the first time under section 280 and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(b) if the total income determined under section 270(1)(a) or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(c) in any other case, determined as follows—

(X-Y)

where,—

X = the amount of tax calculated on the under-reported income as increased by the total income determined under section 270(1)(a) or total income assessed, reassessed or recomputed in a preceding order as if itwere the total income; and

Y = the amount of tax calculated on the total income determined under section 270(1)(a) or total income assessed, reassessed or recomputed in a preceding order.

(13) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has already formed the basis for penalty in the case of the person for the same or any other tax year.

(14) The penalty referred to in sub-section (1) shall be imposed, by an order in writing by the Competent Authority.

(15) In this section,—

(a) "Competent Authority" means the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner; and

(b) "preceding order" means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated.

439.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961)</u>

"270A.(1) The Assessing Officer or [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

(2) A person shall be considered to have under-reported his income, if—

(*a*) the income assessed is greater than the income determined in the return processed under clause (*a*) of sub-section (1) of section 143;

(*b*) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;

(*c*) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(*d*) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (*a*) of sub-section (1) of section 143;

(*e*) the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;

(*f*) the amount of deemed total income reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income assessed or reassessed immediately before such reassessment;

(*g*) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(*i*) in a case where income has been assessed for the first time,—

(*a*) if return has been furnished, the difference between the amount of income assessed and the amount of income determined under clause (*a*) of sub-section (1) of section 143;

(*b*) in a case where no return of income has been furnished or where return has been furnished for the first time under section 148,—

(*A*) the amount of income assessed, in the case of a company, firm or local authority; and

(*B*) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (*A*);

(*ii*) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order:

Provided that where under-reported income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC, the amount of total under-reported income shall be determined in accordance with the following formula—

(A — B) + (C — D)

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under-reported income:

Provided further that where the amount of under-reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

Explanation.—For the purposes of this section,—

(*a*) "preceding order" means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated;

(*b*) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-reported income shall be the difference between the loss claimed and the income or loss, as the case may be, assessed or reassessed.

(4) Subject to the provisions of sub-section (6), where the source of any receipt, deposit or investment in any assessment year is claimed to be an amount added to income or deducted while computing loss, as the case may be, in the assessment of such person in any year prior to the assessment year in which such receipt, deposit or investment appears (hereinafter referred to as "preceding year") and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(5) The amount referred to in sub-section (4) shall be deemed to be amount of income under-reported for the preceding year in the following order—

(*a*) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(*b*) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(6) The under-reported income, for the purposes of this section, shall not include the following, namely:—

(*a*) the amount of income in respect of which the assessee offers an explanation and the Assessing Officer or [95][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is *bona fide* and the assessee has disclosed all the material facts to substantiate the explanation offered;

(*b*) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or [95][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;

(*c*) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance;

(*d*) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and

(*e*) the amount of undisclosed income referred to in section 271AAB.

(7) The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income.

(8) Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent of the amount of tax payable on under-reported income.

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely:—

(*a*) misrepresentation or suppression of facts;

(*b*) failure to record investments in the books of account;

(*c*) claim of expenditure not substantiated by any evidence;

(*d*) recording of any false entry in the books of account;

(*e*) failure to record any receipt in books of account having a bearing on total income; and

(*f*) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(10) The tax payable in respect of the under-reported income shall be—

(*a*) where no return of income has been furnished or where return has been furnished for the first time under section 148 and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(*b*) where the total income determined under clause (*a*) of sub-section (1) of section 143 or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(*c*) in any other case, determined in accordance with the formula—

(X-Y)

where,

X = the amount of tax calculated on the under-reported income as increased by the total income determined under clause (*a*) of sub-section (1) of section 143 or total

income assessed, reassessed or recomputed in a preceding order as if it were the total income; and

Y = the amount of tax calculated on the total income determined under clause (*a*) of sub-section (1) of section 143 or total income assessed, reassessed or recomputed in a preceding order.

(11) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

(12) The penalty referred to in sub-section (1) shall be imposed, by an order in writing, by the Assessing Officer, [96][the Joint Commissioner (Appeals) or] the Commissioner (Appeals), the Commissioner or the Principal Commissioner, as the case may be."

439.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 439 of the Bill provides for penalty for underreporting and misreporting of income. The clause corresponds to section 270A of the Act. There is no major policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. Opportunity of being heard is removed from individual sections since clause 471 governing procedure for penalty says that no penalty under this chapter shall be imposed unless the assessee is given reasonable opportunity of being heard."

439.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>

1. Sub Clause 2(b) should be amended as the difference between the amount of income assessed and the maximum amount not chargeable to tax after rebate under section 156, if applicable. Accordingly, the sub Clause should be amended as under:

   (b) the income assessed is greater than the maximum amount not chargeable to tax after providing rebate under section 156, where no return of income has been furnished or where return has been furnished for the first time under section 280.

2. Clause 439 (3) (a) (ii) B of the Income-Tax Bill, 2025, in which amount of under reported income has been defined, should be amended as the difference between the amount of income assessed and the maximum amount not chargeable to tax after rebate under section 156, if applicable. This will improve the accuracy and fairness of the penalty.

3. A suggestion has been received that dual penalty should be removed. Giving example of dual penalties proposed in the Bill, the stakeholder has suggested following:

   "For recording of any false entry in the books of account, penalty @200% of the tax payable on under-reported income is leviable u/s 439 and penalty equal to the aggregate amount of false entry is leviable u/s 444. This is an example of dual penalty. Additionally, for failure to report any international transaction or any specified domestic transaction in addition to penalty u/s 439, penalty @2% of the value of each international transaction is leviable u/s 442. This is another example of dual penalty. It should, therefore, be excluded from one section."

4. Another memorandum suggests that there should be nominal penalties for non-wilful lapses. Further, the penalty should be harsher for digital fraud only as systems can pre-empt most defaults through alerts.
5. A suggestion has been received to insert a new sub clause in Clause 439 (13) as under:

   "New sub-section to be inserted after section 439(13) to provide that: -
   The competent authority shall record a satisfaction in the order with reference to the addition made as to whether penalty proceedings are initiated for –
   (a) underreporting of income for which penalty is leviable under sub-section (9) or
   (b) underreporting consequent to cases of misreporting as per
   sub-section (11), for which penalty is leviable under sub-section (10). "

   It is stated that the above amendment will reduce litigation as there are number of litigations where the Assessing Officer does not record his satisfaction whether the addition made by him is underreporting of income or misreporting of income. *(Batch IV Suggestion, sl. no. 115)*

439.5 <u>Examination by the Committee</u>

439.5.1 Above issue was raised before the Department of Revenue. Expressing their views on the above suggestion, the Department of Revenue furnished written reply, stated as under:

"The suggestion seeks to amend clause 439(3)(a)(ii)(B) Penalty for under-reporting and misreporting of income as the difference between the amount of income assessed and the maximum amount not chargeable to tax after rebate under section 156, if applicable. There is no change in the provisions of the Bill

viz-a-viz Act. Where income exceeds the amount eligible for rebate, the taxes are calculated on income exceeding the exemption limit. Consequently, any misreporting or underreporting is to be calculated with the exemption limit as reference not from the amount upto which rebate is available. Thus, the suggestion is not feasible."

439.5.2 During the oral evidence of the Ministry of Finance (Department of Revenue) held on 10.6.2025, a representative of the Department explained this further as follows:

"It is related to calculating penalty when we assess some additional income. For example, in case, the taxpayer has not filed the return. There, Rs.4 lakh in new regime is the minimum amount which is not chargeable to tax. Suppose the assessed income is Rs.20 lakh, penalty is leviable on Rs.16 lakh. Here the stakeholder is saying that the maximum amount up to which rebate is allowed should be Rs.12 lakh instead of Rs.4 lakh. The penalty amount is leviable on something which has not been shown to the Department. Rebate is available when return is filed and rebate is claimed. So, Rs.4 lakh is the amount beyond which the income is required to be shown."

439.5.3 With regard to the suggestion for removal of dual penalty, the Department of Revenue, in their written reply stated as under:

"The suggestion seeks to remove certain dual penalties. It is in nature of policy change. All the penalty provisions in the Act serves a separate purpose of deterrence which is essential for the effective implementation of the Act. Thus, suggestion is not feasible."

439.5.4 When asked to explain the reasons for not imposing single penalty for violations, a representative of the Department of Revenue, further explained the rationale that all the penalties are in the context of a particular default.

439.5.5 In this regard, in response to a specific query aboutsimplifying the complex landscape of penalties, specifically for minor and major categories, to make the Income-Tax Act less cumbersome, perhaps through different classifications, systematic categorization, or enhanced guidance, if not clubbing / a single tabular form, the Department of Revenue, in their post evidence written submission, stated as under:

"Penalties have been simplified and rationalised over the last 10 years. Major such over hauling was done vide Finance act, 2017. In the existing Act, there is already classification of penalties in respect of misreporting and underreporting of

income. This classification caters to the major and minor categories. Further, provision of immunity is already there for under reporting of income. The time limits of imposing penalties have also been rationalized as per clause 472 of the Bill. However, putting the penalties in a single table is not the solution to making penalties more reader friendly."

439.5.6 Expressing their views on the suggestion to make nominal penalties for non-willful lapses, the Department of Revenue, in their written submission, stated as under:

"The suggestion seeks to reduce the penalty rates for non-wilful lapses. This has been already considered in the Act whereby penalty for under-reporting is @50% of tax payable. Whereas, penalty @ 200% of tax payable for mis-reporting of income. Even, provision of immunity from the penalty and prosecution has been provided in the case of under-reporting of income under clause 440 by paying the due taxes with interest. However, penalty provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. Quantum of penalties in ITB 2025 remains the same as they are there in the IT Act. For encouraging voluntary compliance and non-intrusive methods of tax collection, deterrence in various forms is required. Thus, suggestion is already addressed."

439.5.7 When asked to explain the difference between harsh and nominal penalty, a representative of the Department of Revenue, during the deliberations held on 16.6.2025, informed the Committee as under:

"Madam, there is already a distinction in the Act for underreporting and misreporting. Where the penalty is in nature of underreporting, there, the penalty rate has already reduced. It is only 50 per cent and even, on that 50 per cent, the taxpayer can seek an immunity and file an application before the assessing officer and then seek immunity, provided, he pays his taxes on the principal amount. So, where the underreporting is in consequence of misreporting, there, we have provided a higher rate of penalty of 200 per cent. So, that way, Madam, the suggestion that he is making, that is already addressed in Act as well as in the Bill. That is all."

439.5.8 On the definition of under-reported income, the Department of Revenue stated as under:

"The suggestion seeks to amend clause 439(2)(b) to exclude such cases from the penalty of under-reporting where income assessed is greater than the maximum amount not chargeable to tax after providing rebate. Provision of

'rebate' does not reduce the total income of the assessee, it is a relief on the amount of tax that the taxpayer has to pay. Thus, the suggestion is not feasible."

439.5.9 In reply to a specific query on the terminological difference between "deemed" and "considered" as observed in provisions of Clause 439 (11) (f) and Section 270A (9)(f) and its impact on the scope and implications of penalties related to international and specified domestic transactions and also on the overall legal intent and obligations for taxpayers and the tax authorities, the Department of Revenue, in their written submission stated as under:

"Accepted.
Suggestion seeks to replace the word "considered" with word "Deemed" in clause 439(11)(f). The same is in nature of the drafting correction, thus accepted."

439.5.10 Regarding the suggestion to insert a new sub Clausein Clause439 (13), the Department of Revenue has made following written submission:

"The suggestion seeks to insert a new sub-section to mandate that AO shall record a satisfaction in the order with reference to the addition made specifying that whether it is under-reporting of income or misreporting of income. While issuing the notice of penalty, system has created the distinction in the case of penalty of under-reporting and mis-reporting. Further, the assessment order is itself a satisfaction. There is no need for separate satisfaction. Also Clause 439 clearly provides the distinction between the under-reporting and mis-reporting of Income. Therefore, providing a provision of drawing a satisfaction by the AO regarding the under-reporting/misreporting of income does not arise as there is no discretion of AO in such distinction. Thus, suggestion is already addressed."

439.5.11 Explaining the position further, the representative of the Department of Revenue deposed following before the Committee during the course of his oral evidence held on 16.6.2025:

"Sir, what we are saying is that the assessment order is in itself is a satisfaction and there is no need to record a separate satisfaction. Also, the Clause 439, it clearly provides distinction between the underreporting and misreporting."

439.6 Observation/Recommendation by the Committee

The Committee note that proposed definitions of under-reporting and misreporting of income along with other respective penalties under Clause 439 are consistent with the extant Income-Tax Act, 1961. They, however, note that a reasonable opportunity of being heard has been provided separately in Clause 471 governing procedure for penalty, not within each penalty Clause. After taking into consideration the views and suggestions of various stakeholders and the Department's justification of no major policy change, the Committee find that provisions of Clause 439 aligns with the objectives of the Bill. However, in view of the Department's admission of a drafting error in the use of the word 'considered' in sub-clause (11) (f) of Clause 439, the Committee recommend to amend the proposed Clause accordingly.

Clause 440 - Immunity from imposition of penalty, etc.

440.1 Proposed provision in the Income-Tax Bill, 2025

(1) An assessee may make an application to the Assessing Officer for granting immunity from penalty under section 439 and initiation of proceedings under section 478 or section 479, if—

(a) the tax and interest payable as per the order of assessment or reassessment under section 270(10) or section 279, has been paid within the period specified in the notice of demand; and

(b) no appeal against the order referred to in clause (a) has been filed.

(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (a) of the said sub-section has been received in such form and such manner as prescribed.

(3) The Assessing Officer, on fulfilment of the conditions as specified in sub section (1), and after the expiry of the period of filing appeal as specified in section 358(3)(a), shall grant immunity from penalty under section 439 and initiation of proceedings under section 478 or 479.

(4) No immunity under sub-section (3) shall be granted if penalty has been initiated under circumstances referred to in sub-section 439(11).

(5) The Assessing Officer, shall pass an order accepting or rejecting the application as referred to in sub-section (1) within three months from the end of the month of its receipt.

(6) No order of rejection under sub-section (5) shall be made without giving the assessee an opportunity of being heard.

(7) The order made under sub-section (5) shall be final.

(8) No appeal under section 356 or 357 or an application for revision under section 378 shall be admissible against the order referred to in sub-section (1)(a), if an order under sub-section (5) has been made accepting the application.

440.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"270AA.(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he fulfils the following conditions, namely:—

(*a*) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of section 143 or section 147, as the case may be, has been paid within the period specified in such notice of demand; and

(*b*) no appeal against the order referred to in clause (*a*) has been filed.

(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (*a*) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.

(3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in clause (*b*) of sub-section (2) of section 249, grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, where the proceedings for penalty under section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said section 270A.

(4) The Assessing Officer shall, within a period of **[***three months***]** from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application:

Provided that no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.

(5) The order made under sub-section (4) shall be final.

(6) No appeal under [section 246 or] section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment, referred to in clause (*a*) of sub-section (1), in a case where an order under sub-section (4) has been made accepting the application."

440.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 440 of the Bill provides for Immunity from imposition of penalty. The Clause corresponds to Section 270AA of the Act. There is no policy change. The provisions of the existing Section have been textually simplified and retained with the same intent in this clause."

440.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>

1. The classification of disallowances or additions made by the Assessing Officer (AO) during assessments is frequently mis classified as 'misreporting of income' rather than 'under reporting of income'. This mis characterization deprives eligible taxpayers of their right to immunity and compels them to litigate matter further in appeal. To address this issue, it is suggested that CIT be empowered to independently review such classifications, particularly when the assessee believes the AO's classification is incorrect and wishes to avail the benefit of immunity. Moreover, if a taxpayer decides to file appeal against penalty order and the Appellate Authority determines that the case falls within the scope of under reporting of income, the taxpayer should be granted a window to avail benefit of immunity. This will help to prevent unnecessary litigation. Furthermore, immunity may also be granted in case of misreporting of income, up to a particular threshold. In such case, the assessee should be required to pay an additional amount of tax to secure immunity and avoid further litigation.

   Currently, the provisions of section 270AA of grants immunity from levy of penalty only in case of under-reporting of income. There is no mechanism for immunity in case of misreporting of income. Also many times penalty is proposed to be levied incorrectly as if it is a case of mis reporting of income.

2. Provisions of section 440 should be suitably amended to provide as under :
   (A) In a case where the assessee has to prefer an appeal only challenging the incorrect classification of the addition / disallowance from misreporting of income to the correct classification being under reporting of income as confirmed by any of the appellate forums, the immunity shall also be available to the assessee in such a situation once the order of the appellate authority is passed.
   (B) In such a case, the time limit to file an application for immunity from penalty shall be provided with reference to the date of receipt of the order of the appellate authority instead of the date of the assessment order as at present. Alternatively, we also recommend that at least the filing of Revision petition before the CIT u/s. 378 should not result in denial of the immunity. The CIT being a senior person would understand the correct classification of the addition / disallowance. This will provide an opportunity for the assessee to avoid the litigation. The assessee can take recourse to revision proceedings u/s. 378 of the Act and avoid the appeal route. At the same time the assessee will be able to get the addition /disallowance correctly classified by a senior officer of the department namely the CIT. In such a situation, the time limit for filing immunity application shall be reckoned from the revision order passed u/s. 378 of the Act instead of the assessment order. Since no further litigation is provided against the order of the CIT u/s. 378, the revenue

should also not have any grievance if the matter is looked into by a senior officer.

3. It is seen on many occasions that the assessment order passed considers a particular addition / disallowance to be on account of misreporting of income though as a matter of fact the same is not getting covered by any of the clauses of sub- section (9) of section 270A. This results in tremendous hardship to the concerned assessee on various counts as explained hereunder:

   Once the concerned addition / disallowance has been classified as misreporting of income, the rate of penalty which the assessee has to pay is 200% of tax amount as against 50% which is to be paid for the cases of underreporting of income. The bigger difficulty is that the assessee is not permitted to take the benefit of the immunity as provided in section 270AA. Difficulties arise merely due to wrong classification of the concerned addition / disallowance by the assessing officer. For getting the classification altered from misreporting of income to under-reporting of income also the assessee has to prefer an appeal before the appellate authorities. However, once the appeal is filed, the assessee loses the chance to get the immunity u/s. 270AA. Effectively therefore, the assessee is left with no choice but to indulge in litigation not only for the assessment but also for the penalty which is levied subsequently. This is against the basic intent of provisions of section270AA and also the broad objective of the government to reduce the litigation to a considerable extent."

4. A suggestion has been received for substituting Sub-Clause (4) of Clause 440 with the following sub-section:
   (4) Immunity under sub-section 3 shall be granted in cases falling under sub-section 439(11), if along with tax and interest, penalty equal to tax payable on under-reported income is paid within the period specified in the notice of demand and no appeal against the order has been filed. Consequential changes be made in sub-section 5.

   Stating reasons for above suggestion, the stakeholder has stated that in case of misreporting of income, penalty @ 200% of tax payable on under-reported income is levied. To reduce litigation, immunity from penalty for misreporting of income on payment of lower penalty may be allowed.

440.5 <u>Examination by the Committee</u>

440.5.1 On the suggestion to vest with CIT the power to review the classification of cases by Assessing Officer, the Department of Revenue, in their written submission, stated as under:

> *"It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill viz-a-viz Act. There is clear and distinct classification of both kinds of penalties in respect of mis-reporting and under-reporting of income in Clause 439. CIT has the power of revision under clause 378 in case any classification is incorrect. The window of immunity cannot be provided to assessee as it will lead to multiplicity of proceedings and increase litigation as revenue also has the avenue of appealing before higher appellate authority. Misreporting of income is a serious tax evasion. Providing immunity in such cases will remove the deterrent effect and affect the collections. Thus, the suggestion is not feasible."*

440.5.2 When asked about the power of CIT regarding classification of income, a representative of the Department of Revenue informed the Committee during the oral evidence held on 10.6.2025, as under:

> *"Presently, CIT (Appeals) has got all the powers. Supreme Court has said it can do everything which assessing officer can do and it can do more also. CIT (Appeals) can always take a call, even if assessing officer is saying it is misreported, that it should be qualified as underreporting. So, there is no bar on CIT(Appeals) power as on date. It is co-terminus with the power of the assessing officer."*

440.5.3 Further asked about rationale for leaving the discretion of classifying the cases of misreporting or under-reporting of income with the Assessing Officer, the representative of the Department of Revenue further deposed before the Committee as under:

> *"The wording says "under-reporting of any income is a consequence of any mis-reporting." Then I define what mis-reporting is. Under-reporting will in any case occur, but under-reporting will occur as a consequence of these actions on my part like not recording in my books of account, not giving a false statement, not reporting an international transaction. If under-reporting is on these five accounts, then it will consequently result in a 200 per cent penalty. So, the provision is twined in that manner."*

440.5.4 When a specific query was raised on prescription of maximum penalty of 75 percent prescribed in case of updated filing of income tax return which can be done within a period of four years whereas 50 percent and 200 percent penalty is applicable in case of under reporting and mis reporting of income respectively, the representative of the CBDT clarified the following:

"सर, इसकेपीछेजोभावनाहै, क्योंऐसाकियाजाताहै, जहांपरऑलरेडीअसेसमेंटहोगया, कोईसर्चहोगई, वैसेलोगोंकोअपडेटेडरिटर्नफाइलनहींकरनेकाअधिकारहै।यदिवहस्क्रूटनीमेंपिक-अपहोगयाऔरपताचलाकिटैक्सइवेडकियाहुआहै, मिसरिपोर्टिंगकियाहुआहै, दोसौपरसेंटकीपैनल्टीहैयहीउसकोडेटरेंसहै।उसकोपताहैकिअगरहमनेअपनारिटर्नअपडेटनहींकियाऔरमेराकेसस्क्रूटनीमेंआगयायारि-असेसमेंटनोटिसआगईतोमुझेदोसौपरसेंटपैनल्टीलगसकतीहै।यहडेटरेंटक्रिएटकररहाहै, जिसकेचलतेवहअपडेटेडरिटर्नफाइलकररहाहैनहींतोअपडेटेडरिटर्नफाइलक्योंकरेगा।"

440.5.5 In response to the suggestion to substitute Clause (4) of Clause 440 to allow immunity from penalty for misreporting of income on payment of lower penalty, the Department of Revenue, in their written submission, stated as under:

"The suggestion seeks to expand the scope of immunity from penalty and prosecution in the cases of penalty of mis-reporting of income as well. It is in nature of policy change. Mis-reporting of income is a serious tax evasion. Cases of mis-reporting have been kept at higher pedestal than under-reporting. There is clear and distinct classification of both kinds of penalties in respect of mis-reporting and under-reporting of income in clause 439. Providing immunity in such cases will remove the deterrent effect. Thus, the suggestion is not feasible."

440.6 Observations/recommendations of the Committee

The Committee observe that Clause 440 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 270AA of the Act regarding immunity from penalty. Noting that there is no policy change in this regard and having considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 440 as proposed.

Clause 441 - Failure to keep, maintain or retain books of account, documents, etc.

441.1 Proposed provision in the Income-Tax Bill, 2025

A penalty of twenty-five thousand rupees shall be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

(a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or

(b) retain such books of account and other documents for the period specified in the said rules.

441.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271A.Without prejudice to the provisions of section 270A or section 271, if any person fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the Assessing Officer or the [6][Joint Commissioner (Appeals) or the] Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum of twenty-five thousand rupees."

441.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 441 of the Bill provides for failure to keep, maintain or retain books of accounts, documents, etc. The clause corresponds to Section 271A of the Act. There is no policy change. The provisions of the existing Section have been textually simplified and retained with the same intent in this clause."

441.4 Important Views/Suggestions given by Experts/Stakeholders

It has been stated that as per Section 470, no penalty shall be imposed on a person or assessee, if he proves that there was reasonable cause for the said failure. On proving reasonable cause no penalty would be levied. Therefore, provisions of Clause 441 may be read as follows:

> "A penalty of twenty-five thousand rupees **may** be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

(a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or
(b) retain such books of account and other documents for the period specified in the said rules.“

441.5 <u>Examination by the Committee</u>

On being asked to respond to the above suggestion, the Department of Revenue, in their written submission, stated as under:

“Accepted.
The suggestion seeks to replace the words "shall" with "may" in clause 441 (section 271A- Failure to keep, maintain or retain books of account, document etc.). The suggestion is in the nature of drafting correction and earlier Act also contains the word ‘may’. Thus, suggestion is acceptable.”

441.6 Observations/recommendations of the Committee

The Committee note that Clause 441 prescribes a penalty of Rupees Twenty-five thousand for failure to keep, maintain or retain books of accounts, documents, etc. corresponding to Section 271A of the Act. In this regard, they note that the Department of Revenue have accepted the suggestion to substitute the word 'shall' with 'may' in the Clause on the lines of existing Income-Tax Act, 1961. The Committee find merit in the suggestion that replacement of the word 'shall' with 'may' will address the cases of non-compliance of the provisions due to genuine reasons/reasonable cause. Therefore, the Committee recommend to amend the Clause as under:

"441. A penalty of twenty-five thousand rupees may be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

(a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or

(b) retain such books of account and other documents for the period specified in the said rules".

Clause 442 - Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

442.1 Proposed provision in the Income-Tax Bill, 2025

(1) The Assessing Officer or Commissioner (Appeals) may impose a penalty of 2% of the value of each international transaction or specified domestic transaction entered into by a person, if in respect of such transaction he,—

(a) fails to keep and maintain any such information and document as required by section 171(1);

(b) fails to report such transaction as he is required to do so; or

(c) maintains or furnishes an incorrect information or document.

(2) The prescribed income-tax authority referred to in section 171(4) may impose a penalty of five lakh rupees on a person, if he fails to furnish the information and document required under the said section.

442.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271AA.(1) Without prejudice to the provisions of section 270A or section 271 or section 271BA, if any person in respect of an international transaction or specified domestic transaction,—

(*i*) fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D;

(*ii*) fails to report such transaction which he is required to do so; or

(*iii*) maintains or furnishes an incorrect information or document,

the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of each international transaction or specified domestic transaction entered into by such person.

(2) If any person fails to furnish the information and the document as required under sub-section (4) of section 92D, the prescribed income-tax authority referred to in the said sub-section may direct that such person shall pay, by way of penalty, a sum of five hundred thousand rupees."

442.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 442 of the Bill provides for the penalty for failure to keep and maintain information and document, etc., in respect of certain transactions. The clause

corresponds to section 271AA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

442.4 Important Views/Suggestions given by Experts/Stakeholders

A memorandum submitted before the Committee seeks to put maximum ceiling on the amount of penalty as the penalty in this case is very high which may cause undue hardship. Therefore, following modification has been suggested to Clause 442:

> "1) The Assessing Officer or Commissioner (Appeals) may impose a penalty of 2% of the value of each international transaction or specified domestic transaction entered into by a person, if in respect of such transaction he -
> (a) fails to keep and maintain any such information and document as required by section 171(1);
>
> (b) fails to report such transaction as he is required to do so; or
> (c) maintains or furnishes an incorrect information or document.
> Further, new sub-section (2) to be inserted after section 442(1) to provide that -
> The amount of penalty in sub-section (1) shall not exceed Rs. 25 lakhs.
>
> For Example, in respect of sub-clauses of clause 171 and 172, penalty is leviable u/s 442, 447, 457. Sections 442, 447 and 457 can be placed in sequence as given in the consolidated section on penalties at the end of this comparative table. In the said table, the penalties are placed in Sl. No.2, 3 and 4 in a sequence."

442.5 Examination by the Committee

442.5.1 When asked to express their views in this regard, the Department of Revenue, in their written submission stated as under:

1) *"The suggestion seeks to impose the maximum ceiling of Rs. 25 lakhs on the amount of penalty for failure to keep and maintain information and document, etc. in respect of certain transactions. It is in nature of policy change. The penalty is levied proportionately to maintain the deterrence effect. Setting a maximum limit will remove this effect. Thus suggestion is not feasible.*
2) *Further, suggestion seeks to insert a table for all the penalty provisions. The feasibility of tabular format for penalties under the Act was discussed during the drafting stage, but the clauses were kept separate considering the subtle differences between them, the necessity of saving clauses in some sections etc. Tabular format would not be feasible for this. Further, it would result in complete changes in the cross-referencing across the Act. Thus, suggestion is not feasible."*

442.5.2 A representative of the Department of Revenue, further explained the position during the course of oral evidence held on 16.6.2025, stated as under:

> *"Sir, there is a penalty of two percent which is levied in cases of international transaction. So, where he has failed to report that transaction to the department, the penalty is attached to the value of the international transaction. So, the suggestion is that a maximum ceiling of Rs. 25 lakhs may be provided. So, we have provided a penalty which is proportionate to the amount of international transaction so as to maintain a deterrent effect. So, the international transaction may be running into thousands of crores. For that, if we levy a small amount of penalty of Rs.25 lakhs, then it makes no difference."*

442.6 Observations/recommendations of the Committee

The Committee observe that Clause 442, corresponding to Section 271AA of the existing Act, prescribes a penalty of 2% of the value of each international transaction or specified domestic transaction for failure to keep and maintain information and documents in certain cases. Noting no policy change regarding the prescribed penalty or amount,the Committee recommend to retain the Clause as proposed.

Clause 443 - Penalty in respect of certain income.

443.1 Proposed provision in the Income-Tax Bill, 2025

(1) The Assessing Officer or the Joint Commissioner (Appeals) or Commissioner (Appeals) may impose a penalty of 10% of the tax payable under section 195(1)(i), on an assessee if the income determined in his case for any tax year includes any income referred to in section 102, 103, 104, 105 or 106.

(2) The penalty under sub-section (1) shall be payable in addition to the tax payable under section 195.

(3) No penalty shall be levied on income referred to in section 102, 103, 104, 105 or 106 to the extent such income has been included by the assessee in the return of income furnished under section 263 and the tax as per section 195(1)(i) has been paid on or before the end of the relevant tax year.

(4) No penalty under section 439 shall be imposed upon the assessee in respect of income referred to in sub-section (1).

(5) The provisions of sections 471 and 472 shall as far as may be, apply in relation to the penalty referred to in this section.

443.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271AAC.(1) The Assessing Officer or [8-9][the Joint Commissioner (Appeals) or] the Commissioner (Appeals) may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (*i*) of sub-section (1) of section 115BBE:

Provided that no penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (*i*) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section."

443.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 443 of the Bill provides for the penalty in respect of certain income. The clause corresponds to section 271AAC of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

443.4 Important Views/Suggestions given by Experts/Stakeholders

It has been suggested by a stakeholder that Sub-section (5) may be omitted as Section 471 [Procedure (including giving reasonable opportunity of being heard)] and 472 [Time limit for imposing penalties] is applicable for all penalties under this chapter. Thus, inclusion of specific sub-section (5) may not be required.

443.5 Examination by the Committee

Responding to the above suggestion, the Department of Revenue stated following in their written submission:

> *"Accepted. The suggestion seeks to omit the clause 443(5) of the Bill so as to mandatorily apply the provision of clause 471 [Procedure (including giving reasonable opportunity of being heard)] and 472 [Time limit for imposing penalties]. As clause 471 and 472 are applicable to whole chapter, so suggestion is acceptable."*

443.6 Observations/recommendations of the Committee

Clause 443 of the Income-Tax Bill, 2025 relates to penalty in respect of certain income, which has been prescribed as 10% of the tax payable under section 195(1)(i). The Committee note that Clause 443 corresponds to section 271AAC of the Income-Tax Act, 1961 and no policy change has been made in the said Clause. However, they note that the Department of Revenue have accepted the omission of sub-clause 5 of Clause 443 as it is redundant given the applicability of Clauses 471 and 472 to Chapter XXI. Therefore, the Committee recommend the Department to amend Clause 443 for brevity and simplicity.

Clause 444 - Penalty for false entry, etc., in books of account.

444.1 Proposed provision in the Income-Tax Bill, 2025

The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

(a) a false entry; or

(b) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

(2) Without prejudice to sub-section (1), the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may impose a penalty equal to the aggregated amount of false or omitted entry, on any other person, who causes the person referred to in the said sub-section in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section.

(3) In this section, "false entry" includes use or intention to use—

(a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

(c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

444.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271AAD.(1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

(*i*) a false entry; or

(*ii*) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,

the Assessing Officer or [the Joint Commissioner (Appeals) or] the Commissioner (Appeals), may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

(2) Without prejudice to the provisions of sub-section (1), the Assessing Officer or [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) may direct that any other person, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

Explanation.—For the purposes of this section, "false entry" includes use or intention to use—

(*a*) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(*b*) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

(*c*) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist."

444.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 444 of the Bill deals with penalty for false entry, etc., in books of account. The clause corresponds to section 271AAD of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

444.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>

1. **(1) The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is—**

   (a) **a false entry;**

   Or

   (b) an omission of any entry which is relevant for computation of total income of such person, ~~to evade tax liability .~~to evade tax liability."

   The reason for the above suggestion given by the stakeholder is as follows:

1. Reference to sub-section number (1) has been missed. The same may be included.
   2. Not all false entries must be subjected to penalty. Only those false entries with the intention of evading tax must be subject to penalty on similar lines as clause (b) dealing with omission of entries."

2. 444. (1) The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

   (a) a false entry; or
   (b) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

   Dual penalty to be removed.

   Sub-section (2A) may be inserted to provide that no penalty would be levied under this section if penalty is levied u/s 439.
   The opening sentence should read "(3) In this section, "false entry" includes meansuse or intention to use –

   New sub-section (4) to be inserted after section 444(3) to provide that:-
   The amount of penalty under sub-section (1) and sub-section (2) should be restricted to the tax impact on the false entry."

   In sub-section (2) reference of sub-section (1) has been made but presently there is no numbering of sub-section (1) to Section 444 due to this inadvertent omission. For false entry, penalty is levied under section 439 for misreporting of income. Accordingly for same failure, penalty is attracted both u/s 439 and section 444. There is a possibility of a false entry emanating later due to recasting of books and/or errors/ omissions. Since the definition of 'false entry' under section 444(3) is an inclusive one, there is a possibility that the penalty may be invoked in respect of cases not specifically listed in clauses (a) to (c) there under. Therefore, the definition must be an exhaustive one and penalty should be attracted only when such entry has been made with an intent to evade tax liability. The portion "which is relevant for computation of total income of such person, to evade tax liability" must be common for both (a) and (b). The penalty in this case is very high. Therefore, it is suggested to put maximum ceiling on the amount of penalty so as to avoid undue hardship."

444.5 Examination by the Committee

444.5.1 A query was raised with the Department of revenue to express their views on the above suggestions to include reference to sub section (1) and only deliberate false entries to evade tax liability. The Department have partly accepted the drafting fault. However, they have stated following in their written submission:

> *"1.Accepted.*
>
> *The suggestion seeks to insert reference to sub-section (1) in Clause 444 which has been missed. This is a drafting correction and reference to sub-section (1) will be inserted in Clause 444.*
>
> *2. The suggestion seeks to restrict the scope of penalty for false entry so that only those false entries with the intention of evading tax must be subject to penalty on similar lines as clause (b) dealing with omission of entries. It is in the nature of Policy Change which is outside the scope of the Bill.*
>
> *There is no change in the provisions of the Bill viz-a-viz Act. The provisions have been introduced to deter accommodation to entry providers from providing false entries. Tax evasion is not the only intent behind the penalty. There may not be any tax evaded on account of such defaults. But a mechanism has to be provided without which any further deterrence would become ineffective. Thus, the suggestion is not feasible."*

444.5.2 Elaborating further on the second part of the suggestion regarding penalty for false entries, a representative of the Department of Revenue deposed following during the course of oral evidence held on 10.6.2025:

> *"The second suggestion is regarding the scope of penalty for false entry. So, there are different kinds of penalties in the Act. Some are related to evasion of taxes and 271 AAD in the old Act is related to false entry. This penalty is of entirely different nature. These provisions were introduced to deter accommodation to entry providers, to those who enable falsification of books of accounts to provide entries to other persons. So, the intention here is not exactly tax evasion. Intention is also so that books of accounts should not be falsified for providing entries."*

444.6 Observations/Recommendations by the Committee

The Committee observe that Clause 444 empowers Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) to impose penalty equal to the aggregate amount of false or omitted entry in books of account, aligning with Section 271AAD of the Income-Tax Act, 1961. The Clause has been only textually simplified, retaining its original intent. However, the Committee note that inadvertent omission of sub section (1) in Clause 444 has been accepted by the Department of Revenue. The Committee, therefore, recommend the Department to amend Clause 444 accordingly.

Clause 445 - Benefits to related persons

445.1 Proposed provision in the Income-Tax Bill, 2025

(1) If during any proceedings under this Act, it is found that a registered non-profit organisation has any specified income which is chargeable to tax as per section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—

(a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(i), if the violation is noticed for the first time during any tax year; and

(b) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any person referred to in section 355(i), if the violation is noticed again in any subsequent tax year.

445.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271AAE.Without prejudice to any other provision of this Chapter, if during any proceedings under this Act, it is found that a person, being any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*) of clause (*23C*) of section 10, or any trust or institution referred to in section 11 has violated the provisions of the twenty-first proviso to clause (*23C*) of section 10, or clause (*c*) of sub-section (1) of section 13, as the case may be, the Assessing Officer may direct that such person shall pay by way of penalty—

(*a*) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where the violation is noticed for the first time during any previous year; and

(*b*) a sum equal to two hundred per cent of the aggregate amount of income of such person applied, directly or indirectly, by that person, for the benefit of any person referred to in sub-section (3) of section 13, where violation is noticed again in any subsequent previous year."

445.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

“Clause 445 of the Bill deals with benefits to related persons. The clause corresponds to section 271AAE of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

445.4 Important Views/Suggestions given by Experts/Stakeholders

Following suggestion has been received with regard to the above Clause:

> “Reference to Clause 355(i) appearing in Clauses (a) and (b) of Clause 445(1) is incorrect and instead the reference may be made to Clause 355(h) where the term related person has been defined. In clause 445(1)(b) the phrase should be “any related person referred to in section 355(h) ”instead of the phrase “any person referred to in section 355(i)”

445.5 Examination by the Committee

Responding to the above suggestion, the Department of Revenue have furnished following written reply, stated as under:

> *“Accepted.*
> *The suggestion seeks to update the reference in clause 445(1). Reference may be updated to section 355(h) instead of 355(i) in clause 445 regarding Benefits to related persons.”*

445.6 Observation/Recommendation by the Committee

The Committee observe that penalty for filing of specified income by a registered non-profit organization, which is chargeable to tax as per Section 337, for the benefit of related persons, has been provided under Clause 445. In this regard, they notice that the term 'related person' has been defined under Clause 355 (h), while the term 'relative' has been defined under Clause 355(i). Therefore, apropos suggestion received and agreed by the Department of Revenue, the Clause 445 may be amended. Further, the Committee note that there is a drafting error in this Clause akin to Clause 449 where there is no sub clause besides only one. Therefore, Clause 445 may be amended as under:

> **445. If during any proceedings under this Act, it is found that a registered non-profit organisation has any specified income which is chargeable to tax as per Section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—**
>
> **(a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(h), if the violation is noticed for the first time during any tax year; and**
>
> **(b) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any related person referred to in section 355(h), if the violation is noticed again in any subsequent tax year.**

Clause 446 - Failure to get accounts audited

446.1 Proposed provision in the Income-Tax Bill, 2025

If any person fails to get his accounts audited for any tax year or years or furnish the audit report as required under section 63, the Assessing Officer may impose a penalty on such person, which shall be the lesser of—

(*a*) 0.5% of the total sales, turnover, or gross receipts in business, or the gross receipts in profession for such tax year or years; or

(*b*) one lakh fifty thousand rupees.

446.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271B.If any person fails to get his accounts audited in respect of any previous year or years relevant to an assessment year or furnish a report of such audit as required under section 44AB, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum equal to one-half per cent of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or years or a sum of one hundred fifty thousand rupees, whichever is less."

446.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 446 of the Bill deals with failure to get accounts audited. The clause corresponds to section 271B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

446.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

446.4 Observation/Recommendation by the Committee

The Committee note that Clause 446 prescribes a penalty for failure to get accounts audited for tax year or years, corresponding to Section 271B of the existing Act. They also note that no policy change has been effected by the Department; and only a textual simplification of the current Section has been made. The Committee, therefore, accept Clause 446 as proposed.

Clause 447 - Penalty for failure to furnish report under section 172.

447.1 Proposed provision in the Income-Tax Bill, 2025

If any person fails to furnish a report from an accountant as required by section 172, the Assessing Officer may impose a penalty of one lakh rupees on such person.

447.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

Section 271BA regarding penalty for failure to furnish report, states as under:

"271BA.If any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one hundred thousand rupees."

447.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

Clause 447 of the Bill provides for penalty for failure to furnish report under section 172. The clause corresponds to section 271BA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

447.4 Important Views/Suggestions given by Experts/Stakeholders

Following suggestion was placed before the Committee:

> "Penalty provisions in sections 442, 447 and 457 be placed in a sequence in Sl. No.2, 3 and 4 as shown in the consolidated section for penalties at the end of this comparative table.
>
> For Example, in respect of sub-clauses of clause 171 and 172, penalty is levied u/s 442, 447, 457. Section 447 and 457, can be placed immediately after section 442 and included in sequence.
>
> The grouping of similar provisions will provide greater clarity and ease of comprehension."

447.5 Examination by the Committee

The Department of Revenue have stated following with regard to the above suggestion, in their written submission:

> *"The suggestion seeks to insert a table for penalty provisions and further re-arranging the placing of section 442, 447 and 457 together. The feasibility of tabular format for penalties under the Act was discussed during the drafting stage, but the clauses were kept separate considering the subtle differences between them, the necessity of saving clauses in some sections etc. Tabular*

format would not be feasible for this. Further, it would result in complete changes in the cross-referencing across the act. Thus, suggestion is not feasible."

447.6 Observation/Recommendation by the Committee

The Committee note that Clause 447 addresses penalty for failing to submit an accountant's report as mandated by Section 172.They observe that the Department's submission indicates that no policy change has been made; rather the provisions have been merely simplified textually from the existing Section 271BA for the same violation. The Committee, therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.

Clause 448 - Penalty for failure to deduct tax at source.

448.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If any person fails to—

(*a*) deduct the whole or in part, the tax as required under Chapter XIX-B; or

(*b*) pay or ensure the payment of, the whole or any part of the tax as required by or under—

(*i*) Note 3 in Table in section 393(*3*); or

(*ii*) Note 6 to section 393(*1*)(Table: Sl. No. 8),

then, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to deduct or pay or ensure payment of, as aforesaid.

448.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271C.(1) If any person fails to—

(*a*) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(*b*) pay [10][or ensure payment of,] the whole or any part of the tax as required by or under—

(*i*) sub-section (2) of section 115-O; [11][***]

(*ii*) the proviso to section 194B;

[10][(*iii*) the first proviso to sub-section (1) of section 194R; or

(*iv*) the proviso to sub-section (1) of section 194S; or]

[12][(*v*) sub-section (2) of section 194BA,]

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay [10][or ensure payment of,] as aforesaid.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

[13]**[Provided** *that any penalty under sub-section (1) on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]**.

448.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 448 of the Bill provides for penalty for failure to deduct tax at source. The clause corresponds to section 271C of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

448.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>

448.5.1 Regarding this Clause, a stakeholder has suggested the following:

"there should be no prosecution for cases covered in (1)(b), since there is no unjust enrichment in such cases.

448.5.2 Justification provided for above suggestion may be seen as under:

"Reference to "Note 3 in section 393(3)" is not correct. At present there is no note 3 in Table in section 393(3) though 393(3) provides TDS in respect of winnings from casual incomes and online winnings. In respect of winnings and VDA, penalty and prosecution are both attracted, where payment is made in kind. Penalty is attracted by virtue of clause (b). Prosecution is attracted for non-deposit. For TDS obligations other than in kind, failure to deduct TDS results in a penalty, while non-deposit cases attract prosecution."

448.6 <u>Examination by the Committee</u>

448.6.1 Asked to express their views on the above suggestion, the Department of Revenue furnished following written reply:

(i) *"Accepted. The suggestion seeks to correct the cross-referencing error in the clause 448.The same is accepted in view of error in the nature of drafting.*

(ii) *The suggestion seeks to decriminalize the cases covered in 448(1)(b). Non deposit of tax deducted is a serious offence. In any case, the offence has been decriminalised upto due date of filing of quarterly statements. Such decriminalization will reduce the deterrence of the income-tax proceedings. Further, in consequence of the Jan Vishwas, several provisions have been already decriminalized. Thus, suggestion is not feasible."*

448.6.2 During the course of oral evidence held on 16.6.2025, the representative of the Department of Revenue, further explained the reasons for not decriminalizing further:

> *"Sir, in the second part, suggestion seeks to decriminalise the cases covered, where the deductor has taken or deducted the tax but has not deposited it. So, that is a serious offence because he is keeping that money which belongs rightfully to the Government but he is not depositing it.*
>
> *Sir, we have already decriminalised this TDS and TCS up to the due date of filing quarterly statements."*

448.7 Observation/Recommendation by the Committee

The Committee note that Clause 448, relates to penalty for failure to deduct tax at source, corresponding to Section 271C of the existing Act. The Department justified this Clause as textual simplification, not a policy change. As the Department of Revenue have acknowledged a drafting error in the cross-referencing for this Clause, the Committee recommend to carry out the minor correction in Clause 448.

Clause 449 - Penalty for failure to collect tax at source.

449.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If any person fails to collect the whole or in part, the tax as required under Chapter XIX-B, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to collect.

449.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271CA.(1) If any person fails to collect the whole or any part of the tax as required by or under the provisions of Chapter XVII-BB, then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to collect as aforesaid.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

[Provided*that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]"**

449.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 449 of the Bill provides for penalty for failure to collect tax at source. The clause corresponds to section 271CA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

449.4 Important Views/Suggestions given by Experts/Stakeholders

On this Clause, it has been suggested that the number (1) may be removed since there is no other sub-section in this section.

449.5 Examination by the Committee

When asked, the Department of Revenue, in their written reply, stated as under:

> *"Accepted. The suggestion seeks to delete the number "(1)" in clause 449. This is a drafting correction, thus same is accepted."*

449.6 Observation/Recommendation by the Committee

Clause 449 relates to penalty for failure to collect tax at source and aligns with Section 271CA of the existing Act. From the justification submitted by the Department of Revenue, the Committee observe that no policy change has been proposed in this Clause. Only textual simplification has been carried out while retaining the intent. Further, the Committee notice that the Department of Revenue have accepted the drafting error concerning sub-clause (1) in Clause 449. The Committee, therefore, recommend that this drafting correction be made in the proposed Clause.

Clause 450 - Penalty for failure to comply with provisions of section 185

450.1 Proposed provision in the Income-Tax Bill, 2025

If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 185, the Assessing Officer may impose on him, a penalty equal to the amount of the loan or deposit or specified sum so taken or accepted.

450.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271D.(1) If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so taken or accepted.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

[Provided*that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]"**

450.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

Justification for the above Clause of the Bill, as submitted by the Department, is as under:

> "Clause 450 of the Bill provides for penalty for failure to comply with the provisions of section 185. The clause corresponds to section 271D of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

450.4 Important Views/Suggestions given by Experts/Stakeholders

The Committee have received following suggestion on the quantum of penalty specified in the above Clause:

> "If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 185, the Assessing Officer may impose on him, a penalty equal to 30% ofthe amount of the loan or deposit or specified sum so taken or accepted.
> The quantum of penalty is too high vis-à-vis the nature of default. The same may be restricted to 30% of the sum received in contravention (considering the

highest rate of income-tax@30% and also the disallowance of 30% of expenditure in case payment is made without deduction of tax at source."

450.5 Examination by the Committee

450.5.1 Responding to the above suggestion, the Department of Revenue submitted following written reply:

> *"The suggestion seeks to dilute the penal provision against acceptance of loan or deposit or sum in cash. The suggestion is in nature of policy change. The said penal provision was introduced with a view to impose restrictions on cash transactions and to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money. Thus, the suggestion is not feasible."*

450.5.2 When asked to explain the rationale for prescribing high penalty, the representative of the Department of Revenue, during the course of oral evidence held on 16.6.2025, informed the Committee as under:

> *"the suggestion is to dilute the penal provisions against acceptance of loan or deposit or any other sum in cash. If Rs. 100 is accepted as a loan in cash, then equivalent amount of penalty is leviable, 100 per cent of the amount of loan which is accepted in cash. It is not for increasing the revenues. It is to curb the flow of black money and also for restricting the cash transaction."*

450.5.3 Asked to state the limit for imposing penalty, he further stated:

> *"There are three types of penalties. One is acceptance of loan by deposit and in this, there is no limit whatever amount is accepted as loan or deposits.In Cash, सर, इसमें 20,000 रुपयेकेऊपरहै।जोलोनऔरडिपॉजिटलियाजाताहै, उसकाजबरी-पेमेंटकियाजाताहै, उसमेंजितनारी-पेमेंटकैशमेंकियाजाताहै, उसकेबराबरकीराशिकीपेनाल्टीहै।एकऔरपेनाल्टीहै, जिसमेंकोईव्यक्तिट्रांजैक्टशनकेरूपमेंप्राप्तकरताहै। This is in respect of transactions, normal business transaction of Rs. 2,00,000 from a person in a day, in a single transaction. If he receives beyond that, then penalty is leviable under 269ST."*

450.6 Observation/Recommendation by the Committee

The Committee note that Clause 450, corresponding to Section 271D of the existing Act prescribes penalty for failure to comply with provisions of section 185. This Clause represents textual simplification with no change in policy. The Committee concur with the Department's rationale for discouraging cash transactions. The Committee, therefore, accept the Clause in its current format.

Clause 451 - Penalty for failure to comply with provisions of section 186.

451.1 Proposed provision in the Income-Tax Bill, 2025

The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186 except where he proves that there were good and sufficient reasons for the said contravention.

451.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271DA.(1) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

[Provided that *any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]"**

451.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

Clause 451 of the Bill provides for penalty for failure to comply with provisions of section 186. The clause corresponds to section 271DA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

451.4 Important Views/Suggestions given by Experts/Stakeholders

The Suggestion pertaining to Clause 451 is produced as under:-

1. "The Assessing Officer may impose on a person a penalty equal to the sum received by him in contravention of the provisions of section 186 ~~except where he proves that there were good and sufficient reasons for the said contravention."~~

   While providing justification for the same, the stakeholder has stated as under:

   "The exception from penalty in case where assessee proves that there were good and sufficient reasons, may be omitted. This is for the reason that proposed section 470 of the Income-Tax Bill, 2025 already makes an exception to penalty under

section 451 where the assessee proves that there exists reasonable cause for the contravention."

2. Another suggestion received on this Clause, states as under:

"This section may be substituted as follows:

The Assessing Officer may impose on a person, a penalty equal to 30%the sum received by him in contravention of the provisions of section 186 except where he proves that there were good and sufficient reasons for the said contravention."

451.5 Examination by the Committee

451.5.1 Asked to express their views on the above suggestions, the Department of Revenue, in their written submission stated as under:

"The suggestion seeks to omit exception from penalty under clause 451 (penalty for failure to comply mode of undertaking transaction) in case where assessee proves that there were good and sufficient reasons as reasonable cause already exists in clause 470 (penalty not to be imposed in certain cases).

There is no change in the provisions of the Bill viz-a-viz Act. Good and sufficient reason is judicially settled and omitting it on the pretext that reasonable cause is already present in clause 470 will not provide any tangible benefit and increase ambiguity. Thus, the suggestion is not feasible."

451.5.2 During the course of oral evidence held on 10.6.2025, when it was brought to the notice of the Department that actually the suggestion seeks to omit repeated words, the representative of the Department of Revenue informed that they will examine this.

451.5.3 Further, responding to the suggestion to reduce penalty rate to 30% in case of contravention of the provisions of section 186, the Department of Revenue, in their written submission, stated as under:

"The suggestion seeks to dilute the penal provision against receipt of sum in cash over a certain amount by reducing rate of penalty to 30% [from100%]. The suggestion is in nature of policy change. The said penal provision was introduced with a view to impose restrictions on cash transactions and to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of

cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money. Further, there is an inbuilt provision in the section which provides protection against penalty in genuine cases. Thus, the suggestion is not feasible."

451.4 Observation/Recommendation by the Committee

The Committee notethat Clause 451, corresponding to Section 271DA of the existing Act, prescribes penalty for failure to comply with provisions of section 186 with intention of restricting cash transactions and also to curb the flow of black money on the lines of Clause 450. The Committee also note from the submissions of the stakeholder that explicit reference to an exception in Clause 451 is redundant as Clause 470 already provides for an exception from penalty in cases where a reasonable cause for non-compliance exists. The Committee, therefore, recommend to amend the Clause as under:

> **451. "The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186."**

Clause 452 - Penalty for failure to comply with provisions of section 187.

452.1 Proposed provision in the Income-Tax Bill, 2025

The Assessing Officer may impose on a person, a penalty of five thousand rupees for every day of the duration of failure where he fails to provide a facility for accepting payments through the prescribed electronic modes of payment, as referred to in section 187 except when he proves that there were good and sufficient reason for such failure.

452.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271DB.(1) If a person who is required to provide facility for accepting payment through the prescribed electronic modes of payment referred to in section 269SU, fails to provide such facility, he shall be liable to pay, by way of penalty, a sum of five thousand rupees, for every day during which such failure continues:

Provided that no such penalty shall be imposable if such person proves that there were good and sufficient reasons for such failure.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner of Income-tax:

[14-18]**[Provided***that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]"**

452.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 452 of the Bill provides for penalty for failure to comply with provisions of section 187.The clause corresponds to section 271DB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

452.4 Important Views/Suggestions given by Experts/Stakeholders

"Section 452 may be rephrased as given below-

The Assessing Officer may impose on a person, a penalty of five hundredthousand rupees for every day of the duration of failure where he fails to provide a facility for accepting payments through the prescribed electronic modes of payment, as referred to in section 187 except when he proves that there were good and sufficient reason for such failure."

"The quantum of penalty is very high vis-à-vis the nature of default. It needs to be rationalized. Penalty may be imposed - Rs.500 per day of default instead of Rs.5,000 per day of default.

As per section 470, no penalty shall be imposed on a person or assessee, if he proves that there was reasonable cause for the said failure. Section 452 is not included in the list of sections in section 470. It is suggested that section 452 be included in the said list."

452.5 Examination by the Committee

When asked to explain the reasons for prescribing high penalty, the Department of Revenue furnished following written reply:

"The suggestion seeks to dilute the penal provision for failure to provide a facility for accepting payments through the prescribed electronic modes of payment by reduction of rate from 5000 per day to 500 per day. The suggestion is in nature of policy change. Even vegetable vendors are providing facility for electronic receipts. Therefore, there is no justification for such a demand. The said penal provision was introduced with a view to impose restrictions on cash transactions and to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money. Further, it may be noted that there is an inbuilt provision in the section which provides protection against penalty in genuine cases. Thus, the suggestion is not feasible."

452.6 Observation/Recommendation by the Committee

The Committee note that Clause 452 of the Income-Tax Bill, 2025, which corresponds to Section 271DB of the Income-Tax Act, 1961, prescribes a penalty of Rs. Five Thousand per day for every day of duration of default to provide a facility for accepting payments through prescribed electronic modes. Given that this Clause is similar to the existing Section 271DB with no policy change, the Committee recommend its inclusion as itis in the proposed Act.

Clause 453 - Penalty for failure to comply with provisions of section 188.

453.1 Proposed provision in the Income-Tax Bill, 2025

If a person repays any loan or deposit or specified advance referred to in section 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to the loan or deposit or specified advance so repaid.

453.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271E.(1) If a person repays any loan or deposit or specified advance referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified advance so repaid.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

[Provided*that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.***]"**

453.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 453 of the Bill provides for penalty for failure to comply with provisions of section 188.The clause corresponds to section 271E of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

453.4 Important Views/Suggestions given by Experts/Stakeholders

453.4.1 Following suggestion has been made regarding the quantum of penalty proposed under this Clause:

> "If a person repays any loan or deposit or specified advance referred to in section 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to 30% ofthe loan or deposit or specified advance so repaid."

453.4.2 Giving justification for the above suggestion, the stakeholder has stated that this penalty is very high vis-à-vis the nature of default. The quantum of penalty has to be in line with the nature of default and not to exceed the tax sought to be evaded.

453.5 Examination by the Committee

However, responding to the above suggestion, the Department of Revenue, in their written submission, stated as under:

> *"The suggestion seeks to dilute the penal provision against repayment of loan or deposit in cash by reducing rate of penalty to 30% [from100%]. The suggestion is in nature of policy change. The said penal provision was introduced with a view to impose restrictions on cash transactions and to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money. Thus, the suggestion is not feasible."*

453.6 Observation/Recommendation by the Committee

The Committee note that Clause 453, which imposes a 100% penalty for non-compliance with provisions of section 188, aligns with Section 271E of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.

Clause 454 - Penalty for failure to furnish statement of financial transaction or reportable account.

454.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If a person who is required to furnish a statement of financial transaction or reportable account under section 508(*1*), fails to furnish such statement within the time prescribed under sub-section (*2*) thereof, the income-tax authority prescribed under the said sub-section (*1*) may impose on him, a penalty of five hundred rupees for every day during which such failure continues.

(*2*) If the person referred to in sub-section (*1*), fails to furnish the statement within the period specified in the notice issued under section 508(*7*), he shall pay penalty of one thousand rupees for every day during which the failure continues, beginning from the day immediately after the time specified in the such notice for furnishing the statement expires.

454.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271FA.If a person who is required to furnish a statement of financial transaction or reportable account under sub-section (1) of section 285BA, fails to furnish such statement within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under said sub-section (1) may direct that such person shall pay, by way of penalty, a sum of five hundred rupees for every day during which such failure continues:

Provided that where such person fails to furnish the statement within the period specified in the notice issued under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the statement expires."

454.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

Clause 454 of the Bill provides for penalty for failure to furnish statement of financial transaction or reportable account. The clause corresponds to section 271FA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

454.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

454.4 Observation/Recommendation by the Committee

The Committee note that Clause 454 of the Income-Tax Bill 2025, mapped to Section 271FA of the Income-Tax Act, 1961, prescribes penalties for non-compliance in furnishing financial transactions or reportable amounts. The Committee approve Clause 454 as proposed, noting its simplified approach to existing provisions.

Clause 455 - Penalty for furnishing inaccurate statement of financial transaction or reportable account.

455.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) The prescribed income-tax authority referred to in section 508 may direct that a person required to furnish a statement under sub-section (*1*) of the said section shall pay penalty of fifty thousand rupees, if such person—

(*a*) provides inaccurate information in the statement or fails to furnish correct information within the period specified under section 508(*8*); or

(*b*) fails to comply with the due diligence requirement under section 508(*9*).

(*2*) The prescribed income-tax authority referred to in section 508, may direct that a reporting financial institution referred to in sub-section (*1*)(*k*) of the said section, shall, in addition to the penalty under sub-section (*1*) of this section, if any, pay a sum of five thousand rupees for every inaccurate reportable account, if—

(*a*) the said institution provides inaccurate information in the statement required to be furnished under section 508(*1*); and

(*b*) the inaccuracy in the said statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts.

(*3*) The reporting financial institution shall be entitled to—

(*a*) recover the amount paid under sub-section (*2*) on behalf of the reportable account holder; or

(*b*) retain an amount equal to the sum so paid out of any moneys that may be in its possession, or may come to it from every such account holder.

455.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271FAA. [(1) If a person referred to in sub-section (1) of section 285BA, who is required to furnish a statement under that section,—

(*a*) provides inaccurate information in the statement or fails to furnish correct information within the period specified under sub-section (6) of the said section; or

(*b*) fails to comply with the due diligence requirement prescribed under sub-section (7) of the said section,

then, the prescribed income-tax authority referred to in sub-section (1) thereof may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.]

[(2)Where in the case of a person, referred to in clause (*k*) of sub-section (1) of section 285BA, who is required to furnish a statement under that section (herein referred to as the reporting financial institution) provides inaccurate information in the statement and the inaccuracy in such statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts, the prescribed income-tax authority under sub-section (1) of section 285BA, shall direct that the reporting financial institution shall, in addition to the penalty under sub-section (1), if any, pay a sum of five thousand rupees for every inaccurate reportable account and the reporting financial institution shall be entitled to recover the sum so paid on behalf of such reportable account holder, or to retain out of any moneys that may be in its possession, or may come to it from every such reportable account holder, an amount equal to the sum so paid.]"

455.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 455 of the Bill provides for penalty for furnishing inaccurate statement of financial transaction or reportable account. The clause corresponds to section 271FAA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

455.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

455.4 Observation/Recommendation by the Committee

The Committee note that Clause 455, dealing with penalty for furnishing inaccurate statement of financial transaction or reportable account, aims to simplify the existing provisions of Section 271FAA. The Committee concur with the Department's justification for this simplification and therefore, accept Clause 455 as proposed.

Clause 456- Penalty for failure to furnish statement or information or document by an eligible investment fund.

456.1 Proposed provision in the Income-Tax Bill, 2025

If any eligible investment fund required to furnish a statement or any information or document under section 9(*12*)(*e*) [section 9A (5)], fails to do so within the time prescribed under that section, the income-tax authority prescribed under the said section may direct that such fund shall pay, by way of penalty, a sum of five lakh rupees.

456.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271FAB.If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees."

456.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 456 of the Bill provides for penalty for failure to furnish statement or information or document by eligible investment fund. The clause corresponds to section 271FAB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

456.4 Important Views/Suggestions given by Experts/Stakeholders

With regard to the Clause 456, following suggestion has been received:

> "Reference to be given to sub-paragraph (4) of para 1 of Schedule I and reference to section 9A(5) to be removed.
> If any eligible investment fund required to furnish a statement or any information or document under section 9(12)(e) [section 9A(5)], fails to do so within the time prescribed under that section sub-paragraph (4) of para 1 of Schedule I, the income-tax authority prescribed under the said section may direct that such fund shall pay, by way of penalty, a sum of five lakh rupees."

456.5 Examination by the Committee

Responding to the above, the Department of Revenue have stated following in their written submission:

“Accepted. The suggestion seeks to remove the reference in clause 456 to section 9A(5) of IT Act in Bill. Drafting shall be updated to remove reference to IT Act.”

456.6 Observation/Recommendation by the Committee

The Committee note that Clause 456, a simplified text of the existing Section 271FAB, relates to penalty for failure to furnish statement or information or document by eligible investment fund. As the Department of Revenue have agreed to remove the reference to Section 9A(5) of the Income-Tax Act, 1961 in Clause 456 of the Bill, the Committee recommend to carry out the drafting correction accordingly.

Clause 457 - Penalty for failure to furnish information or document under section 171.

457.1 Proposed provision in the Income-Tax Bill, 2025

If any person who has entered into an international transaction or specified domestic transaction fails to furnish any such information or document as required by section 171(2), a penalty equal to 2 % of the value of such transaction may be imposed upon him for each such failure by the Assessing Officer or the Transfer Pricing Officer as referred to in section 166 or the Commissioner (Appeals).

457.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"Sec 271G. If any person who has entered into an international transaction or specified domestic transaction fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer or the Transfer Pricing Officer as referred to in section 92CA or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the international transaction or specified domestic transaction for each such failure."

457.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

Clause 457 of the Bill provides for penalty for failure to furnish statement or information or document under section 171.The clause corresponds to section 271G of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

457.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

457.4 Observation/Recommendation by the Committee

The Committee note that Clause 457 prescribing penalty for failure to furnish information or document under section 171, aligns with existing Section 271G but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 457 as it is.

Clause 458 - Penalty for failure to furnish information or document under section 506.

458.1 Proposed provision in the Income-Tax Bill, 2025

If any Indian concern which is required to furnish any information or document under section 506, fails to do so, the prescribed income-tax authority under the said section, may direct that such Indian concern shall pay by way of penalty, a sum of—

(*a*) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(*b*) five lakh rupees, in any other case.

458.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271GA. If any Indian concern, which is required to furnish any information or document under section 285A, fails to do so, the income-tax authority, as may be prescribed under the said section, may direct that such Indian concern shall pay, by way of penalty,—

(i) a sum equal to two per cent of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(ii) a sum of five hundred thousand rupees in any other case."

458.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

While proposing this Clause, the Department of Revenue have furnished following justification stated as under:

"Clause 458 of the Bill provides for penalty for failure to furnish information or document under section 506.The clause corresponds to section 271GA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

458.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

“The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961.”

458.4 Observation/Recommendation by the Committee

Noting that Clause 458 of the Bill, dealing with penalty for failure to furnish information or document under section 506 by an Indian concern, is a textual simplification of Section 271GA of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.

Clause 459 - Penalty for failure to furnish report or for furnishing inaccurate report under section 511.

459.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If any reporting entity referred to in section 511, required to furnish the report referred to in sub-section (*2*) of the said section, for a reporting accounting year, fails to do so, the prescribed authority under that section may impose on such entity, a penalty of—

(*a*) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or

(*b*) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

(*2*) If a reporting entity referred to in section 511 fails to produce the information and documents within the period allowed under sub-section (*7*) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(*3*) If the failure referred to in sub-section (*1*) or (*2*) continues after an order imposing a penalty under the said sub-sections, has been served on the entity, then, irrespective of the provisions of the said sub-sections, the prescribed authority may impose penalty of fifty thousand rupees for every day for which such failure continues starting from the date of service of such order.

(*4*) If a reporting entity referred to in section 511 provides inaccurate information in the report furnished under sub-section (*2*) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five lakh rupees, if—

(*a*) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(*b*) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within fifteen days of such discovery; or

(*c*) the entity furnishes inaccurate information or document in response to the notice issued under section 511(*7*).

459.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271GB.(1) If any reporting entity referred to in section 286, which is required to furnish the report referred to in sub-section (2) of the said section, in respect of a reporting

accounting year, fails to do so, the authority prescribed under that section (herein referred to as prescribed authority) may direct that such entity shall pay, by way of penalty, a sum of,—

(*a*) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or

(*b*) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

(2) Where any reporting entity referred to in section 286 fails to produce the information and documents within the period allowed under sub-section (6) of the said section, the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(3) If the failure referred to in sub-section (1) or sub-section (2) continues after an order has been served on the entity, directing it to pay the penalty under sub-section (1) or, as the case may be, under sub-section (2), then, notwithstanding anything contained in sub-section (1) or sub-section (2), the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of fifty thousand rupees for every day for which such failure continues beginning from the date of service of such order.

(4) Where a reporting entity referred to in section 286 provides inaccurate information in the report furnished in accordance with sub-section (2) of the said section and where—

(*a*) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(*b*) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(*c*) the entity furnishes inaccurate information or document in response to the notice issued under sub-section (6) of section 286,

then, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of five lakh rupees."

459.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

“Clause 459 of the Bill provides for penalty for failure to furnish report or for furnishing inaccurate report under section 511.The clause corresponds to section 271GB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

459.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *“The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961.”*

459.4 Observation/Recommendation by the Committee

The Committee note that Clause 459, stipulating penalties for not submitting report or providing inaccurate report under section 511, aligns with the existing Section 271GB and involves no policy shift. They, therefore, accept Clause 459 as proposed by the Department of Revenue.

Clause 460 - Penalty for failure to submit statement under section 505.

460.1 Proposed provision in the Income-Tax Bill, 2025

If a person required to furnish statement under section 505, fails to do so within the period prescribed under that section, the Assessing Officer may impose on him, a penalty of—

(*a*) one thousand rupees for every day for which the failure continues, if the period of failure does not exceed three months; or

(*b*) one lakh rupees in any other case.

460.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271GC.If any person who is required to furnish statement under section 285, fails to do so within the period prescribed under that section, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of—

(a) one thousand rupees for every day for which the failure continues, if the period of failure does not exceed three months; or

(b) one lakh rupees in any other case.]"

460.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 460 of the Bill provides for penalty for failure to submit statement under section 505.The clause corresponds to section 271GC of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

460.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

460.4 Observation/Recommendation by the Committee

Clause 460 of the Income-Tax Bill 2025, which deals with penalties for failure to submit statement under section 505, corresponds to Section 271GC of the Income-Tax Act, 1961. The Committee find that this Clause has been formulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 460 as it is.

Clause 461 - Penalty for failure to furnish statements, etc.

461.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) Where a person, who is required to deliver or causes to be delivered a statement prescribed in section 397(*3*)(*b*), fails to do so within the time prescribed in the said section, or furnishes incorrect information in the said statement, the Assessing Officer may impose on such person, a penalty of a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(*2*) No penalty shall be levied under sub-section (*1*) for delay in filing or non-filing of statement referred therein, if the person proves that—

(*a*) tax deducted or collected along with the fee and interest, if any, was paid to the credit of the Central Government; and

(*b*) the said statement was also delivered before the expiry of one month from the time prescribed in section397(*3*)(*b*).

461.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271H. (1) Without prejudice to the provisions of the Act, the Assessing Officer may direct that a person shall pay by way of penalty, if, he—

(*a*) fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C; or

(*b*) furnishes incorrect information in the statement which is required to be delivered or caused to be delivered under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no penalty shall be levied for the failure referred to in clause (*a*) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one [22][*month*] from the time prescribed for delivering or causing to be delivered such statement.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be

delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012."

461.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 461 of the Bill provides for penalty for failure to submit statements etc. The clause corresponds to section 271H of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

461.4 Important Views/Suggestions given by Experts/Stakeholders

Following suggestions have been received with regard to the above Clause:

1. "No penalty shall be levied under subsection (1) ~~for delay in filing or nonfiling of statement referred therein~~, if the person proves that—

   (a) tax deducted or collected along with the fee and interest, if any, was paid to the credit of the Central Government;

   and

   (b) the said statement was also delivered before the expiry of one month from the time prescribed ~~in section 397(3)(b) therein."~~

   Justification for the above suggestion has been stated as under:

   "The object is to exempt the levy of penalty where the tax deducted or collected is paid to the exchequer and the statement is delivered within one month from the prescribed time. However, the preamble of provision incorrectly covers a case of non filing as well whereas clause (b) deals with a case where statement is filed within one month. Hence, there is a conflict between the preamble of the provision and clause (b). In order to resolve such conflict, the words "for delay in filing or non filing of statement referred therein," may be omitted as the same is only a surplusage."

   Suitable clarification be incorporated in the law as to what constitutes incorrect information. It has been stated that mistakes in name, PAN etc. do not constitute incorrect information for levy of penalty as it does not lead to any tax evasion. Also, an incorrect claim which is apparent from any information in the statement,

for which adjustment is made while processing the statement under section 399 should not constitute incorrect information for levy of penalty. These clarifications may be incorporated in the new law so that the deductors/ collectors are not put to any hardship.

461.5 Examination by the Committee

461.5.1 When asked to express their views on the above suggestion, the Department, in their written submission, stated as under:

> *"There is no change in the provisions of the Bill viz-a-viz Act. The immunity from penalty cannot be given in case incorrect information is filed. Therefore, even though clause 461(1) covers both cases delay in filing / non filing and providing incorrect information, but clause 461(2) needs to qualify that penalty not be levied for delay in filing or non filing of statement referred therein on satisfaction of certain conditions. Thus, there is no ambiguity. The suggestion is not feasible."*

461.5.2 Expressing their views on incorrect information, the Department of Revenue, in their written reply stated as under:

> *"It is submitted that the same is not subject matter of any litigation. Providing a new definition to the term "incorrect information" may lead to avoidable litigation and multiple interpretation of the same. This may also lead to unfurling of settled income tax matters. Further, keeping in view the circumstances mentioned in the suggestion, there is gradation of the amount of penalty that can be imposed depending upon the gravity of the violation. Thus, suggestion is not feasible."*

461.6 Observation/Recommendation by the Committee

Clause 461 prescribes a penalty ranging from Rs. Ten Thousand to Rs. One lakh for failure to furnish a statement as required by section 397(3)(b). The Committee note that this Clause is simplified textual version of existing Section 271H maintaining Government's original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee are of the view that Clause 461 may be included in the new Act as proposed.

Clause 462 - Penalty for failure to furnish information or furnishing inaccurate information under section 397 (3)(d).

462.1 Proposed provision in the Income-Tax Bill, 2025

If a person, who is required to furnish information under section 397(*3*)(*d*), fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may impose a penalty of one lakh rupees.

462.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"271-I. If a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees."

462.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 462 of the Bill provides for penalty for failure to furnish information or furnishing inaccurate information under section 397(3)(d)The clause corresponds to section 271-I of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

462.4 Important Views/Suggestions given by Experts/Stakeholders

With regard to provisions of Clause 462, a memorandum received states as under:

> "For failure to furnish information, the penalty may be restricted to Rs.10,000. The quantum of penalty has to be in line with the nature of default and not to exceed the tax sought to be evaded. A very high penalty is being imposed for failure to furnish information relating to a sum whether or not the same is chargeable to tax. The penalty is very high vis-à-vis the nature of default."

462.5 Examination by the Committee

On being asked to furnish their views on the above suggestion, the Department of Revenue stated as under:

> *"The suggestion seeks to lower the amount of penalty for failure to furnish information, or for furnishing inaccurate information. The suggestion is in nature of policy change. Mistake in filing of incorrect information or no filing of such information has a serious bearing on the deductee or collectee as the right amount of tax does not get reflected in his account and thus he does not get*

entitled for the due amount of taxes paid. Moreover, for processing of any data, data accuracy is very essential. There are instructions as to how an information is to be filled in the form. If the information is filled otherwise, it would result in incorrect information. Penalty in this case is imposed in a case where a person makes some payment to a non-resident and fails to deduct income-tax thereon. It may be noted that since non-resident is not bound to pay tax in this country, there is a genuine case of unrealised revenue to the exchequer. Hence, the amount of penalty is in line with the nature of offence and class of defaulters involved. Thus, the suggestion is not feasible."

462.6 Observation/Recommendation by the Committee

The Committee observe that Clause 462 seeks to impose penalty of Rs. One lakh for failure to furnish information or furnishing inaccurate information under section 397(3)(d) and aligns with Section 271I of the Income-Tax Act, 1961. They note that the Department haveconfirmed that this is a rephrasing, not a policy change. After considering all viewpoints, the Committee accept Clause 462, as proposed, as it meets its objectives.

Clause 463 - Penalty for furnishing incorrect information in reports or certificates.

463.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) Any accountant or merchant banker or registered valuer, shall be liable to pay a penalty of ten thousand rupees for any incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder.

(*2*) The penalty under sub-section (*1*) shall be payable in respect of each incorrect report or certificate.

(*3*) The penalty under sub-section (*1*) shall be payable on directions of the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) where the inaccuracy mentioned in sub-section (*1*) is found by such authority in the course of any proceedings under this Act.

(*4*) In this section,—

(*a*) “merchant banker” means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992; and

(*b*) “registered valuer” means a person registered as a valuer under section 514.

463.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

“271J. Without prejudice to the provisions of this Act, where the Assessing Officer or [the Joint Commissioner (Appeals) or] the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

(*a*) "accountant" means an accountant referred to in the *Explanation* below sub-section (2) of section 288;

(*b*) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the

Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*c*) "registered valuer" means a person defined in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957)."

463.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 463 of the Bill provides for penalty for furnishing incorrect information in reports or certificates. The clause corresponds to section 271J of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

463.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

463.4 Observation/Recommendation by the Committee

Clause 463 of the Income-Tax Bill 2025, corresponding to Section 271J of the Income-Tax Act, 1961, stipulates penalty of Rs. Ten Thousand for providing incorrect information in any report or certificate under this Act or the rules made thereunder. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 463 as proposed by the Department.

Clause 464 - Penalty for failure to furnish statements, etc.

464.1 Proposed provision in the Income-Tax Bill, 2025

The Assessing Officer may impose a penalty which shall not be less than ten thousand rupees but which may extend up to one lakh rupees on—

(*a*) the research association, University, college or other institution referred to in section 45, if it fails to deliver or furnish the documents as prescribed under section 45(*4*)(*a*); or

(*b*) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under section 354(*1*)(*e*) or (*f*), or furnish a certificate prescribed under section 354(*1*)(*g*).

464.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

Penalty for failure to furnish statements, etc. has been dealt with under Section 271K of the Income-Tax Act, 1961, stated as under:

"271K.Without prejudice to the provisions of this Act, the Assessing Officer may direct that a sum not less than ten thousand rupees but which may extend to one lakh rupees shall be paid by way of penalty by—

(*i*) the research association, university, college or other institution referred to in clause (*ii*) or clause (*iii*) or the company referred to in clause (*iia*) of sub-section (1) of section 35, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (*i*), or furnish a certificate prescribed under clause (*ii*) of sub-section (1A) of that section; or

(*ii*) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (*viii*) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (*ix*) of the said sub-section."

464.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 464 of the Bill provides for penalty for failure to furnish statement, etc. The clause corresponds to section 271 K of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

464.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

464.4 Observation/Recommendation by the Committee

The Committee note that Clause 464, corresponding to Section 271K of the Income-Tax Act, 1961, seeks to provide for imposition of penalty for failure to furnish statement by certain institutions or funds. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.

Clause 465 - Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

465.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) A person shall be liable to pay a penalty of ten thousand rupees for each default or failure as mentioned below, if that person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(*c*) to whom a summons is issued under section 246(*1*), either to attend to give evidence or to produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(*d*) fails to comply with a notice under section 268(*1*) or (*2*) or 270(*8*) or fails to comply with a direction issued under section 268(*5*).

(*2*) A person shall be liable to pay a penalty of five hundred rupees for every day during which the following failures continue, if that person fails to—

(*a*)comply with a notice under section 175(*7*); or

(*b*) give the notice of discontinuance of his business or profession as required by section 320(*3*); or

(*c*) furnish in due time any of the returns, statements or particulars mentioned in section 252 or section 397(*3*) or 507; or

(*d*) allow inspection of any register referred to in section 255 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(*e*) furnish the return of income as required under section263(*1*)(*a*)(*iii*) or (*iv*) or to furnish it within the time allowed and in themanner required under sections 263(*1*) and (*2*); or

(*f*) deliver or cause to be delivered in due time a copy of the declaration mentioned in section 393(*6*); or

(*g*) furnish a certificate under section 395(*4*);or

(*h*) deduct and pay tax under section 416(*3*); or

(*i*) furnish a statement under section 389(*5*)(*a*); or

(*j*) deliver or cause to be delivered in due time a copy of the declaration referred to in section 394(*2*); or

(*k*) deliver or cause to be delivered the statement within the time specified in section 397(*3*)(*g*); or

(*l*) deliver or cause to be delivered a statement within the time as prescribed under section 397(*3*)(*e*).

(*3*) The amount of penalty shall not exceed the amount of tax deductible or collectible for failures in relation to the following:—

(*a*) a declaration mentioned in section 393(*6*);

(*b*) a certificate as required by section 395(*4*);and

(*c*) statements under section 397(*3*)(*b*) or (*e*).

(*4*) Any penalty imposable under sub-section (*1*) or (*2*) shall be imposed—

(*a*) if the contravention, failure or default for which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not below the rank of Joint Director or a Joint Commissioner, by such income-tax authority;

(*b*) in a case falling under sub-section (*1*)(*d*), by the income-tax authority who had issued the notice or direction referred to therein;

(*c*) in a case falling under of sub-section (*2*)(*f*), by the Principal Chief ommissioner or Chief Commissioner or Principal Commissioner or Commissioner; and (*d*) in any other case, by the Joint Director or the Joint Commissioner.

(*5*) In this section, "income-tax authority" includes a Principal Director General or Director General, Principal Director or Director, Joint Director and an Assistant Director or Deputy Director while exercising the powers vested in a court under the Code of Civil Procedure,1908, when trying a suit in respect of the matters specified in section 246(*1*).

465.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961)</u>

"272A. If any person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign;

or

(*c*) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(*d*) fails to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142,

he shall pay, by way of penalty, a sum of ten thousand rupees for each such default or failure.

(2) If any person fails—

(*a*) to comply with a notice issued under sub-section (6) of section 94; or

(*b*) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or

(*c*) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 or section 206C or section 285B; or

(*d*) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(*e*) to furnish the return of income which he is required to furnish under sub-section (4A) or sub-section (4C) of section 139 or to furnish it within the time allowed and in the manner required under those sub-sections; or

(*f*) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(*g*) to furnish a certificate as required by section 203 or section 206C; or

(*h*) to deduct and pay tax as required by sub-section (2) of section 226;

(*i*) to furnish a statement as required by sub-section (2C) of section 192;

(j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C;

(*k*) to deliver or cause to be delivered a copy of the statement within the time specified in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C;

(*l*) to deliver or cause to be delivered the statements within the time specified in sub-section (1) of section 206A;

(*m*) to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A)of section 200 or sub-section (3A)of section 206C,

he shall pay, by way of penalty, a sum of five hundred rupees for every day during which the failure continues:

Provided that the amount of penalty for failures in relation to a declaration mentioned in section 197A, a certificate as required by section 203 and returns under sections 206 and 206C and statements under sub-section (2A) or sub-section (3) of section 200 or the proviso to sub-section (3) or under sub-section (3A) of section 206C shall not exceed the amount of tax deductible or collectible, as the case may be:

Provided further that no penalty shall be levied under this section for the failure referred to in clause (*k*), if such failure relates to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(*a*) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a Joint Director or a Joint Commissioner, by such income-tax authority;

(*aa*) in a case falling under clause (*d*) of sub-section (1), by the income-tax authority who had issued the notice or direction referred to therein;

(*b*) in a case falling under clause (*f*) of sub-section (2), by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(*c*) in any other case, by the Joint Director or the Joint Commissioner.

(4) No order under this section shall be passed by any income-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

Explanation.—In this section, "income-tax authority" includes a Principal Director General or Director General, Principal Director or Director, Joint Director and an Assistant Director or Deputy Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 131.

(*i*) the research association, university, college or other institution referred to in clause (*ii*) or clause (*iii*) or the company referred to in clause (*iia*) of sub-section (1) of section 35, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (*i*), or furnish a certificate prescribed under clause (*ii*) of sub-section (1A) of that section; or

(*ii*) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (*viii*) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (*ix*) of the said sub-section."

465.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 465 of the Bill provides for penalty for failure to answer questions, sign statements, furnish information, returns or statement, allow inspections, etc. The clause corresponds to section 272 A of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

465.4 Important Views/Suggestions given by Experts/Stakeholders

1. Clause 465(1) should be modified as "A person shall be liable to pay a penalty of ten thousand rupees for each default or failure as mentioned below, if that person,—

   (d) fails to comply with a notice under section 268(1) ~~or (2)~~ or 270(8) or fails to comply with a direction issued under section 268(5)."

   Following justification has been provided for above suggestion:

   "Section 268(2) does not deal with issue of notice. Therefore, reference to section 268(2) may be omitted."

2. Another suggestion received with regard to Clause 465 (1) (d) is stated as under:

   "Corresponding provisions for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc. is

section 272A of the Income-tax Act, 1961. The reference to non-compliance under section 268(2) provided under section 465(1)(d) appears to be an inadvertent reference since the assessee cannot be penalized for the actions or compliances required to be carried out by the Assessing officer."

2. Regarding Clause 465 (2), it has been suggested to be modify as under:

"A person shall be liable to pay a penalty of five hundred rupees for every day during which the following failures continue, if that person fails to—

(i) furnish a statement under section ~~389(5)(a)~~ 392(5)(a); or"

Justification for the above suggestion has been stated as under:

"The said provision incorrectly makes reference to section 389(5)(a) when the correct provision is section 392(5)(a). It is suggested before this Honourable Committee that the reference to section 389(5)(a) may be replaced with section 392(5)(a)."

3. With regard to Clause 465 (2) (i) following modification has been suggested:

"Clause 465(2)(i) should be corrected so as to provide for reference to 392(5)(a) instead of 389(5)(a)."

The reasons for above modification has been stated as under:

"There is no such provision as 389(5)(a) which exists in the Income-Tax Bill. The corresponding requirement of furnishing such statement as is required under 192(2C) of the Income-tax Act, 1961 is provided under Clause 392(5)(a) of the Income-Tax Bill."

465.5 <u>Examination by the Committee</u>

The Committee examined the provisions of the above clause in light of the suggestions received. Asked to express their views on the above suggestions, the Department of Revenue, in their written submission, stated as under:

"1.Accepted.
The suggestion seeks to delete the reference in clause 465. This is drafting correction.
The reference to section 268(2) in clause 465 (Penalty for failure to answer questions, sign statement etc) shall be omitted.

2.Accepted.

This is drafting correction. The suggestion seeks to update the reference in

clause 465(2).The reference to section 392(5)(a) shall be updated in clause 465(2).”

465.6 Observations/Recommendations by the Committee

The Committee observe that Clause 465, simplifying Section 272A of the Income-Tax Act, 1961, imposes penalties for non-compliance (eg. failure to provide information or allow inspections) with no policy change. However, the drafting errors *viz*. omission of Section 268(2) and incorrect reference to 389(5)(a) instead of 392(5)(a) in sub-clause (2) of Clause 465, as pointed out by stakeholders, have been accepted by the Department of Revenue. They, therefore, recommend the Department to carry out the aforesaid drafting correction.

Clause 466 - Penalty for failure to comply with the provisions of section 254.

466.1 Proposed provision in the Income-Tax Bill, 2025

If a person fails to comply with the provisions of section 254, the Joint Commissioner, Deputy Director or Assistant Director or the Assessing Officer, may impose a penalty which may extend up to one thousand rupees on him.

466.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"272AA. (1) If a person fails to comply with the provisions of section 133B, he shall, on an order passed by the Joint Commissioner, Assistant Director or Deputy Director or the Assessing Officer, as the case may be, pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter."

466.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 466 of the Bill provides for penalty for failure to comply with the provisions of section 254.The clause corresponds to section 272AA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

466.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

466.4 Observation/Recommendation by the Committee

The Committee note that Clause 466 prescribing penalty for failure to comply with the provisions of section 254 is similar to the provisions of existing Section 272AA of the Income-Tax Act, 1961 with no policy change. They, therefore, approve the Clause 466 as proposed by the Department of Revenue.

Clause 467 - Penalty for failure to comply with the provisions of section 262.

467.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If a person fails to comply with the provisions of section 262, the Assessing Officer may impose a penalty of ten thousand rupees on him.
(*2*) If a person, required to quote or intimate his permanent account number or Aadhaar number in any document as referred to in section 262(*9*)(*a*), provides or quotes or intimates a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.
(*3*) If a person fails to quote or authenticate his permanent account number or Aadhaar number in any document referred to in section 262(*9*)(*a*), the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.
(*4*) If a person referred to in 262(*9*)(*b*) responsible for ensuring the correct quoting or authentication of permanent account number or Aadhaar number, in documents relating to transactions prescribed under section 262(*9*)(*a*) fails to do so, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

467.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"272B. (1) If a person fails to comply with the provisions of section 139A, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(2) If a person who is required to quote his permanent account number or Aadhaar number, as the case may be, in any document referred to in clause (*c*) of sub-section (5) of section 139A, or to intimate such number as required by sub-section (5A) or sub-section (5C) of that section, quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees for each such default.

(2A) If a person, who is required to quote his permanent account number or Aadhaar number, as the case may be, in documents referred to in sub-section (6A) of section 139A or authenticate such number in accordance with the provisions of the said sub-section, fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees for each such default.

(2B) If a person, who is required to ensure that the permanent account number or the Aadhaar number, as the case may be, has been,—

(*i*) duly quoted in the documents relating to transactions referred to in clause (*c*)of

sub-section (5) or in sub-section (6A) of section 139A; or

(*ii*) duly authenticated in respect of transactions referred to under sub-section (6A) of that section,

fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees for each such default.

(3) No order under sub-section (1) or sub-section (2) or sub-section (2A) or sub-section (2B) shall be passed unless the person, on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter."

467.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 467 of the Bill provides for penalty for failure to comply with the provisions of section 262.The clause corresponds to section 272B of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

467.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

467.4 Observation/Recommendation by the Committee

The Committee note that Clause 467, a textual simplification of Section 272B of the Income-Tax Act, 1961, seeks to impose penalties for non-compliance with the provisions of section 262. As no policy changes are incorporated, the Committee accept Clause 467 as proposed by the Department of Revenue.

Clause 468 - Penalty for failure to comply with the provisions of section 397(1).

468.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) If a person fails to comply with the provisions of section 397, the Assessing Officer may impose a penalty of ten thousand rupees on him.
(*2*) If a person, required to quote his Tax Deduction and Collection Account Number in documents (such as challans, certificates, or statements) referred to in section 397(*1*)(*b*), quotes a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him."

468.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"272BB. (1) If a person fails to comply with the provisions of section 203A, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum of ten thousand rupees.

(1A) If a person who is required to quote his "tax deduction account number" or, as the case may be, "tax collection account number" or "tax deduction and collection account number" in the challans or certificates or statements or other documents referred to in sub-section (2) of section 203A, quotes a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(2) No order under sub-section (1) or sub-section (1A) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter."

468.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 468 of the Bill provides for penalty for failure to comply with the provisions of section 397(1).The clause corresponds to section 272BB of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

468.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."

468.4 <u>Observation/Recommendation by the Committee</u>

The Committee observe that Clause 468 deals with penalty for failure to comply with the provisions of section 397(1) which corresponds to Section 272BB of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 468 as proposed by the Department of Revenue.

Clause 469 - Power to reduce or waive penalty, etc., in certain cases.

469.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) Irrespective of anything contained in this Act, the Principal Commissioner or Commissioner may, whether on his own motion or otherwise, at his discretion reduce or waive the penalty imposed or imposable under section 439 if he is satisfied that such person,—

(*a*) before the Assessing Officer detected any concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, has made a full and true disclosure of such particulars voluntarily and in good faith; and

(*b*) has cooperated in any enquiry relating to the assessment of his income and has paid or made satisfactory arrangements to pay any tax or interest payable in consequence of an order passed under this Act in respect of the relevant tax year.

(*2*) For the purposes of sub-section (*1*), a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto if the difference between the assessed and returned income does not attract penalties under section 439.

(*3*) If the penalty under section 439 relates to income or disclosure in respect of income relates to more than one tax year and aggregate amount of such income or disclosure thereof for such years exceeds five lakh rupees, the Principal Commissioner or Commissioner shall obtain prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, before waiving or reducing the penalty by order referred to in sub-section (*1*).

(*4*) Where an order has been made under sub-section (*1*) in favour of any person, whether such order relates to one or more tax years, he shall not be entitled to any relief under this section in relation to any other tax year at any time after the making of such order.

(*5*) The Principal Commissioner or Commissioner may, upon an application from the assessee, and after recording his reasons for doing so, reduce or waive the amount of penalty or penalties (whether they relate to one or more tax years) payable by the assessee or stay or compound any proceeding for the recovery of any such amount, if––

(*a*) doing otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(*b*) the assessee has cooperated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(*6*) The Principal Commissioner or Commissioner shall take prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or

Director General, as the case may be, if the aggregate amount of penalties reduced or waived or compounded, as the case may be, under sub-section (*5*), exceeds one lakh rupees.

(*7*) An order under sub-section (*5*), accepting or rejecting the application under the said sub-section, shall be passed within twelve months from the end of the month in which such application was received by the Principal Commissioner or Commissioner.

(*8*) No rejection of application under sub-section (*5*) shall be made without giving the assessee an opportunity of being heard.

(*9*) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

469.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"273A. (1) Notwithstanding anything contained in this Act, the Principal Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise,—

(*i*) [***]

(*ii*) reduce or waive the amount of penalty imposed or imposable on a person under section 270A or clause (*iii*) of sub-section (1) of section 271; or

(*iii*) [***]

if he is satisfied that such person—

(*a*) [***]

(*b*) in the case referred to in clause (*ii*), has, prior to the detection by the Assessing Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars,

(*c*) [***]

and also has, in the case referred to in clause (*b*), co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a

nature as not to attract the provisions of section 270A or clause (*c*) of sub-section (1) of section 271.

(2) Notwithstanding anything contained in sub-section (1),—

(*a*) [***]

(*b*) if in a case falling under section 270A or clause (*c*) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

no order reducing or waiving the penalty under sub-section (1) shall be made by the Principal Commissioner or Commissioner except with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be.

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order :

Provided that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the income-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the Principal Commissioner or Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(*i*) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(*ii*) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:

Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by

the Principal Commissioner or Commissioner except with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be.

(4A) The order under sub-section (4), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.

(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2), or, as the case may be, sub-section (4) [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989)], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the Principal Commissioner or Commissioner and instead of the previous approval of the Board, the Principal Commissioner or Commissioner shall obtain the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, while dealing with such case."

469.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 469 of the Bill provides for power to reduce or waive penalty, etc., in certain cases. The clause corresponds to section 273A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

469.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

469.4 Observation/Recommendation by the Committee

The Committee note that Clause 469 grants power to reduce or waive penalties, etc., in certain cases, akin to Section 273A of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.

Clause 470 - Penalty not to be imposed in certain cases.

470.1 Proposed provision in the Income-Tax Bill, 2025

Irrespective of anything contained in the provisions of section 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(*1*)(*c*) or 465(*1*)(*d*) or 465(*2*)(*c*) or 465(*2*)(*d*) or 466 or 467 or 468(*1*) or 468(*2*), no penalty shall be imposed on a person or assessee for any failure referred to in the said provisions, if he proves that there was reasonable cause for the said failure.

470.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"273B. Notwithstanding anything contained in the provisions of clause (*b*) of sub-section (1) of section 271, section 271A, section 271AA, section 271B, section 271BA, section 271BB, section 271C, section 271CA, section 271D, section 271E, section 271F, section 271FA, [24][section 271FAA,] section 271FAB, section 271FB, section 271G, section 271GA, section 271GB, [25][section 271GC,] section 271H, section 271-I, section 271J, clause (*c*) or clause (*d*) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA or section 272B or sub-section (1) or sub-section (1A) of section 272BB or sub-section (1) of section 272BBB or clause (*b*) of sub-section (1) or clause (*b*) or clause (*c*) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure."

470.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 470 of the Bill provides for penalty not to be imposed in certain cases. The clause corresponds to section 273B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

470.4 Important Views/Suggestions given by Experts/Stakeholders

1. Irrespective of anything contained in the provisions of section 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 or 453 or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(1)(c) or 465(1)(d) or 465(2)(c) or 465(2)(d) or 466 or 467 or 468(1) or 468(2), no penalty shall be imposed on a

person or assessee for any failure referred to in the said provisions, if he proves that there was reasonable cause for the said failure.

Clause 470 may be amended so as to include reference to Clause 453 of the Income-Tax Bill."

Reasons for suggesting above modification has been provided as under:

Section 273B of IT Act contained reference to section 271E. Section 470 which is pari materia to section 273B of IT Act does not contain reference to section 453 which is pari materia to section 271E of IT Act. Hence, reference to section 453 which has been missed out, may now be included.

At present Section 273B which specifies various penalties on account of reasonable cause includes the penalty u/s. 271E for failure to comply with section 269T of the Act. Since various other clauses are already covered under clause 470 of the Income-tax Bill, 2025, there seems to be no reason for not including penalty u/s. 453 in the said clause."

2. Another suggestion received in respect of this Clause is as under:

"Irrespective of anything contained in the provisions of this Chapter, no penalty shall be imposed on a person or assessee for any failure referred to in the said provisions, if he proves that there was a reasonable cause for the said failure."

Following justification was furnished for the above suggestion:

"If a reasonable cause is proved for any failure for which penalty is leviable under this Chapter, then no penalty shall be imposed."

470.5 <u>Examination by the Committee</u>

470.5.1 Responding to the above suggestion, the Department of Revenue stated as under:

"Accepted.

The suggestion seeks to update the reference in clause 470. This is drafting correction. The reference to section 453 shall be updated in clause 470."

470.5.2 On the issue of no penalty in case of reasonable cause given by the assessee, the Department of Revenue furnished following written reply:

"The suggestion seeks to decriminalise any offence if the person proves that there is a reasonable cause for failure. It is in the nature of Policy Change. Misreporting can never be diluted by reasonable cause. Penalty provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. Most important is 270A where such a liberal view cannot be taken. There are certain penalties such as 271AAC of IT Act for which no reasonable cause would justify the violations of provisions of section 68/69 of IT Act. Another example is 271AAD of IT Act. Providing reasonable cause would dilute such provisions and these provisions would be misused. Thus, suggestion is not feasible."

470.5.3 While tendering oral evidence on 16.6.2205, a representative of the Department of Revenue further explained the issue as under:

"…….This is in context of misreporting. They are saying if there is a reasonable cause for failure, then that offence should be decriminalised. We have already decriminalised under reporting by the Act itself, where Assessing Officer can provide immunity. Misreporting is something which cannot be accepted. That argument itself can not be accepted that this is not a criminal offence."

470.6 Observation/Recommendation by the Committee

The Committee observe that Clause 470 of the Bill, mirroring Section 273B of the extant Act, seeks to provide that penalty in certain cases shall not be imposed for reasonable cause. After considering stakeholders suggestions and Department's responses, the Committee find that: (i) there is a drafting error in the reference part of the Clause, which the Department have accepted; (ii) the suggestion to condone misreporting of income on the grounds of reasonable cause is untenable as misrepresentation or suppression of facts cannot be permitted under any circumstances. The Committee concur with the views of the Department of Revenue. Accordingly, the Committee recommend that drafting correction be carried out in Clause 470 to include reference to clause 453.

Clause 471 - Procedure

471.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.
(*2*) No order imposing a penalty under this Chapter shall be made without the prior approval of the Joint Commissioner—
(*a*) where the penalty exceeds ten thousand rupees, by the Income-tax Officer;
(*b*) where the penalty exceeds twenty thousand rupees, by the Assistant Commissioner or Deputy Commissioner.
(*3*) An income-tax authority on making an order under this Chapter imposing a penalty, unless he himself is the Assessing Officer, shall send a copy of the order to the Assessing Officer.

471.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

"274. (1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

(2) No order imposing a penalty under this Chapter shall be made—

(*a*) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(*b*) by the Assistant Commissioner or Deputy Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Joint Commissioner.

(2A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of imposing penalty under this Chapter so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.

(2B) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (2A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for imposing penalty

shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022:

[26][**Provided further** that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2022, by notification in the Official Gazette.]

(2C) Every notification issued under sub-section (2A) and sub-section (2B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer."

471.3 Reasons/Justification given by the Ministry of Finance for the proposed provision

"Clause 471 of the Bill deals with procedure. The clause corresponds to section 274 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

471.4 Examination by the Committee

When asked about the legislative intent behind positioning Clause 471 as a standalone, general procedural clause rather than integrating or explicitly cross referencing it within each specific penalty-imposing clause, or consolidating it into a broader procedural chapter, particularly when the stated objective of the Bill is to simplify and enhance clarity, the Department of Revenue, in their post evidence replies, stated as under:

> *"Clause 471 provides for the procedure to be followed for imposing any penalty whereas other clauses in the Chapter provides for specific conditions and the amount of penalty to be imposed. Reproducing the procedure in every clause related to penalty will make it cumbersome. Hence, a single clause of procedure applicable to all penalties has been provided."*

471.5 Observation/Recommendation by the Committee

The Committee note that Clause 471, outlining penalty procedures, corresponding to Section 274 of the Income-Tax Act 1961, is a textual simplification consistent with the objectives of the Bill. The Committee, therefore, accept the Clause as proposed by the Department.

Clause 472 - Bar of limitation for imposing penalties.

472.1 Proposed provision in the Income-Tax Bill, 2025

(*1*) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which—
(*a*) the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, if the relevant assessment or other order is not the subject-matter of an appeal under section 356 or 357 or 362;
(*b*) the order of revision is passed, if the relevant assessment or other order is the subject-matter of revision under section 377 or 378;
(*c*) the order of appeal is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject-matter of an appeal under section 356 or 357 or 362;
(d) notice for imposition of penalty is issued, in any other case.
(*2*) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order under section 356 or 357 or 362 or 365 or 367 or revision under section 377 or 378, where the relevant assessment or other order is the subject-matter of an appeal or revision under the said sections.
(*3*) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (*2*) shall be passed—
(*a*) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;
(*b*) after the expiry of six months from the end of the quarter in which the order under section 356 or 357 or 362 or 365 or 367 is received by the jurisdictional Principal Commissioner or Commissioner or the order of revision under section 377 or 378 is passed.
(*4*) The provisions of section 471(*2*) shall apply to the order imposing or enhancing or reducing penalty under this section.
(*5*) In computing the period of limitation for the purposes of this section, following period shall be excluded—
(*a*) the time taken in giving an opportunity to the assessee to be reheard under the section 244 (*2*);
(*b*) the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

472.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961)

“275. (1) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which,—

(a) the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, if the relevant assessment or other order is not the subject matter of an appeal under section 246 or section 246A or section 253;

(b) the order of revision under section 263 or section 264 is passed, if the relevant assessment or other order is the subject matter of revision under the said sections;

(c) the order of appeal under section 246 or section 246A is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject matter of an appeal under the said sections and no further appeal has been filed under section 253;

(d) the order of appeal under section 253 is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject matter of an appeal under the said section;

(e) notice for imposition of penalty is issued, in any other case.

(2) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order passed under section 246 or section 246A or section 253 or section 260A or section 261 or revision under section 263 or section 264, where the relevant assessment or other order is the subject matter of an appeal or a revision under the said sections.

(3) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (2) shall be passed—

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the quarter in which the order passed under section 246 or section 246A or section 253 or section 260A or section 261 is received by the jurisdictional Principal Commissioner or Commissioner, or the order of revision under section 263 or section 264 is passed.

(4) The provisions of sub-section (2) of section 274 shall apply to the order imposing or enhancing or reducing penalty under sub-section (2).

(5) In computing the period of limitation for the purposes of this section, the following period shall be excluded:—

(a) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(b) the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner.**]"**

472.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>

"Clause 472 of the Bill deals with bar of limitation for imposing penalty. The clause corresponds to section 275 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

472.3.1 In reply to a specific query on changes (addition or omission or replacement of words etc.) if any, between the provisions of the Clause and existing Section, the Department of Revenue furnished following reply:

> *"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961."*

472.4 Observation/Recommendation by the Committee

The Committee observe that Clause 472, mapped to Section 275 of the extant Act, seeks to provide for a bar of limitation for imposing penalties. Noting that its provisions retain the same context and intent as the existing provision of the Income-Tax Act, 1961, with simplified language for greater insight, the Committee accept Clause 472 as proposed by the Department.

CHAPTER XXII
OFFENCES AND PROSECUTION

Clause 473: Contravention of order made under section 247

473.1 Provision proposed in the Income-Tax Bill, 2025:

"Whoever contravenes any order referred to in section 247(1)(viii) or (4) shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine."

473.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 275A: Contravention of order made under sub-section (3) of section 132.

"Whoever contravenes any order referred to in the second proviso to sub-section (1) or sub-section (3) of section 132 shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine."

473.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

473.3.1 "Clause 473 of the Bill deals with contravention of order made under section 247. The clause corresponds to section 275A of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

Tabular representation of various provisions under Chapter XXII

473.3.2. During the examination of the Bill, the Ministry in their background note had stated that the present exercise of simplification of the law, through the Income-Tax Bill, 2025, has been undertaken, with the following broad objectives, including

> 'Creating easy to understand formulae and tabular structures where feasible, for computation of tax for income of various natures, eliminating the complexities that have crept in regarding certain areas over the years due to multiple provisos and explanations.'

473.3.3 The Ministry further informed that in existing Income-Tax Act, 1961, 18 tables existed while in order to simplify 57 tables have been added.

473.3.4 While elaborating further on the exercise for simplification, the Ministry stated as under:

> "..a comprehensive consultative process was undertaken for the simplification exercise. The drafting style of the new Bill is straightforward and clear, making the provisions easier to understand. The objective is to create a more friendly and easy to understand tax code, without making any major changes in the tax policy and tax rates. The exercise was focused on making the law simple, clearer, bring about ease of compliance and create a more equitable tax system."

473.3.5 During the introductory sitting of the Committee, the Ministry while highlighting the key features of the Income-Tax Bill, 2025 have stated as follows:

> "..important point to highlight in this is that there is no major policy change in that. It is principally the old Act, reworded, redrafted, rephrased into shorter sentences of the new Bill. So, there is no major policy change in the Act."

473.4 Important views/suggestions given by Experts/Stakeholders

One of the significant views/suggestions given by Experts/Stakeholders, regarding Clause 473 to Clause 498, was that related provisions can be consolidated and presented in a single clause using a table, thereby reducing the overall number of clauses in the bill."

473.5 Examination by the Committee:

473.5.1 The Ministry in response to the suggestion by the stakeholder furnished in written replies as follows:

> "Each clause deals with different provisions. Merging of clauses may result in lack of clarity which is not the mandate of the ITB 2025.The suggestion has no merit."

473.5.2 Regarding further simplification and ease of the assessee, On the suggestion that various clauses under Chapter XXII can be clubbed, consolidated and presented in a tabular form preferably in a single clause, the Ministry in written replies furnished as under:

> **"**Chapter XXII of the Income-tax Bill, 2025 deals with offences and prosecution. Each clause of the said chapter deals with specific cases, provides for specific conditions for initiation of prosecution and the punishment is also different. Consolidation and presentation in a single table will lead to confusion regarding the applicability of the conditions for invoking the prosecution clauses. Further, it may also be the case where the table will give an impression that the offences are mutually inclusive which is not the case. Clauses falling the afore-mentioned

Chapter are mutually exclusive. In case there are multiple violations even in a single case, the assessee shall be liable for applicable punishments. The afore-said clauses in their present state are fairly clear with definite readability and putting them in a single table may lead to confusion and unintended litigation."

473.5.3 During the course of the examination of the Bill, the Committee desired to be apprised about the number of fines imposed as per the Bill and whether there is any case of fine without imprisonment. The Ministry in written replies stated as follows:

"There are total 16 sections of the Act under which prosecution can be made. In all these 16 cases, the punishment is imprisonment with fine."

473.6 <u>Observation/ Recommendations of the Committee</u>:

The Committee while examining the Clause 473 of the Bill note that the Clause deals with 'contravention of order made under section 247' and corresponds to section 275A of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been retained with the same intent in the proposed clause. Having considered the views of both stakeholders and the Ministry, the Committee accept the Clause 473 as proposed.

Clause 474: Failure to comply with section 247(1)(b)(ii)

474.1 Provision proposed in the Income-Tax Bill, 2025:

"If a person, who is required to afford the authorised officer with the necessary facility to inspect the books of account or other documents under section 247(1)(b)(ii) fails to do so, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine."

474.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 275B: Failure to comply with the provisions of clause (iib) of sub-section (1) of section 132

"If a person who is required to afford the authorised officer the necessary facility to inspect the books of account or other documents, as required under clause (iib) of sub-section (1) of section 132, fails to afford such facility to the authorised officer, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine."

474.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 474 of the Bill deals with failure to comply with clause (ii) of section 247(1)(b). The clause corresponds to section 275B of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

474.4 Examination by the Committee:

474.4.1 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated that there is one Omission i.e. fails to afford such.

474.4.2 On the Committee's further query regarding enlargement of the definition of 'electronic record' in context of clause (iib) of sub-section (1) of section 132 of IT Act, 1961 qualify as policy change, the Ministry in written replies furnished their justification as follows:

> **"**In the Bill, reference has been made to number of clauses of the Information technology Act as against the Income-tax Act where reference was made only to clause 2(1)(t) which pertained to electronic record….

…All of these different forms are covered by section 2(1)(ha), (i), (j), (k), (l), (r), and (t) of the Information Technology Act, 2000. The clauses which have been added pertain to communication devices, mobile data, computer, computer network etc in which financial data is stored. For purposes of accessing digital data to unearth new emerging tax evasion techniques, this enablement was much needed.

It is only the reiteration of the already existing provision in a more explicit language to cover all the means and devices of storing digital data. No additional power has been given to the tax authorities. This amendment is in the nature of rationalization of the provision."

474.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 474 deals with 'failure to comply with clause (ii) of section 247(1)(b)', aligns with the provisions of Section 275B of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 474 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

Clause 475: Removal, concealment, transfer or delivery of Property to prevent tax recovery

475.1 Provision proposed in the Income-Tax Bill, 2025:

"Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine."

475.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section276: Removal, concealment, transfer or delivery of property to thwart tax recovery.

"Whoever fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate under the provisions of the Second Schedule shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine."

475.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 475 of the Bill deals with removal, concealment, transfer or delivery of property to prevent tax recovery. The clause corresponds to section 276 of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

475.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion received from the stakeholder pointing towards a drafting error in the clause is as follows:

> "Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest therein from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.
>
> The word "therein" after "interest" is missing."

475.5 Examination by the Committee

475.5.1 The Ministry in response to the suggestion by the stakeholder, while admitting to the drafting error, stated in their written replies stated as under:

> "Accepted. The suggestion seeks to add word "therein" which is missing in clause 475.This is drafting correction. The word "therein" after "interest" may be added in clause 475 to align with the existing Act."

475.5.2 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Add 1. as prescribed,
> Omission 1. provisions of the Second Schedule."

475.6 Observation/ Recommendations of the Committee:

The Committee note that clause 475 of the Bill, which mirrors Section 276 of the Income-Tax Act, 1961 concerning actions to prevent tax recovery (i.e., removal, concealment, transfer or delivery of Property), requires a minor amendment. Following a stakeholder's suggestion, and with the Department's agreement, the Committee recommend inserting "therein" after the word "interest" in Clause 475 to ensure consistency with the existing Act. Aside from this drafting Correction, the Committee approve the Clause as proposed.

Clause 476: Failure to pay tax to credit of Central Government under Chapter XIX-B

476.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) If a person fails to—

(a) pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XIX-B; or

(b) pay tax or ensure payment of tax to the credit of the Central Government, as required under—

(*i*) Note 3 in Table in section 393(*3*); or

(*ii*) Note 6 to section 393(*1*) (Table: Sl. No. 8),

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years, and shall also be liable to fine.

(*2*) The provisions of this section shall not apply if the payment referred to in sub-section (*1*)(*a*) has been credited to the Central Government on or before the time prescribed for filing the statement for such payment under section 397(*3*)(*b*).

476.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

276B: Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.

If a person fails to

(a) pay to the credit of the Central Government, the tax deducted] at source by him as required by or under the provisions of Chapter XVII-B; or

(b) pay tax or ensure payment of tax to the credit of the Central Government, as required by or under—

(i) sub-section (2) of section 115-O;

(ii) the proviso to section 194B;

(iii) the first proviso to sub-section (1) of section 194R;

(iv) the proviso to sub-section (1) of section 194S; or]

(v) sub-section (2) of section 194BA,]

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine:

Provided that the provisions of this section shall not apply if the payment referred to in clause (*a*) has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement for such payment under sub-section (3) of section 200.

476.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 476 of the Bill deals with failure to pay tax to credit of Central Government under Chapter XIX-B. The clause corresponds to section 276B of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

476.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholders in the clause under examination are as follows:

476.4.1 Suggestion regarding Clause 476(1)(a), is as under:

> "The section may be redrafted to include "wilfully" and exclude the case where assessee "fails to ensure payment of tax to the credit of Central Government". The section to read as follows: (1) If a person wilfully fails to— ~~(a)~~ pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XIX-B ; ~~or (b) pay tax or ensure payment of tax to thecredit of the Central Government, as required under— (i) Note 3 in Table in section 393(3); or (ii) Note 6 to section 393(1) (Table: Sl. No. 8),~~ he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years, and shall also be liable to fine. The essential requirement of mens rea is missing in clause 476 which may be included by inserting the word "wilfully" before the words "fails to". It needs to be rationalized for providing relief in genuine cases. At present, TDS compliance is classified in two parts: (a) Tax not deducted at source. (b) Tax deducted but not deposited at source.
>
> For failure to deduct tax, penalty is attracted u/s 448 and for failure to deposit tax after deducting prosecution is attracted under this section. However, prosecution provisions are being attracted even for failure to ensure payment of tax by the deductee where consideration or benefit or perquisite arising from business or profession is wholly or partly in kind in certain cases. In such cases, both penalty under clause 448 and prosecution under clause 476 are attracted. The prosecution provision in clause 476 may be removed, since this is not a case of unjust enrichment."

476.4.2 Suggestion regarding Clause 476(1)(b)(i), is as under:

"Further the reference of Note no. 3 in Section 476(1)(b)(i) is erroneous. There does not exist "Note 3 in Table in section 393(3)"

476.4.3 Further, suggestion regarding Clause 476(2), is as under:

"Sub-section (2) may be substituted as follows:

(2) The provisions of this section shall not apply if the payment referred to in sub-section (1)(a) has been credited to the Central Government on or before ~~the time prescribed for filing the statement for such payment under section 397(3)(b)~~ the service of notice."

476.4.4 Another suggestion has been received for addition of new sub-section in Clause 476, as under:

"Further, new sub-section (3) may be inserted to provide that the provisions of this section shall not apply, where the tax has been deducted at source from the amount credited to the account of the payee, but actual payment of the said amount has not been made to the deductee. Relief from prosecution provisions be extended to deductors who have paid tax to the credit of the Central Government after the prescribed time limit but voluntarily at any time before service of any notice.

Also, many of the TDS provisions get triggered at the time of payment or credit, whichever is earlier. In cases where a credit entry is passed in the name a party /payee at the end of a financial year but no payment is actually made, then, prosecution provisions should not be attracted for non-deposit. In such cases, a delayed payment may be made by the assessee before the date of filing of tax audit report or before the due date of filing ITR but still assessee may be treated as the one who has deducted tax at source at the end of the year but not deposited the same on time. In such cases, consequent prosecution notices are issued by the department (which may be based on the data extracted from TDS returns filed by the assessee). This causes injustice to the assessee who has already paid such tax suo-moto along with interest, to either face prosecution proceedings or to agree for compounding proceedings.

To provide relief, it may be provided that no prosecution proceedings may be attracted till the due date of filing return of income."

476.4.5 Several stakeholders have made the following suggestions for decriminalization and rationalization:

(i) "In the spirit of decriminalization of financial offences of this government and the need to encourage entrepreneurship, these rigorous punishments should be

substituted by appropriate penalties and default in these penalties might invite rigorous punishments."

(ii) "There are a number of penal and prosecution provisions in the Income-tax Act, 1961 which continue in the Income-tax Bill, 2025. These provisions act as a deterrent for taxpayers and are also one of the reasons for the huge pendency of appeals before the appellate fora.

In line with this commitment of the Department, it is suggested that, in the new Bill, prosecution provisions be incorporated only in respect of concealment or misreporting of income or in cases where there is unjust enrichment, like non-depositing of tax deducted upto the date of service of notice, and that too where the escaped income is above a threshold limit which may be specified.
However, in the Bill in the present form, prosecution provisions are being attracted even for failure to ensure payment of tax by the deductee where consideration or benefit or perquisite arising from business or profession is wholly or partly in kind in certain cases. In such cases, both penalty under clause 448 and prosecution under clause 476 are attracted. The prosecution provision in clause 476 may be removed, since this is not a case of unjust enrichment."

(iii) "Element of "Mens Rea" sine qua non for prosecution
The prosecution provisions in Chapter XXII of the Bill begin with "If a person willfully attempts/fails to furnish/fails to produce", thereby implying that "mensrea" is sine qua non for attracting prosecution. However, the essential requirement of mensrea is missing in clauses 476 and 477 of the Bill, which contain the prosecution provisions for failure to pay tax deducted at source and tax collected at source to the credit of the Central Government as required by or under the relevant provisions. These clauses begin with "If a person fails to …" and "Where a person fails to pay to the credit of the Central Government…", respectively."

(iv) Under this chapter provisions for penalty with rigorous imprisonment are prescribed only for the persons. No such penalty and rigorous imprisonment is prescribed for the Accountant for conducting audit under section 63(1) of IT bill It should be there like section 147(2) & (3) of the Companies Act, 2013.

Making a provision for penalty on the Accountant for audit, will impel the Accountant to conduct audit with due diligence, unbiased This will increase the revenue and make the accountant accountable for failure to report any misstatement in the audit report."

476.5 <u>Examination by the Committee:</u>

476.5.1 The Ministry in regard to the suggestion to add the word 'willfully in the Clause 476(1)(a) and on the issue of non-compliance in matters of TDS, in written replies stated as follows:

> "The suggestion seeks to include 'wilfully' and exclude the case where assessee "fails to ensure payment of tax to the credit of Central Government" in clause 476 Failure to pay to credit of Central Government under chapter XIX-B. It is in nature of policy change.
>
> Penalty and prosecution provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. Further, prosecution is not launched in all cases as it is governed by administrative guidelines.
>
> For simplification and rationalization of compounding procedure, CBDT has issued Revised Guidelines for Compounding of offences under the Income-tax Act, 1961(the 'Act') on 17.10.2024.
> Further, the Budget of July 2024 has decriminalized late payment of TDS, if the payment is made before the time prescribed for filing the TDS statement. On similar lines, the Budget 2025 has decriminalized late payment of TCS, if the payment is made before the time prescribed for filing the TCS statement.
>
> The failure to deposit the amount which was collected purely in a fiduciary capacity on behalf of the government is a serious offence. However, there may be genuine cases where there may be some delay in deposition of TDS/TCS. To provide relief in such cases, the Budget of July 2024 has decriminalized late payment of TDS, if the payment is made before the time prescribed for filing the TDS statement. On similar lines, the Budget 2025 has decriminalized late payment of TCS, if the payment is made before the time prescribed for filing the TCS statement. Where, there is any further delay, it is considered a wilful act and therefore does not require separate mens rea.
>
> Therefore, the suggestion made is not feasible."

476.5.2 The Ministry in response to the suggestion pertaining to Section 476(1)(b)(i), regarding not existing 'Note 3 in Table in section 393(3)', accepted the omission and stated in written replies stated as follow:

> "Accepted. The suggestion seeks to provide Note 3 in Table in section 393(3). Note 3 will be added in Table in section 393(3)."

476.5.3 The Ministry in response to the suggestion pertaining to substitution in Section 476(2), in written replies stated as follows:

"The suggestion seeks to provide relief from prosecution provisions to deductors who have paid tax to the credit of the Central Government after the prescribed time limit but voluntarily at any time before service of any notice.
It is in nature of policy change.
Vide Finance Act No 2, 2024 , substantial relief from prosecution was provided to the deductors if they make a payment to the Central Government at any time on or before the due date for filing TDS statement. Any further extension of this time limit will result into noncompliance and non-deposition/late deposition of TDS which is loss to exchequer.
Thus, suggestion is not feasible."

476.5.4 The Ministry in response to the suggestion pertaining to addition of new sub-section in Clause 476 to provide relief to the accesse, in their written replies stated as follows:

"The suggestion seeks to provide that no prosecution proceedings may be attracted for deductor in case a credit entry is passed at the end of financial year and a delayed payment is made by the assessee before the date of filing of tax audit report or before the due date of filing ITR. It is in nature of policy change. The books of accounts are maintained on accrual basis and any dilution with the TDS requirement will result into misuse of the provisions. Vide Finance Act No 2, 2024 , substantial relief ….Is loss to exchequer.

Thus, suggestion is not feasible."

476.5.5 The Ministry in response to the suggestions by the stakeholder on decriminalization and rationalization of offences and prosecution furnished in corresponding written replies as under:-

(i) "The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025."

(ii) "…The guidelines have been simplified inter-alia by eliminating the categorization of offences, removing the limit on number of occasions for filing applications, allowing fresh application upon curing of defects, allowing compounding of offences under section 275A and 276B of the Act, removing the existing time limit for filing application viz 36 months from the date of filing of complaint, etc.
Further, the Budget of July 2024 has decriminalised late payment of TDS, if the payment is made before the time prescribed for filing the TDS statement. On similar lines, the Budget 2025 has decriminalised late payment of TCS, if the payment is made before the time prescribed for filing the TCS statement.
Therefore, the suggestion has no merit."

(iii) "The failure to deposit the amount which was collected purely in a fiduciary capacity on behalf of the government is a serious offence.
However, there may be genuine cases where there may be some delay in deposition of TDS/TCS. To provide relief in such cases, the Budget of July 2024 has decriminalised late payment of TDS, if the payment is made before the time prescribed for filing the TDS statement. On similar lines, the Budget 2025 has decriminalised late payment of TCS, if the payment is made before the time prescribed for filing the TCS statement.
Where, there is any further delay, it is considered a wilful act and therefore does not require separate mensrea.
Therefore, the suggestion has no merit."
(iv) "The suggestion seeks to expand the scope of the Bill by including the penalty and rigorous imprisonment for the Accountant in the case of failure to report any misstatement in audit report.

It is in the nature of policy change, which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a-vis Act. Penalty and rigorous imprisonment already exists in the Bill for the entity/person in case of wrongful entry in the books of account. Therefore, it is the responsibility of the person to ensure the correct entry in the books of account. Thus, suggestion is not feasible."

476.5.6 Considering the extensive exercise carried out by the Ministry and in view of the global best practices, the Committee particularly desired to know about the specific provisions incorporated in the new Income-Tax Bill, 2025 regarding decriminalisation and rationalization of penal provisions, so as to reduce pendency of appeals before different fora and minimize litigation. The Ministry while elaborating on the issues further stated as under:

"Issue is in the nature of policy change. The prosecution provisions (Sections 276B &276BB) related to TDS and TCS have been significantly rationalised vide Finance (No. 2) Act, 2024 and Finance Act, 2025 in the Income-tax Act, 1961. Further, section 275 of the IT Act, 1961 dealing with the time limit to impose penalties has been amended to provide that any order imposing a penalty shall not be passed after the expiry of six months from the end of the quarter in which the connected proceedings are completed, or the order of appeal is received by the jurisdictional PCIT/CIT, or the notice for imposition of penalty is issued, as the case maybe. The same have been replicated in the new Income-Tax Bill, 2025."

476.5.7 Responding to Committee's specific query regarding overlap and ambiguity between civil penalties and criminal prosecutions and upon the possibility of a taxpayer

to be penalised monetarily as well as also be prosecuted for the same offence, the Ministry in written replies justified as under:

> ""There is no overlap and ambiguity between civil penalties and criminal prosecutions. Both work in mutually exclusive fashion. Yes, a taxpayer can be penalised monetarily as well as also be prosecuted for the same offence. Penalty and prosecution provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. Further, prosecution is not launched in all cases as it is governed by administrative guidelines. For simplification and rationalization of compounding procedure, CBDT has issued Revised Guidelines for Compounding of offences under the Income-Tax Act, 1961(the 'Act') on 17.10.2024."

476.5.8 Further, on the Committee's query, the Ministry elaborated upon numerous measures undertaken by the Department to reduce litigation and decrease the cost of compliance for the tax-payers and enhance efficiency of direct tax collection. In order to have an overview of the intricacies and nuances involved in issues pertaining to 'offences and persecution', the Committee sought a comparative statement regarding the clauses and related provisions, alongwith the justification, in the Income-Tax Act, 1961 and the proposed Income-Tax Bill, 2025. On Committee's queries regarding increase or decrease in quantum of imprisonment or fine, and the omissions and deletions in the clauses, the Ministry in written replies stated as under:

> "There has been no increase or decrease in the quantum of imprisonment or fine, under any clause/sub-clause of the ITB, 2025 as compared to Income-Tax Act, 1961.
>
> Changes in the Chapter on Offences and Prosecution (Section 275A to 280D of the IT Act, 1961).
>
> 1. Following provisions have been proposed for omission as they applied for Income-tax Act, 1961.
>
> i. Section 276A and 276AB are redundant as no prosecution can be initiated under these sections now. Therefore, they have been omitted from the Bill.
>
> ii. In section 278A, reference to section 276DD or 276E, are redundant, hence removed. Similarly, in section 278AA, reference to section 276AB is redundant, hence removed.
>
> iii. Section 278AB has been removed as it was related to erstwhile provisions of Settlement Commission.
>
> iv. Reference to section 276CCC (Failure to furnish return of income in search cases) has been provided in sections 278A, 279(1) & 279A.
>
> 2. It is submitted that no new offence has been added in Chapter XXII of the ITB, 2025."

476.5.9 Providing a comprehensive overview of the issue of decriminalization of financial crimes, the Ministry in written replies furnished as under:

" (i) The Income-tax provisions under which prosecution can be launched are related to **major offences** such as tax evasion and non-payment of taxes, non-disclosure/incorrect disclosure of particulars of income etc. These provisions are necessary as they act as deterrent to prevent tax evasion and tax-base erosion. Since tax collection is a sovereign function closely associated with revenue mobilization for the Government to carry out various welfare measures, the prosecution provisions under the Act cannot be diluted.

(ii) Further, in order to reduce the hardships, several relaxations with respect to these provisions, are already provided in the Income-tax Act, 1961 which are discussed as under:

Details of Decriminalization of offences under the Income-tax Act, 1961				
Sr. No.	**Provision or Section which prescribe criminal punishment**	**Details about criminal punishment**	**Status of Decriminalizatio n**	**Details of status/ remarks**
1.	**Section 279(2) –** Power of compounding of Offences Corresponding clause of the Bill is 279.	All the offences under Chapter XXII of the Income-Tax Act	New Guidelines issued by 17.10.2024	Section 279(2) of the Act provides that any offence under Chapter XXII of the Act may, either, before or after the institution of proceedings, be compounded by the Pr.CCIT/CCIT, Pr.DGIT/DGIT.
2	**Section 276B –** Failure to pay tax to the credit of Central Government Corresponding clause of the Bill is 476.	Imprisonment of minimum 3 months extending upto 7 years	**Decriminalized** w.e.f. 01.10.2024	*Vide* Finance (No.2) Act, 2024 w.e.f. 01.10.2024, such cases where payment is made to the Central Government after due date but before filing of statement of such payment, have been decriminalized.

3	**Section 276BB – Failure to pay the tax collected at source** Corresponding clause of the Bill is 477.	Imprisonment of minimum 3 months extending upto 7 years	**Decriminalized** w.e.f. 01.04.2025	*Vide* Finance Act, 2025 w.e.f. 01.04.2025, such cases where payment is made to the Central Government after due date but before filing of statement of such payment, have been decriminalized.
4.	**Section 276A** – Failure of liquidator to give notice of his appointment to the Jurisdictional Assessing Officer within 30 days, or failure to set aside notified amount from, or parts with any of the assets of company under liquidation. The said section has been omitted in the Bill considering the sun-set of section 276A of the Act.	Imprisonment of minimum 6 months extending up to 2 years	**Decriminalized** w.e.f. 01.04.2023	*Vide* Finance Act, 2023 w.e.f. 01.04.2023, a sunset clause has been inserted in the section 276A of the Income-tax Act, 1961 which prescribes that no proceedings shall be initiated under section 276A on or after 01.04.2023.
5.	**Section 276AB**- prosecution for failure to comply with provisions relating to purchase by Central Government of immovable properties in	Imprisonment of minimum 6 months extending up to 2 years	**Decriminalized** w.e.f. 01.04.2022	Finance Act, 2022 has been enacted and the provision has come into effect from 01.04.2022. No new prosecution can be launched under the said section.

	certain transfers. The said section has been omitted in the Bill considering the sun-set of section 276AB of the Act.			
6.	**Section 276DD**-prosecution for acceptance of loan/deposit in cash exceeding Rs. 20,000. The said section has been omitted in the Bill considering the sun-set of section 276DD of the Act.	Imprisonment for up to 2 years with fine	**Decriminalized** w.e.f. 01.04.1989	
7.	**Section 276E**-prosecution for repayment of loan in cash The said section has been omitted in the Bill considering the sun-set of section 276E of the Act.	Imprisonment for upto 2 years with fine	**Decriminalized** w.e.f. 01.04.1989	

(iii) Further, as per the provisions of section 279A of the IT Act, 1961/clause 492 of the Bill, several offences (such as willful attempt to pay taxes, non-payment of taxes collected/ deducted, failure to furnish return of income etc.) have been deemed as non-cognizable offences within the meaning of the Code of Criminal Procedures, despite the fact that maximum punishment under the said provisions is more than 3 years.

(iv) Provision for a summary trial in a large number of cases is available under the Act.

(v) Through Finance Act, 2025, provision for furnishing updated income-tax returns has been further relaxed wherein a taxpayer may furnish a return under section 139(8A) of the IT Act, 1961/corresponding clause 263 of the Bill with additional tax within 4 years from the end of the relevant assessment year. Section 276CC of the IT Act, 1961/corresponding clause 479 of the Bill has been amended to provide that no person shall be proceeded against the said section if he has furnished an updated return within the time provided under the Act. Thus, a wide opportunity has been provided to the taxpayers to avoid prosecution under the said section.

(vi) Under section 245MA of the IT Act, 1961/corresponding clause 379 of the Bill, the dispute resolution committee has the power to reduce or waive any penalty or grant immunity from prosecution for any punishable offence if the variation proposed/made in the order does not exceed Rs. 10 lakh and the total income of such appellant does not exceed Rs. 50 lakhs.

(vii) Section 270AA of the IT Act, 1961/corresponding clause 440 deals with immunity from imposition of penalty and initiation of certain prosecution proceedings if assessee does not file any further appeal and pay the tax within the specified time.

(viii) There is also provision for obtaining advance rulings from the Board for Advance Rulings, to ensure certainty in advance for future transactions / business models."

476.5.10 In regard to Committee's query regarding comparison of the clause 476 with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add: sub-section (2) of section 115-O; (ii) the proviso to section 194B; (iii) the first proviso to sub-section (1) of section 194R; (iv) the proviso to sub-section (1) of section 194S; or] 32[(v) sub-section (2) of section 194BA,]

Omission (i) Note 3 in Table in section 393(3); or(ii) Note 6 to section 393(1) (Table: Sl. No. 8),

476.6 <u>Observation/ Recommendations of the Committee</u>:

The Committee note that Clause 476 of the Bill addresses failure to pay tax to credit of Central Government under Chapter XIX-B, mirroring Section 276B of the Income-Tax Act, 1961. Deliberating on stakeholder suggestions, the Committee has identified a need for a drafting correction. The Committee, therefore, recommend that "Note 3 in Table in section 393(3)", as referenced in Clause 476(1)(b)(i), be incorporated into the relevant proposed section. Subject to this specific amendment, the Committee accept Clause 476 as proposed.

Clause 477: Failure to pay tax collected at source.

477.1 Provision proposed in the Income-Tax Bill, 2025:

"(1) Where a person fails to pay to the credit of the Central Government the tax collected by him as required under section 394, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine.

(2) The provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement under section 397(3)(b) in respect of such payment."

477.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 276BB: Failure to pay the tax collected at source.

"If a person fails to pay to the credit of the Central Government, the tax collected by him as required under the provisions of section 206C, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine:

Provided that the provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement under the proviso to sub-section (3) of section 206C in respect of such payment.]"

477.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 477 of the Bill deals with failure to pay tax collected at source. The clause corresponds to section 276BB of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

477.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion received from the stakeholder regarding adding of the word 'willfully' in the clause under examination is as under:

> "Sub-section (1) may be redrafted to include "Willfully" (1) Where a person willfully fails to pay to the credit of the Central Government the tax collected by him as required under section 394, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven

years and shall also be liable to fine. Same rationale will apply here as stated in section 476 for inclusion of term 'wilfully'."

477.5 <u>Examination by the Committee:</u>

477.5.1 The Ministry in response to the suggestion by the stakeholder for addition of the word 'willfully' in the clause under examination has furnished the same explanation as furnished regarding Clause No. 476 as mentioned in Para 476.5.3 above, and further stated as follows:

"The suggestion seeks to include 'wilfully' in clause 476 Failure to pay tax to the credit of Central Government. Penalty and prosecution provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected.
Therefore, the suggestion made is not feasible."

477.5.2 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add 1. Where Omission 1. If"

477.6 Observation/ Recommendations of the Committee:

The Committee note that Clause 477 deals with failure to pay tax collected at source, mirroring Section 276BB of the Income-Tax Act, 1961. The Committee observe that the intent of the existing section is retained in the proposed clause. After deliberating stakeholder suggestion, the Committee agree with the Ministry's rationale for maintaining penalty and prosecution provisions for deterrence, and therefore accept Clause 477 as proposed.

Clause 478: Wilful attempt to evade tax, etc.

478.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) If a person wilfully attempts in any manner to evade payment of any tax, penalty or interest chargeable or imposable, or under-reports his income, under this Act, he shall be punishable,—

(a) in a case, where the amount sought to be evaded or tax on under-reported income exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine,

and shall also be liable for penalty that may be imposable on him under any other provision of this Act.

(2) If a person wilfully attempts in any manner to evade the payment of any tax, penalty or interest under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.

(3) In addition to the punishment referred to in sub-section (*2*), the person referred to in the said sub-section shall also be liable for penalty that may be imposable on him under any other provision of this Act.

(4) For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act, or the payment thereof, shall include a case where any person—

(a) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(b) makes or causes to be made any false entry or statement in such books of account or other documents; or

(c) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(d) causes any other circumstance to exist which may have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

478.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 276C: Wilful attempt to evade tax, etc.

"(1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable, or under reports his income, under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

(i) in a case where the amount sought to be evaded or tax on under-reported income exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii)in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii)makes or causes to be made any false entry or statement in such books of account or other documents; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof."

478.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 478 of the Bill deals with wilful attempt to evade tax, etc. The clause corresponds to section 276C of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

478.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>:

Some important suggestions received from the stakeholder in the clause under examination are as follows:

478.4.1 Regarding Clause 478(1):

"Clause 478(1): Refers to wilful attempt to evade "payment of" any tax, penalty, or interest. Section 478(2): Also refers to wilful attempt to evade "payment of" tax, penalty, or interest. S. 478(4): Elaborates circumstances where a taxpayer is said to have evaded any tax, penalty, or interest, or the payment thereof. The reference to "payment of" in Section 478(1) appears to be inadvertent, as it overlaps with Section 478(2). This redundancy could lead to an absurdity where evasion of tax does not attract prosecution, but evasion of payment does. This appears to be unintentional as S. 478(4) of ITB 2025 still refers to evasion of tax, penalty or interest.

Delineate Sections 478(1) and (2) to cover distinct defaults. Section 478(1) should cover wilful attempt to evade taxes, penalty, or interest, or underreporting of income. Section 478(2) should cover evasion of payment, similar to Section 276C(2) of ITA 1961."

478.4.2 Regarding Clause 478(1)(b):

"(b) of sub-section (1) may be substituted as follows: (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine. Also, sub-section (3) providing for liability for penalty to be deleted.In addition to prosecution provision, penalty is also attracted. Since the present chapter is dealing with prosecution provision, hence, levy of penalty under a prosecution related section and Chapter may be removed."

478.4.3 Regarding Clause 478(4)(d):

"In clause (4)(d) word "may" should be replaced with the word "will". d) causes any other circumstance to exist which may will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.In the Income-tax Act, 1961, in clause (iv) of the Explanation to section 276C the language is:"cause any other circumstance to exist which will have the effect of ……" hereas in the Income-tax Bill, 2025, the language of clause (d) uses the expression: "causes any other circumstances which may have the effect of enabling such person to ……..." Use of term 'may have the effect of' would further increase the scope of prosecution provision, even based on mere remote possibility, which would be too harsh."

478.5 <u>Examination by the Committee:</u>

The Ministry in response to the suggestions by the stakeholder has correspondingly furnished in the written replies as follows:

478.5.1 Regarding Clause 478(1):

> "Drafting corrections. The reference to "payment of" in Section 478(1) is inadvertent and should be removed. The suggestion is acceptable."

478.5.2 Regarding Clause 478(1)(b):

> "It is in nature of policy change.
> Thus, suggestion is not feasible."

478.5.3 Regarding Clause 478(4)(d):

> "Accepted. The suggestion to restrict the scope of the section by replacing the word "may" with "will".

478.5.4 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Add 1. shall also be liable to fine, and shall also be liable for penalty that may be imposable on him under any other provision of this Act."

478.6 Observation/ Recommendations of the Committee

The Committee, while reviewing Clause 478 of the Bill, which mirrors Section 276C of the Income-Tax Act, 1961, concerning wilful attempt to evade tax, etc., has identified two crucial drafting corrections. Firstly, the Committee recommend removing the reference to "payment of" in Clause 478(1) to avoid an unintended overlap with Clause 478(2) that could lead to inconsistent prosecution for tax evasion versus payment evasion. Secondly, to align with the existing Section 276C and prevent an overly broad interpretation of prosecution provisions, the Committee advise replacing "may" with "will" in Clause 478(4)(d). Subject to these precise drafting corrections, the Committee approve Clause 478 as proposed.

Clause 479: Failure to furnish returns of income.

479.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) If a person wilfully fails to furnish in due time the return of income, which is required to be furnished under section 263(*1*), or by notice given under sections 268(*1*) or 280, he shall be punishable,—

(a) in a case, where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds twenty- five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

(*2*) A person shall not be proceeded against under sub-section (*1*) for failure to furnish in due time the return of income under section 263(*1*) for any tax year, if—

(a) the return is furnished by him before the expiry of one year from the end of the tax year or a return is furnished by him under section 263(*6*) within the time provided in that section; or

(b) the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of one year from the end of the tax year, and any tax deducted or collected at source, does not exceed ten thousand rupees."

479.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 276CC: Failure to furnish returns of income.

"If a person wilfully fails to furnish in due time the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under clause (*i*) of sub-section (1) of section 142 or section 148 or section 153A, he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine:

Provided that a person shall not be proceeded against under this section for failure to

furnish in due time the return of fringe benefits under sub-section (1) of section 115WD or return of income under sub-section (1) of section 139—

(i) for any assessment year commencing prior to the 1st day of April, 1975; or

(ii) for any assessment year commencing on or after the 1st day of April, 1975, if—

(a) the return is furnished by him before the expiry of the assessment year or a return is furnished by him under sub-section (8A) of section 139 within the time provided in that sub-section; or

(b) the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of the assessment year, and any tax deducted or collected at source, does not exceed ten thousand rupees."

479.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 479 of the Bill deals with failure to furnish return of Income. The clause corresponds to section 276CC of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

479.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>:

An important suggestion received from the stakeholder regarding clause under examination is as follows:

> "Prosecution proceedings under clause (1) (b) not to be initiated in cases where there is no tax evasion.
>
> Prosecution proceedings under clause (b) i.e., imprisonment for 3 months to two years and fine not to be attracted for failure to furnish return of income if there is no evasion of tax."

479.5 <u>Examination by the Committee:</u>

479.5.1 The Ministry in response to the suggestion by the stakeholder furnished in their written replies as under:

> "The suggestion seeks to decriminalise the section if there is no evasion of tax [276CC-failure to furnish RoI]. Already a clear exclusion is available in 479(2)(b) where the difference in tax due and the advance tax/self assessment tax paid is less than ten thousand. Therefore the case proposed would be covered in this clause. Compounding provisions may be availed in such cases. It is submitted that the said section provides deterrence against willful failure to furnish in due

time the return of income, which is required to be furnished under section 263(1), or by notice given under sections 268(1) or 280.

It is in the nature of Policy Change.

However, no rationale for the decriminalising the section has been provided. It is submitted that wilful failure to furnish in due time the return of income, amounts to wilful scuttling of quasi-judicial proceedings and thus, safeguard is required in the Act against such actions. Thus, suggestion is not feasible."

479.5.2 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Omission
1. the return of fringe benefits which he is required to furnish under subsection (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or the return of income which he is required to furnish under sub-section (1) of section 139 or 2. (i) for any assessment year commencing prior to the 1st day of April, 1975; or
(ii) for any assessment year commencing on or after the 1st day of April, 1975, if— (a) the return is furnished by him before the expiry of the assessment year or a return is furnished by him under sub-section (8A) of section 139 within the time provided in that subsection; or."

479.6 Observation/ Recommendations of the Committee:

Clause 479 deals with failure to furnish returns of income. The Committee note that this Clause is simplified textual version of existing Section 276CC maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 479 as proposed.

Clause 480: Failure to furnish return of income in search cases

480.1 Provision proposed in the Income-Tax Bill, 2025:

"If a person willfully fails to furnish in due time there turn of total income which is required to be furnished by notice given under section 294(*1*)(*a*), he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and shall also be liable to fine."

480.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 276CCC:Failure to furnish return of income in search cases.

" If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of [sub-section (1) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine :

Provided that no person shall be punishable for any failure under this section in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.

480.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 480 of the Bill deals with failure to furnish return of Income in search cases. The clause corresponds to section 276CCC of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

480.4 Examination by the Committee:

480.4.1 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 and addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Omission.
> 1.Provided that no person shall be punishable for any failure under this section in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A."

480.4.2 Clause 480 has been included in Clause 485, Clause 491 and Clause 492 of the Bill corresponds to Section 278A, Section 279 and Section 279A of the Income-Tax

Act, 1971. On the Committee's desire to be apprised of the reasons for the inclusion of Clause 480 under the scope of Clause 485, the Ministry clarified under:

> **"** Clause 480 of the Bill deals with failure to furnish return of income in search cases...
>
> Clause 485 deals with Punishment for second and subsequent offences. The corresponding section 278A of the Income-Tax Act 1961 covers section 276CC i.e. failure to furnish return of income which a person is required to furnish u/s 139(1) or section 148 or section 153A. S. 153A related to search assessments. Thus, s. 278A provided for defaults in filing returns relating to search cases.
>
> *Vide* Finance Act No 2,2024, Chapter XIV-B Special procedure for assessment of search cases was introduced. The section 158BC of the deals with procedure for block assessment and the assessee is required to furnish return u/s 158BC(1)(a) in response to the notice issued by the Assessing officer. The corresponding clause in Bill is 294(1)(a). The section 276CCC of IT Act 1961 deals with failure to furnish return in search cases. Therefore, as section 153A has been omitted and since assessment in search conducted on or after 01.09.2024 will be made u/s 158BC so clause 480(section 276CCC of IT Act 1961) has been added in clause 485.

480.4.3 Furnishing rationale for inclusion of Clause 480 under the ambit of Clause 491, the Ministry in written replies stated as under:

> "Clause 491 deals with Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. The corresponding section 279 of IT Act 1961 covers cases of 276CC of IT Act. Therefore, on similar rationale the clause 480(section 276CCC of IT Act 1961) has been added in clause 491."

480.4.4 On the Committee's additional query regarding insertion of Clause 480 under Clause 492 that deals with 'certain offences to be non-cognizable', the Ministry in written replies furnished as under:

> "Clause 492 deals with Certain offences to be non-cognizable. The corresponding section 279A of IT Act covers cases of 276CC of IT Act. Therefore, on similar rationale the clause 480(section 276CCC of IT Act 1961) has been added in clause 492."

480.4.5 The Ministry in reply to the Committee's query regarding the terminology 'fine', clarified as follows:

> "In law, a fine is a monetary penalty imposed by a court or authority as punishment for a crime or other offence. It's a financial sanction intended to punish the offender, deter similar misconduct, and potentially serve as a deterrence to others. It is pertinent to mention that Income-Tax Bill similar to IT

Act 1961 provides the provision of fine only in such cases where prosecution is initiated. e.g. As per clause 480 of the Bill -Wilful failure to furnish return of income in search cases will attract imprisonment for a term (3 months to 3 years) and fine."

480.5 <u>Observation/ Recommendations of the Committee</u>:

The Committee observe that Clause 480 of the Bill textually simplifies and retain the intent of section 276CCC of the Income-Tax Act, 1961 regarding failure to furnish return of Income in search cases. Noting that there is no policy change in this regard and having after considered the views of the stakeholder as well as the response of the Department, the Committee accept Clause 480 as proposed.

Clause 481: Failure to produce accounts and documents

481.1 Provision proposed in the Income-Tax Bill, 2025:

"If a person wilfully fails to produce, or cause to be produced, the accounts and documents as are referred to in the notice served on him under section 268(*1*) on or before the date specified in such notice, or wilfully fails to comply with a direction issued to him under section 268(*5*) of, he shall be punishable with rigorous imprisonment for a term which may extend to one year and shall also be liable to fine."

481.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 276D: Failure to produce accounts and documents.

"If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice served on him under sub-section (1) of section 142, such accounts and documents as are referred to in the notice or wilfully fails to comply with a direction issued to him under sub-section (2A) of that section, he shall be punishable with rigorous imprisonment for a term which may extend to one year and with fine."

481.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 481 of the Bill deals with failure to produce accounts and documents. The clause corresponds to section 276D of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

481.4 Important Views/Suggestions given by Experts/Stakeholders:

During the examination, the stakeholder made suggestion regarding removing of the Clause 481 and stated as follows:

"This section to be removed.

Failure to produce accounts and documents is not an offence warranting initiation of prosecution proceedings. Best Judgement Assessment can be done even if a person does not produce books of account and there are different provisions in which case penalty can be levied."

481.5 <u>Examination by the Committee:</u>

481.5.1 The Ministry in response to the suggestion by the stakeholder, furnished in their written replies as follows :

> "The suggestion seeks to remove the section which provides for prosecution in case of failure to produce accounts and documents.
> It is in the nature of Policy Change. Compounding provisions may be availed in such cases.
> It is submitted that the said section provides deterrence against wilful failure to produce accounts and documents despite having been explicitly directed to do so by the Assessing Officer. Such actions amount to wilful scuttling of quasi-judicial proceedings and thus, safeguard is required in the Act against such actions. Thus, Suggestion is not feasible.

481.5.2 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Add 1.shall also be liable"

481.6 Observation/ Recommendations of the Committee:

The Committee note that Clause 481 of the Bill deals with failure to produce accounts and documents, and corresponds to section 276D of the Income-Tax Act, 1961. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.

Clause 482 False statement in verification, etc.

482.1 Provision proposed in the Income-Tax Bill, 2025:

"If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(a) in a case, where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine."

482.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 277: False statement in verification, etc.

"If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine."

482.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 482 of the Bill deals with false statement in verification, etc.The clause corresponds to section 277 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

482.4 <u>Examination by the Committee</u>: In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

"Add 1.shall also be liable"

482.5 <u>Observation/ Recommendations of the Committee</u>:

The Committee note that Clause 482 of the Bill deals with false statement in verification, etc., aligns with section 277 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in the proposed clause. The Committee, therefore, accept the Clause 482 as proposed.

Clause 483: Falsification of books of account or document, etc.

483.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) If any person (herein referred to as the first person) wilfully and with intent to enable any other person (herein referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act in the circumstances referred to in sub-section (*2*), the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

(2) The circumstances referred to in sub-section (*1*) shall be, where the first person makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act.

(3) For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act."

483.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 277A: Falsification of books of account or document, etc.

"If any person (hereafter in this section referred to as the first person) wilfully and with intent to enable any other person (hereafter in this section referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act, makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act, the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

Explanation.—For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act."

483.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 483 of the Bill provides for falsification of books of account or document, etc. The clause corresponds to section 277A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

483.4 <u>Examination by the Committee:</u>

Responding to the Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add 1. circumstances referred to in subsection (2),

Omission 1. makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act."

483.5 Observation/ Recommendations of the Committee:

Recognizing Clause 483's alignment with Section 277A of the Income-Tax Act, 1961, deals with the falsification of books or documents, the Committee observe it as a textual simplification that preserves the original intent. The Committee, therefore, accept Clause 483 in its proposed form.

Clause 484: Abetment of false return, etc.

484.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"If a person abets or induces in any manner another person—

(a) to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true; or

(b) to commit an offence under section 478(*1*), he shall be punishable,—

(i) in a case, where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine."

484.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 278: Abetment of false return, etc.

"If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any income or any fringe benefits chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 276C, he shall be punishable,—

(i) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine."

484.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 484 of the Bill provides for abetment of false return, etc. The clause corresponds to section 278 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

484.4 <u>Examination by the Committee:</u>

In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Omission
> 1. (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine."

484.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 484, which deals with abetment of false return, etc. and corresponds to Section 278 of the Income-Tax Act, 1961, has been textually simplified while retaining its original intent and policy. The Committee, therefore, accept Clause 484 as proposed.

Clause 485: Punishment for second and subsequent offences.

485.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"If any person convicted of an offence under sections 476, 477, 478(*1*), 479, 480, 482 or 484 is again convicted of an offence under any of the said sections, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine."

485.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

278A. Punishment for second and subsequent offences.

"If any person convicted of an offence under section 276B or section 276BB or sub-section (1) of section 276C or section 276CC or section 276DD or section 276E or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine."

485.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 485 of the Bill provides for punishment for second and subsequent offences. The clause corresponds to section 278A of the Act. Clause 480 of the Bill relates to failure to furnish return of income in search cases. To rationalise the provisions, the reference of clause 480 has also been added."

484.4 <u>Examination by the Committee:</u>

The Committee sought clarification whether the relevant clauses mentioned in the Clause 485 corresponds to the various Sections mentioned under Section 278A of the Act. The Ministry in written replies elucidated as under:

> **"**The clause 485 is mapped with clause 278A in the following manner: -
> If any person convicted of an offence under sections 476(276B of IT Act), 477(276BB of IT Act), 478(1)[276C(1) of IT Act], 479(276CC of IT Act), 480(276CCC of IT Act), 482(277 of IT Act) or 484(278 of IT Act) is again convicted of an offence under any of the said sections, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine.

Section 276DD and 276E of IT Act 1961 have been omitted vide Direct Tax Laws (Amendment) Act 1987.Thus, both of these sections so not find place in the Bill. The only addition is of the clause 480 for which rationale of addition has been provided in response to question no 2.

Thus, the relevant clauses mentioned in the Clause 485 corresponds to the various Sections mentioned under Section 278A of the Act."

485.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 485, which outlines punishment for second and subsequent offenses, aligns with Section 278A of the Income-Tax Act, 1961. For rationalization, it now also references Clause 480 (failure to furnish income returns in search cases). Observing that Clause 485 meets the Bill's objectives, the Committee accept it as proposed.

Clause 486: Punishment not to be imposed in certain cases.

486.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"No person shall be punishable for any failure referred to in section 476 or 477, irrespective of anything contained in that section, if he proves that there was reasonable cause for such failure."

486.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 278AA: Punishment not to be imposed in certain cases.

"Notwithstanding anything contained in the provisions of section 276A, section 276AB, or section 276B, or section 276BB no person shall be punishable for any failure referred to in the said provisions if he proves that there was reasonable cause for such failure."

486.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 486 of the Bill provides for punishment not to be imposed in certain cases. The clause corresponds to section 278AA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

486.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>:

An important suggestion received from the stakeholder regarding the clause under examination is as follows:

> "No person shall be punishable for any failure referred to in any section in this Chapter, irrespective of anything contained in that section, if he proves that there was reasonable cause for such failure.
>
> In line with the objective of decriminalisation under the Jan Vishwas Act, a person should be allowed to prove if there is a reasonable cause for failure referred to in any provision in this chapter so that punishment is not imposed. This will enhance trust based governance."

486.5 <u>Examination by the Committee:</u>

486.5.1 The Ministry in response to the suggestion by the stakeholder has furnished in their written replies as under:

> "The suggestion to decriminalise any offence if the person proves that there is a reasonable cause for failure. It is in the nature of Policy Change.

Penalty provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. There are certain penalties such as 271AAC of IT Act for which no reasonable cause would justify the violations of provisions of section 68/69 of IT Act. Another example is 271AAD of IT Act. Providing reasonable cause would dilute such provisions and these provisions would be misused.

Thus, suggestion is not feasible."

486.5.2 The Ministry in reply to the Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, in their written replies stated as follows:

"Add 1.irrespective of anything contained
Omission 1. Notwithstanding."

486.6 Observation/ Recommendations of the Committee

The Committee observe that Clause 486 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 278AA of the Income-Tax Act, 1961 regarding punishment not to be imposed in certain cases. Noting that there is no policy change in this regard and having after considered the views of the stakeholder as well as the response of the Ministry, the Committee accept Clause 486 as proposed.

Clause 487: Offences by companies.

487.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) If an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) The provisions of sub-section (*1*) shall not apply if the person referred in the said sub-section proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) If it is proved that an offence under this Act has been committed by a company with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, then irrespective of the provisions of sub-section (*1*), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence committed by a company under this Act is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section (*1*) or (*3*), such company shall be punished with fine and every person referred to in sub-section (*1*), or the director, manager, secretary or other officer of the company referred to in sub-section (*3*), shall be liable to be proceeded against and punished as per the provisions of this Act.

(5) In this section,—

(a) "company" means a body corporate and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals, whether incorporated or not; and

(b) "director", in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof."

487.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 278B: Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against

and punished accordingly:
Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to the provisions contained in sub-section
(1) or sub-section (2), such company shall be punished with fine and every person, referred to in sub-section (1), or the director, manager, secretary or other officer of the company referred to in sub-section (2), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.
Explanation.—For the purposes of this section,—

(a) "company" means a body corporate, and includes—
  (i) a firm; and
  (ii) an association of persons or a body of individuals whether incorporated or not; and
(b) "director", in relation to—
  (i) a firm, means a partner in the firm;
  (ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.

487.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

“Clause 487 of the Bill provides for offences by companies. The clause corresponds to section 278B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

487.4 <u>Observation/ Recommendations of the Committee</u>:

The Committee while examining the Clause 487 of the Bill note that the Clause deals with offences by companies, and corresponds to section 278B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 487 as proposed.

Clause 488: Offences by Hindu undivided family

488.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Where an offence under this Act has been committed by a Hindu undivided family, the *karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Nothing contained in sub-section (*1*) shall render the *karta* liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Irrespective of anything contained in sub-section (*1*), where an offence under this Act has been committed by a Hindu undivided family, a member of such Hindu undivided family shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly, if it is proved that—

(a) the offence has been committed with the consent or connivance of such member; or

(b) the offence is attributable to any neglect on the part of such member"

488.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 278C: Offences by Hindu undivided families.

(1) Where an offence under this Act has been committed by a Hindu undivided family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

488.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 488 of the Bill provides for offences by Hindu undivided family. The clause corresponds to section 278C of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

488.4 <u>Examination by the Committee:</u>

Responding to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add 1. Nothing contained
Omission 1. Notwithstanding anything."

488.5 Observation/ Recommendations of the Committee

The Committee note that Clause 488 of the Bill deals with offences by Hindu undivided family aligns with Section 278C of the Income-Tax Act, 1961. The Clause represents textual simplification, retention of same intent and no policy change. The Committee, therefore, accept the Clause 488 as proposed.

Clause 489: Presumption as to assets, books of account, etc., in certain cases.

489.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Where during the course of any search made under section 247, any money, bullion, jewellery, virtual digit asset or other valuable article or thing (herein referred to as the assets) or any books of account or other documents, has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(*7*) shall, so far as may be, apply in relation to such assets or books of account or other documents.

(*2*) Where any assets or books of account or other documents taken into custody from the possession or control of any person, by the officer or authority referred to in section 248(*1*)(*a*) or (*b*) or (*c*) are delivered to the requisitioning officer under sub-section (*2*) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(*7*) shall, so far as may be, apply in relation to such assets or books of account or other documents."

489.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section Presumption as to assets, books of account, etc., in certain cases.

"(1) Where during the course of any search made under section 132, any money, bullion, jewellery or other valuable article or thing (hereafter in this section referred to as the assets) or any books of account or other documents has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.

(2) Where any assets or books of account or other documents taken into custody, from the possession or control of any person, by the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of section 132A are delivered to the requisitioning officer under sub-section (2) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents."

489.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 489 of the Bill provides for presumption as to assets, books of accounts, etc., in certain cases. The clause corresponds to section 278D of the Act.There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

489.4 Examination by the Committee:

In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add 1. virtual digit asset."

489.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 489 deals with presumption as to assets, books of account, etc., in certain cases, corresponding to Section 278D of the existing Act. The Committee also note that no policy change has been effected by the Ministry; and only a textual simplification of the current Act. The Committee, therefore, accept Clause 489 as proposed.

Clause 490: Presumption as to culpable mental state

490.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) In any prosecution for any offence under this Act, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.
(*2*) In this section, "culpable mental state" includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.
(*3*) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability."

490.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 278E: Presumption as to culpable mental state.

"(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this sub-section, "culpable mental state" includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability."

490.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 490 of the Bill provides for presumption as to culpable mental state. The clause corresponds to section 278E of the Act. There is no policy change. The provisions of the existing section have been retained with the same intent in this clause."

490.4 <u>Examination by the Committee:</u>

The Committee note that Clause 490 of the Bill provides for presumption as to culpable mental state, mirrors section 278E of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been retained with the same intent in this clause. The Committee, therefore, accept the Clause 490 as proposed.

Clause 491: Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

491.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) A person shall not be proceeded against for an offence under section 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, or 484 except with the previous sanction of the Principal Commissioner or Commissioner or Joint Commissioner (Appeals) or Commissioner (Appeals).

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General may issue such instructions or directions to the income-tax authorities mentioned in sub-section (*1*) as he considers fit for institution of proceedings under that sub-section.

(3) A person shall not be proceeded against for an offence under section 478 or 482 in relation to the assessment for a tax year for which the penalty imposed or imposable on him under section 439 has been reduced or waived by an order under section 469.

(*4*) Any offence under this Chapter may be compounded, either before or after the institution of proceedings, by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General.

(*5*) Where any proceeding has been taken against any person under sub-section (*1*), any statement made or account or other document produced by such person before any income-tax authority specified in section 236(*a*) to (*k*) shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that—

(a) such statement was made or such account or document was produced in the belief that the penalty imposable would be reduced or waived, under section 469; or

(*b*) the offence for which such proceeding was taken would be compounded.

(*6*) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section."

491.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 279: Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

" A person shall not be proceeded against for an offence under section 275A, section 275B, section 276, section 276A, section 276B, section 276BB, section 276C, section 276CC, section 276D, section 277, section 277A or section 278 except with the

previous sanction of the Principal Commissioner or Commissioner [or Joint Commissioner (Appeals)] or Commissioner (Appeals) or the appropriate authority:

Provided that the Principal Chief Commissioner or Chief Commissioner or, as the case may be, Principal Director General or Director General may issue such instructions or directions to the aforesaid income-tax authorities as he may deem fit for institution of proceedings under this sub-section.

Explanation.—For the purposes of this section, "appropriate authority" shall have the same meaning as in clause (*c*) of section 269UA.

(1A) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under section 270A or clause (*iii*) of sub-section (1) of section 271 has been reduced or waived by an order under section 273A.

(2) Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General.

(3) Where any proceeding has been taken against any person under sub-section (1), any statement made or account or other document produced by such person before any of the income-tax authorities specified in clauses (*a*) to (*g*) of section 116 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived, under section 273A or that the offence in respect of which such proceeding was taken would be compounded.

(4) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of granting sanction under sub-section (1) or compounding under sub-section (2), so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based sanction to proceed against, or for compounding of, an offence, with dynamic jurisdiction.

(5) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (4), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(6) Every notification issued under sub-section (4) and sub-section (5) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Explanation.—For the removal of doubts, it is hereby declared that the power of the Board to issue orders, instructions or directions under this Act shall include and shall be deemed always to have included the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section.

491.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 491 of the Bill provides for Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. The clause corresponds to section 279 of the Act. Clause 480 of the Bill relates to failure to furnish return of income in search cases. To rationalise the provisions, the reference of clause 480 has also been added in the clause."

491.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholder in the clause under consideration are as follows:

491.4.1 Regarding Clause 491(1)

> "(1) A person shall not be proceeded against for an offence under section 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, or 484 except with the previous sanction of the Principal Commissioner or Commissioner or Commissioner (Appeals) or Joint Commissioner.
> As per the hierarchy, Commissioner (Appeals) to be mentioned before Joint Commissioner (Appeals)."

491.4.2 One of the stakeholder has made suggestion to bring transparency while sanctioning the prosecution as under:

> "Prior to passing the order the Commissioner shall grant the Assessee an opportunity of being heard. When a commissioner grants the permission to launch the prosecution, he /she may have to pass a speaking order. Such an order may be made appealable to the Income tax Appellate Tribunal."

491.5 Examination by the Committee:

491.5.1 The Ministry in response to the suggestion by the stakeholder regarding Clause 491(1), while admitting to the drafting correction in their written replies stated as follows:

"Drafting may be corrected so that Commissioner (Appeals) is mentioned before Joint Commissioner(Appeals)."

491.5.2 The Ministry in context of the suggestion related to transparency stated as follows:

"It is submitted that the proceedings before initiating prosecution per se do not constitute a separate proceeding under the Act, it is part of the prosecution proceedings itself. The sanction of prosecution given by the PCCIT/CCIT/PCIT/CIT is in the nature of approval given to file complaint against the assessee in the court of the judicial magistrate. Further, it may be noted that prosecution resulting in imprisonment is of criminal nature and the ITAT has civil powers. The complaint cannot be made appealable before the ITAT. Once the prosecution is launched and complaint is filed, the assessee has an option to represent his case before the Judicial Magistrate wherein he can challenge all grounds including the sanction given by the PCCIT/CCIT/PCIT/CIT. Therefore ,suggestion is not feasible."

491.5.3 In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 with regards to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add

1. The Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General

Omission

1. or the appropriate authority: Provided that the Principal Chief Commissioner or Chief Commissioner or, as the case may be, Principal Director General or Director General

2. The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of granting sanction under sub-section (1) or compounding under subsection (2), so as to impart greater efficiency, transparency and accountability by— (a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible; (b) optimizing utilisation of the resources through economies of scale and functional specialisation; (c) introducing a team-based sanction to proceed against, or for compounding of, an offence, with dynamic jurisdiction.

(5) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (4), by notification in the Official Gazette, direct that any

of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification: Provided that no direction shall be issued after the 31st day of March, 2022. (6) Every notification issued under sub-section (4) and sub-section (5) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”

491.6 <u>Observation/ Recommendations of the Committee</u>:

The Committee, while examining Clause 491 of the Bill, note that it addresses prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, aligning with Section 279 of the Income-Tax Act, 1961. A stakeholder suggested drafting correction to sub-clause (1), which places "Commissioner (Appeals)" before "Joint Commissioner (Appeals)," has been accepted by the Ministry. With this specific amendment, the Committee accept Clause 491 as proposed.

Clause 492: Certain offences to be non-cognizable.

492.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, an offence punishable under section 476, 478, 479, 480, 482 or 484 shall be deemed to be non-cognizable within the meaning of that Sanhita."

492.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 279A: Certain offences to be non-cognizable.

"Notwithstanding anything contained in the Code of Criminal Procedure, 1973*(2 of 1974), an offence punishable under section 276B or section 276C or section 276CC or section277or section 278 shall be deemed to be non-cognizable within the meaning of that Code.

**Vide* NotificationNo.S.O.2790(E),dated16-7-2024,now read as ActNo.46 of 2023".

492.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 492 of the Bill provides for certain offences to be non-cognizable. The clause corresponds to section 279A of the Act. Following rationalisations have been carried out in the clause:

(i) Offence punishable under clause 480 (Failure to furnish return of income in search cases) has also been made non-cognizable offence.

(ii) Reference of code of criminal procedure, 1973 has been replaced with Bhartiya Nagarik Suraksha Sanhita, 2023."

492.4 <u>Examination by the Committee:</u>

In regard to Clause number 492, on Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961 alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "1. Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023,
> 2. Sanhita.
> Omission 1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973* (2 of 1974), 2. Code.."

492.5 Observation/ Recommendations of the Committee

The Committee note that Clause 492, which aligns with Section 279A of the Income-Tax Act, 1961, categorizes certain offences to be non-cognizable. The Committee also note that two rationalizations have been made in this clause viz. making offenses under Clause 480 (failure to furnish returns in search cases) non-cognizable; and updating the legal reference from the Code of Criminal Procedure, 1973, to the Bhartiya Nagarik Suraksha Sanhita, 2023. Given the Ministry's justification, the Committee accept Clause 492 as proposed.

Clause 493: Proof of entries in records or documents

493.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"Entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved by—

(a) production of the records or other documents in the custody of the income-tax authority containing such entries; or

(b) production of a copy of the entries certified by the income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody."

493.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 279B: Proof of entries in records or documents.

"Entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved either by the production of the records or other documents in the custody of the income-tax authority containing such entries, or by the production of a copy of the entries certified by the income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody."

493.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 493 of the Bill provides for proof of entries in records or documents. The clause corresponds to section 279B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

493.4 <u>Examination by the Committee:</u>

The Committee, while examining the Clause 493 of the Bill, note that the Clause provides for proof of entries in records or documents which mirrors section 279E of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 493 as proposed.

Clause 494: Disclosure of particulars by public servants

494.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) A public servant, who furnishes any information or produces any document in contravention of the provisions of section 258(*3*), shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.
(*2*) No prosecution shall be instituted under this section except with the previous sanction of the Central Government."

494.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 280: Disclosure of particulars by public servants.

"(1) If a public servant furnishes any information or produces any document in contravention of the provisions of sub-section (2) of section 138, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.
(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government."

494.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 494 of the Bill provides for disclosure of particulars by public servants. The clause corresponds to section 280 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

494.4 <u>Examination by the Committee:</u>

494.4.1 On expanded definition of "assets" to include "virtual digital asset" as well as bestowing the power to authorized officials under Cause 247(1)(b)(iii) regarding Search and seizure, to: gain access by overriding the access code to any said computer system, or virtual digital space, where the access code thereof is not available and considering the ease of replication and seamless transmission of virtual digital assets, coupled with expanded search and seizure powers, unauthorized disclosure by public servants under Clause 494(1) posing a significantly higher risk of misuse, the Committee desired to be apprised of the Ministry intend to enhance the associated punishment to adequately deter such disclosures and reflect the increased complexities and potential harm. The Ministry in their written replies clarified as follows:

> "The suggestion seeks to fix accountability of officers. It is submitted that clause 258 deals with disclosure of information relating to assessee. Clause 494 of Chapter XXII pertaining to 'Offences and Prosecution' of the Income-Tax Bill,

2025 provides for prosecution of a public servant who furnishes information in contravention of clause 258.

Hence, there are already in-built provisions in the Bill to safeguard the interests of the assessee against unauthorised disclosure of data relating to the assessee. When there are already such harsh provision for imprisonment of public servants which may extend to six months and also fine, any harsher provision is not feasible to be brought on the statute. It is further submitted that apart from the legal provision available in the Bill, the issue is handled effectively administratively as well in the department.
Thus, suggestion is not feasible."

494.4.2 In the context of increasing use of technology and participation of concerned third parties in various technical processes and the clause under examination (Clause 494) regarding disclosure of particulars by public servants and consequential provisions, the Committee noted that unauthorized access of financial data and sharing of such data to third parties has the potential to lead to cyber crimes and financial frauds/crime. Given the severe risks of cybercrime and financial fraud stemming from unauthorized access and sharing of financial data, the Committee desired to be apprised of the provision to effectively address these concerns in harmony with the Information Technology Act, 2000, the Ministry clarified in written replies as follows:

"The apprehension that clause 247 of the Bill enables ongoing surveillance or intrusive monitoring is misplaced. The powers conferred under this provision operate strictly for an authorised search. They are confined to the duration and scope of that specific operation. Such powers of overriding the access protected through password start on execution of the warrant of authorization and ends when the search is concluded i.e. Once the search is concluded, the authority to access digital records by overriding encryption automatically ceases. There is no provision that permits post-search use of this authority as general surveillance tool, or tracking of digital activity. This is neither intended nor can be used for this purpose.

It is further submitted that clause 258 deals with disclosure of information relating to assessee. Clause 494 of Chapter XXII pertaining to 'Offences and Prosecution' of the Income-Tax Bill, 2025 provides for prosecution of a public servant who furnishes information in contravention of clause 258.Hence, there are already in-built provisions in the Bill to safeguard the interests of the assessee against unauthorised sharing of their financial data."

494.5 Observation/ Recommendations of the Committee:

Noting that Clause 494 of the Bill, dealing with Disclosure of particulars by public servants, is a textual simplification of Section 280 of the Income-Tax Act, 1961 with the same intent and no policy change, the Committee accept the Clause in its present form.

Clause 495: Special Courts

495.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) The Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under this Chapter, by notification, designate one or more courts of Judicial Magistrate of the first class as Special Court for such area or areas, or for such cases or class or group of cases, as specified in the notification.

(2) In this section, "High Court" means the High Court of the State in which a Judicial Magistrate of first class designated as Special Court was functioning immediately before such designation.

(3) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (*1*), with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023, be charged at the same trial."

495.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 280A: Special Courts.

"(1)The Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under this Chapter, by notification, designate one or more courts of Magistrate of the first class as Special Court for such area or areas or for such cases or class or group of cases as may be specified in the notification.

Explanation.—In this sub-section, "High Court" means the High Court of the State in which a Magistrate of first class designated as Special Court was functioning immediately before such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973* (2 of 1974), be charged at the same trial.

**Vide* Notification No. S.O. 2790(E), dated 16-7-2024, now read as Act No. 46 of 2023."

495.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 495 of the Bill provides for special courts. The clause corresponds to section 280A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

495.4 <u>Examination by the Committee:</u>

In regard to Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

"Add 1 Bharatiya Nagarik Suraksha Sanhita, 2023,
Omission 1. Explanation. 2. Code of Criminal Procedure, 1973*

495.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 495, which provides for special courts, is a textual simplification of Section 280A of the Income-Tax Act, 1961, retaining the same intent. Therefore, the Committee accept Clause 495 as proposed.

Clause 496: Offences triable by Special Court.

496.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"((*1*) Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023,—

(a) the offences punishable under this Chapter shall be triable only by the Special Court, if so designated, for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed;

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act, take cognizance of the offence for which the accused is committed for trial.

(*2*) For the purposes of sub-section (*1*)(*a*), the court competent to try offences under section 520,—

(a) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation;

(b) which has not been designated as a Special Court, shall continue to try such offence pending before it till its disposal."

496.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 280B: Offences triable by Special Court.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973* (2 of 1974),—

(a)the offences punishable under this Chapter shall be triable only by the Special Court, if so designated, for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed:

Provided that a court competent to try offences under section 292,—

(i) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation;

(ii) which has not been designated as a Special Court may continue to try such offence pending before it till its disposal;

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of the offence for which the accused is committed for trial.

**Vide* Notification No. S.O. 2790(E), dated 16-7-2024, now read as Act No. 46 of 2023".

496.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

“Clause 496 of the Bill provides for offences triable by Special Court. The clause corresponds to section 280B of the Act. The words “Bharatiya Nagarik Surakasha Sanhita” have been incorporated in place “Code of Criminal Procedure, 1973”

496.4 Observation/ Recommendations of the Committee:

The Committee note that Clause 496, deals with offences triable by Special Court, aligns with the existing section 280B of the Income-Tax Act, 1961. The Committee concur with the Ministry's justification for retaining this clause with the incorporation of the words "Bharatiya Nagarik Surakasha Sanhita" in place "Code of Criminal Procedure, 1973. The Committee, therefore, accept the Clause 496 as proposed.

Clause 497: Trial of offences as summons case

497.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"The Special Court, irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, shall try an offence under this Chapter punishable with imprisonment not exceeding two years or with fine ,or with both, as a summons case, and the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 as applicable in the case of trial of summons case, shall apply accordingly."

497.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 280C:Trial of offences as summon scase.

"Notwithstanding anything contained in the Code of Criminal Procedure, 1973* (2 of 1974), the Special Court, shall try, an offence under this Chapter punishable with imprisonment not exceeding two years or with fine or with both, as a summons case, and the provisions of the Code of Criminal Procedure, 1973* as applicable in the case of trial of summons case, shall apply accordingly.

**Vide*NotificationNo.S.O.2790(E),dated16-7-2024,nowreadasActNo.46of 2023".

497.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 497 of the Bill provides for trial of offences as summons case. The clause corresponds to section 280C of the Act. The words "Bharatiya Nagarik Surakasha Sanhita" have been incorporated in place "Code of Criminal Procedure, 1973"

497.4 <u>Examination by the Committee:</u>

Responding to the Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961, alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"Add 1. Irrespective of
Omission 1. Notwithstanding"

497.5 Observation/ Recommendations of the Committee

The Committee observe that Clause 497, deals with Trial of offences as summons case, corresponds to the existing section 280C of the Income-Tax Act, 1961. The Committee concurs with the Ministry's justification for retaining this clause with the incorporation of the words "Bharatiya Nagarik Surakasha Sanhita" in place "Code of Criminal Procedure, 1973. The Committee, therefore, accept the Clause 497 as proposed.

Clause 498: Application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court.

498.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Save as otherwise provided in this Act, the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor.

(2) The Central Government may also appoint a Special Public Prosecutor for any case or class or group of cases.

(3) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, requiring special knowledge of law.

(4) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of section 2(*v*) of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the provisions of that Sanhita shall have effect accordingly."

498.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 280D: Application of Code of Criminal Procedure,1973*to proceedings before Special Court.

"(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973* (2 of 1974) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor:

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (*u*) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974) and the provisions of that Code shall have effect accordingly.

498.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 498 of the Bill provides for application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court. The clause corresponds to section 280D of the Act. The words "Bharatiya Nagarik Surakasha Sanhita" have been incorporated in place "Code of Criminal Procedure, 1973".

498.4 <u>Examination by the Committee:</u>

In regard to the Committee's query regarding comparison of the clause with the corresponding section in the Income-Tax Act, 1961, alongwith justification for the proposed modification, the Ministry in their written replies stated as follows:

> "Add 1. Add 1 Bharatiya Nagarik Suraksha Sanhita, 2023
> Omission 1. Code of Criminal Procedure, 1973"

498.5 <u>Observation/ Recommendations of the Committee:</u>

The Committee note that Clause 498 of the Bill deals with application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court, aligns with section 280D of the Income-Tax Act, 1961. The Committee also note that the words "Bharatiya Nagarik Surakasha Sanhita" have been incorporated in place of "Code of Criminal Procedure, 1973. Given the Ministry's justification in this regard, the Committee accept the Clause 498 as proposed.

CHAPTER XXIII
MISCELLANEOUS

Clause 499: Certain transfers to be void

499.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice by the Tax Recovery Officer as per the procedure specified under section 413, any assessee creates a charge on, or parts with the possession of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise.

(2) The charge or transfer as referred to in sub-section (*1*) shall not be void if it is made—

(a) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(b) with the previous permission of the Assessing Officer.

(3) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value

(*4*) In this section,—

(a) "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks, virtual digital asset, to the extent to which any of the said assets does not form part of the stock-in-trade of the business of the assessee; and

(b) the modes of creating a charge on or parting with the possession of such assets shall include sale, mortgage, gift, exchange or any other mode of transfer."

499.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 281:Certain transfers to be void.

" (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise :

Provided that such charge or transfer shall not be void if it is made—

(i) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee ; or

(ii) with the previous permission of the Assessing Officer.

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee."

499.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 499 of the Bill provides for certain transfers to be void. This clause corresponds to section 281 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, 'virtual digital asset' has been added in the definition of asset for the purposes of this clause. The amendment has been made with a view to rationalise the provision so as to align it with other provisions of the Bill."

499.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholder regarding the clause under consideration are as follows:

499.4.1 In clause 499(4)(a), **"**definition of the term "asset" may be reworded as follows: "assets" means land, building, machinery, plant, shares, securities, fixed deposits in banks, and virtual digital assets, to the extent to which any of the said assets does not form part of the stock-in-trade of the business of the assessee.

This revision ensures: Consistent use of plurals ("virtual digital assets" instead of singular "virtual digital asset"); "

499.4.2 In Clause 499 (4)(a), Consistent structuring by adding "and" before the last item."

499.4.3 "The scope of S. 499(4)(b) be restricted to "sale, mortgage, gift, exchange or any other mode of transfer whatsoever". The inclusive aspect of the definition be removed. S. 499(4)(b) be rephrased to state that "the modes of creating a charge on or parting with the possession of such assets by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever".

The phrase ‘any other mode of transfer’, as present in S. 499(4)(b) of the I T Bill, 2025 as well as in S. 281 of the 1961 Act, will take its colour from the word sale, mortgage, gift or exchange. However, the inclusive definition in the S. 499(4)(b) may seek to include certain other kind of transfer such as compulsory acquisition under any law. This may not be the intention of the legislature. The unintended consequence of the phrase ‘include’ in S. 499(4)(b) can be that any and every mode of transfer of assets shall be hit by S. 499.”

499.5 <u>Examination by the Committee:</u>

The Ministry while admitting to the drafting error, have accepted drafting corrections in Clause 499(4)(a) and furnished in their written replies as follows :

499.5.1 “Accepted. The suggestion seeks to use the plural form of word "virtual digital asset" in clause 499. The definition is of 'assets'. Therefore, the suggestion is acceptable.”

499.5.2 “ Accepted. The suggestion is to use word "and' in clause 499. It is in nature of drafting correction. The suggestion to add "and" before the last item is acceptable and is better drafting”

499.5.3 The Ministry in response to the suggestion by the stakeholder to drop the phrase “any other mode of transfer” in Clause 499(4)(b) has furnished in their written replies as follows:

> “The suggestion seeks to drop the phrase “any other mode of transfer” [cl. 499 - s. 281-certain transfers to be void].
> This will promote wilful tax dodging. This is a settled position of law and any amendment in this respect may lead to unintended consequences especially on the settled matters.
> Thus, the suggestion is not feasible.”

499.5.4 Responding to the Committee’s query regarding addition of ‘virtual digital asset’ in the definition of asset for the purposes of this clause, the Ministry in written replies justified as under:

> “While drafting the rationalized and simplified version of the existing provisions of the section 281, definition of Virtual Digital Assets was expanded vide Finance Act, 2025 to include any crypto-asset being representation of value that relies on a cryptographically secured distributed ledger. Further, consideration of undisclosed Virtual Digital Asset as undisclosed income was inserted vide Finance Act, 2025 in Chapter XIV-B (Procedure for Assessment of Search Cases). However, consideration of Virtual Digital Asset as Assets for the

purposes of consideration of certain transfers to be void could not be included during the Finance Act, 2025. Thus, to align the various provisions of the Act, Virtual Digital Asset was included in the definitions of the Assets under clause 499 of the Income-tax Bill, 2025."

499.5.5 On the Committee's query that considering the current economic scenario and inflation, whether the thresholds of Rs.5000/- (tax payable) and Rs.10000/- (asset value) specified in the Clause 499 of the Income-Tax Bill 2025 is still appropriate for deeming certain transfers void, the Ministry has furnished the following justification in their written replies as follows:

"Clause 499 is analogous to section 281 of the ITA 1961. The monetary threshold as existing in the Act have not been changed in this provision. The suggestion to increase the threshold is in the nature of policy change. Such demand recovery provisions are required to maintain optimum deterrence without which the revenue collections could be seriously affected. For encouraging voluntary compliance and non-intrusive methods of tax collection, deterrence in various forms is required. For this, a minimum threshold is required to be kept for making recovery, hence, for keeping interest of Revenue intact, it is desirable that the existing monetary limits maybe retained. This is also in line with the principle of 'Balance of convenience'.
Thus, the suggestion is not feasible."

499.6 Observation/ Recommendations of the Committee:

The Committee note that Clause 499 of the Bill, addressing void transfers (mirroring Section 281 of the Income-Tax Act, 1961), now incorporates "virtual digital asset" into its definition of "asset." The Ministry has justified this inclusion as a rationalization aimed at aligning the provision with other sections of the Bill. The Committee also note that the Ministry has accepted two key drafting improvements suggested by stakeholders: first, in the clause 499(4)(a), changing "virtual digital asset" to the plural "virtual digital assets" for consistency with the broader definition of "assets"; and second, inserting "and" before the last item in Clause 499(4)(a), which enhances clarity and improves overall drafting. After considering the perspectives of both stakeholders and the Ministry, the Committee accept Clause 499 as proposed, incorporating these drafting corrections.

Clause 500: Provisional attachment to protect revenue in certain cases

500.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Where, during the pendency of any proceeding for—

(a) the assessment of any income or for the assessment or reassessment of any income, which has escaped assessment; or

(b) imposition of penalty under section 444, where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees,

the Assessing Officer is of the opinion that for protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Competent Authority by order in writing, attach provisionally any property belonging to the assessee in the manner prescribed in section 413.

(2) Every provisional attachment under sub-section (*1*) shall cease to have effect after the expiry of six months from the date of the order made under the said sub-section.

(3) The Competent Authority may, for reasons to be recorded in writing, extend the period referred to in sub-section (*2*) and the total period of such extension shall not exceed two years or sixty days after the date of order of assessment or reassessment, whichever is later.

(4) Where the assessee furnishes a guarantee from a scheduled bank for an amount not less than the fair market value of the property provisionally attached under sub-section (*1*), the Assessing Officer shall, by an order in writing, revoke such attachment.

(5) For the purposes of sub-section (*4*), where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(6) The Assessing Officer may, for determining the value of the property provisionally attached under sub-section (*1*), make a reference to the Valuation Officer, who shall estimate the fair market value of the property in the mannerprovided under section 269(*3*) to (*8*), and submit a report of such estimate to the Assessing Officer within thirty days from the date of receipt of the reference.

(7) An order revoking the provisional attachment under sub-section (*4*) or (*5*) shall be made—

(a) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (6); or

(b) within fifteen days from the date of receipt of guarantee, in any other case.

(8) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified, the

Assessing Officer may invoke the guarantee furnished under sub-section (*4*) or (*5*), wholly or in part, to recover the amount.

(9) The Assessing Officer shall, in the interests of revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (*4*) or (*5*), or fails to furnish a new guarantee from a scheduled bank for an equal amount, before fifteen days of its expiry.

(10) The amount realised by invoking the guarantee referred to in sub-section (*4*) or (*5*) shall be adjusted against—

(a) the existing demand which is payable by the assesse; and

(b) the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or any bank as may be appointed by the Reserve Bank of India as its agent under section 45(*1*) of the Reserve Bank of India Act, 1934 at the place where the office of the Principal Commissioner or Commissioner is situated.

(11) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (*4*) or (*5*) is not required any more to protect the interests of the revenue, he shall release that guarantee forthwith.

(12) In this section, "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director."

500.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 281B: Provisional attachment to protect revenue in certain cases.

"(1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment or for imposition of penalty under section 271AAD where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees, the Assessing Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

Explanation.—[***]

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1) :

Provided that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or

Principal Director or Director may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years or sixty days after the date of order of assessment or reassessment, whichever is later.

(3) Where the assessee furnishes a guarantee from a scheduled bank for an amount not less than the fair market value of the property provisionally attached under sub-section (1), the Assessing Officer shall, by an order in writing, revoke such attachment:

Provided that where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(4) The Assessing Officer may, for the purposes of determining the value of the property provisionally attached under sub-section (1), make a reference to the Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the Assessing Officer within a period of thirty days from the date of receipt of such reference.

(5) An order revoking the provisional attachment under sub-section(3) shall be made—

(i) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (4); or

(ii) within fifteen days from the date of receipt of guarantee in any other case.

(6) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified in the notice of demand, the Assessing Officer may invoke the guarantee furnished under sub-section (3), wholly or in part, to recover the amount.

(7) The Assessing Officer shall, in the interests of the revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (3), or fails to furnish a new guarantee from a scheduled bank for an equal amount, fifteen days before the expiry of the guarantee referred to in sub-section (3).

(8) The amount realised by invoking the guarantee referred to in sub-section(3) shall be adjusted against the existing demand which is payable by the assessee and the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act,1934(2of1934) at the place where the office of the Principal Commissioner or Commissioner is situate.

(9) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (3) is not required any more to protect the interests of the revenue, he shall

release that guarantee forthwith.

Explanation.—For the purposes of this section, the expression "scheduled bank" shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934)."

500.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 500 of the Bill provides for provisional attachment to protect revenue in certain cases. This clause corresponds to section 281B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

500.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholders in the clause under examination are as follows:

500.4.1 "Clause (a) of section 500(1) may be redrafted as given below - (a) the assessment of any income or for the assessment or reassessment of any income which has escaped assessment; or "The consequence of the placement of comma in clause (a) of section 500(1) is that the phrase "which has escaped assessment" would become relevant for both the category (i) assessment of any income and (ii) assessment or reassessment of any income. In such a case, the implication may be that only in cases where income has escaped assessment, can provisional attachment be made, which is not correct. Therefore, the comma is to be removed to convey that the phrase "income which has escaped assessment" is in continuation of and relevant to part (ii) assessment or reassessment of any income."

500.4.2 The term "property" may be defined as follows: 'property' connotes everything which is subject of ownership, corporeal or incorporeal, movable or immovable, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate or status. The term "property" may be defined to reduce litigation."

500.5 Examination by the Committee:

500.5.1 The Ministry while admitting to the drafting error furnished in their written replies as follows:

> “Accepted. The suggestion seeks to remove comma in clause 500. It is in nature of drafting correction.
>
> Comma may be removed in order to align the same with the existing provisions in the Act.”

500.5.2 On the issue of defining the term ‘property’, the Ministry in their written replies stated as follows:

> “The suggestion to define the term "property" in the Act [s. 281B]
>
> The phrase used is 'any property' to provide widest possible meaning. It is submitted that it is a settled law and there is no legal dispute over its interpretation and scope. Providing a new definition to the same may lead to litigation and multiple interpretation of the same which is avoidable. This may also lead to unfurling of settled income tax matters. Thus, suggestion is not feasible.”

500.6 Observation/ Recommendations of the Committee

The Committee note that Clause 500 of the Bill, which corresponds to Section 281B of the Income-Tax Act, 1961, addresses provisional attachment to protect revenue in certain cases. This clause maintains the same intent as the existing section, with no policy changes, only textual simplification. The Committee find that the Ministry has accepted a drafting correction for Clause 500(1)(a). The comma placed between "reassessment of any income" and "which has escaped assessment" will be removed. This change clarifies that "which has escaped assessment" directly modifies the preceding phrase, ensuring the text accurately reflects the intended meaning for assessments or reassessments of income. After considering the views of both stakeholders and the Ministry, the Committee approve Clause 500, incorporating the afore-mentioned drafting correction.

Clause 501 Service of notice, generally

501.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

" (1) The service of a notice, or summon, or requisition, or order, or any other communication, under this Act may be made by delivering or transmitting a copy thereof, to the person therein named—

(a) by post or by such courier services as may be approved by the Board; or

(b) as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or

(d) by any other means of transmission of documents, as prescribed.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

(3) In this section, "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message."

501.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 282: Service of notice generally.

"(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,—

(a) By post or by such courier services as may be approved by the Board; or

(b) in such manner as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IVof the Information Technology Act, 2000 (21 of 2000); or

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

Explanation.—For the purposes of this section, the expressions "electronic mail" and "electronic mail message" shall have the meanings as assigned to them in *Explanation*

to section 66A of the Information Technology Act, 2000 (21 of 2000)."

501.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 501 of the Bill provides for service of notice generally. This clause corresponds to section 282 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

501.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholders in the clause under examination are as follows:

501.4.1 The opening para of section 501(1) may be modified as follows - "(1) The service of a notice, or summon, or requisition, or order, or any other communication, under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named – Under section 282 of the Income-Tax Act 1961, "The service of a notice, or summon, or requisition, or order, or any other communication" was referred to as communication under the section. Since the bracketed portion is missing in section 501 of the Income-tax Bill, 2025, the use of the word communication" under 501(2) may not serve the intended purpose. Accordingly, section 501(1) has to be redrafted to include the bracketed portion.

501.4.2 "The terms - computer, computer system, computer resource or communication device may be defined in section 2 itself. Reference to the meaning of these terms in the Information Technology Act, 2000 may be given.

Under the Income-tax Act, 1961, the meaning of the expressions "electronic mail" and "electronic mail message" were to be taken from the Information Technology Act, 2000. In the Income-tax Bill, 2025, the referencing has been removed in section 501 and the definition makes reference to computer, computer system, computer resource, computer device, which have not been defined thereunder. Therefore, there is no specific meaning attributed to the terms – Computer; Computer resource; computer system, e-record in this Chapter. All these terms can be defined in Section 2. They may be defined to have the same meaning as in Information Technology Act, 2000. The definitions which have been given for Computer Resource, Computer system in other chapters may be removed."

501.4.3 The amount involved in serving the notice and other government expenses is more than the amount mentioned in the notice. The department should also have

necessary guidelines in this new Income-Tax Bill regarding the minimum amount for which notices should be issued.

501.4.4 Income Tax Department issue notices of huge amount to labourers without any investigation. This is a matter of great disgrace for the department and also brings a bad name to the government. For this, there should be clarity and the responsibility of the departmental officer should be fixed.

501.5 <u>Examination by the Committee:</u>

501.5.1 In respect of suggestion for drafting modification in Clause 501(1), the Ministry while accepting the suggestion stated as follows:

> *"*The suggestion seeks that section 501(1) has to be redrafted to include the bracketed portion. It is in nature of drafting correction and accepted."

501.5.2 On the suggestion regarding definition of term computer, computer system etc, the Ministry in written replies stated as follows:

> "The suggestion seeks to define "computer, computer system, computer resource or communication device" [s.282-service of notice generally]
> The usage here is in general term. Therefore, a specific meaning may not be required and will promote litigation.
> Thus, suggestion is not feasible."

501.5.3 Regarding fixing of minimum amount for which notices should be issued, the Ministry in written replies stated as under:

> "The suggestion seeks that necessary guidelines in new Income-Tax Bill should be issued regarding the minimum amount for which notices should be issued. The suggestion is not clear as to which notice is being referred. It is in nature of policy change. For encouraging voluntary compliance and non-intrusive methods of tax collection, deterrence is required. Setting a minimum ceiling on such violation will dilute the deterrence effect. Income Tax Department is at the forefront of adoption of technology as evident in the form of faceless appeals, e-appeal schemes and random allocation of appeals to the basket of first appellate authority. During the appellate proceedings, electronic communication with the taxpayers, facility of video conferencing and receipt of the appellate order online have been successfully implemented by the Department which has reduced the cost of serving notices considerably. Thus, suggestion is not feasible."

501.5.4 Responding to the suggestion regarding fixing of accountability of officers regarding serving the notices randomly, the Ministry in written replies stated as follows:

"The suggestion seeks to fix accountability of officers. The issue is administrative in nature and is handled effectively in the department. Thus, suggestion is not feasible."

501.5.5 During the course of evidence, the Ministry further clarified on the issuing of Notices to labourers as under:

"दो सिचुएशस है, जिनमे नोटिस जा सकते है। एक तो यह है कि करीब *45* करोड़ एनुअल इन्फॉर्मेशन स्टेटमेंट बनते हैं। वह थर्ड पार्टी इन्फॉर्मेशन या टीडीएस डिडक्ट होने पर बनते हैं। उसमें एबीसी एनालिसिस करके जहां पर हाई ट्रांजेक्शंस रिपोर्टेड हैं, उनमें नोटिसेज जाते हैं। कई बार ऐसा होता है कि पैन उस लेबरर का लिख दिया जाता है और रिपोर्टिंग एंटिटी ने रिपोर्ट किया है, जहां ट्रांजेक्शन हाई दिख रहा है और कई बार अखबारों में भी आता है कि किसी लेबरर को इतने करोड़ का नोटिस मिल गया है। यह एक एरिया है, जहां पर ये नोटिस जा सकते हैं। दूसरा है कि जहां अकोमोडेशन एंट्रीज के तहत हो या सर्च हुई हो और सर्च में उदाहरण के लिए उसका कोई एम्प्लॉई है, उसके नाम पर कुछ ट्रांजेक्शन हो रहा है। अगर सर्च के समय ऐसा आता है तो उस पैन पर नोटिस जाता है। यही दो रीजन्स पर नोटिस जाते हैं।"

501.5.6 Responding to the Committee's query regarding serving of Notice and non-receipt of notice by the assessee, the Ministry categorically provided a detailed explanation during the course of evidence as under:

".. about 55 per cent of the income tax returns are being filed through e-intermediaries and there, the emails that are being mentioned by assesses is not their assessees email but that of the e-intermediatory which is a special e-mail that he has created only for filing a certain number of returns.
Now, in the system, suppose, we have only this email. Return has also been filed with the email. Now, once we actually give a notice on that email, and the assessee does not respond whether it is attributable to assessee delay or it is attributable to the department. Assessee, in the first place, he actually has given email."

501.5.7 The Committee's further desired to be apprised of the remedial measures for ensuring receipt of Notice by the assessee, the Ministry informed the Committee as under:

".. we have now started sending, a physical letter, on the addresses that have been mentioned in the return". "..apart from the email, we also send SMS on the mobile number that has been actually mentioned in the return of income, and not only that return of income, but whatever mobile number we have, that person may have actually mentioned a mobile number which was earlier, that is also being censored."

501.5.8 Responding to the Committee's further query regarding statistical data related to issuance of notice, the Ministry in written replies furnished as follows:

REMARKS	'FY 2023- 24'	'FY 2024- 25'	'FY 2025- 26'
1)Total Notices Issued	5009379	4519032	703775
2)Notices Issued and shared with E-filing	5004970	4511324	672971
3)Notices Issued and E-mail triggered from System	4537991	4234706	658159
4)Notices Issued and Email Delivered	4065954	3871712	502481

501.6 Observation/ Recommendations of the Committee

The Committee observe that Clause 501 of the Bill, which addresses service of notice generally, corresponds to Section 282 of the Income-Tax Act, 1961. This clause carries forward the existing section's intent without policy changes, merely simplifying the text. However, a critical omission is identified in Clause 501(1). Unlike the existing Section 282(1), the new clause lacked the bracketed definition "(hereafter in this section referred to as "communication")" after listing various forms of communication. The Committee believe that addressing this omission, would provide a better clarity and achieve the intended applicability of the term "communication" in Clause 501(2). The Ministry has duly acknowledged and committed to rectifying this drafting oversight Having considered the views of both stakeholders and the Ministry, the Committee approve Clause 501 as proposed, contingent on the rectification of this drafting error. Aside from the above drafting correction, the Committee recommend to accept the Clause 501 as proposed.

Clause 502: Authentication of notices and other documents.

502.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority as per such procedure, as prescribed.
(2) Every notice or other document to be issued, served or given under this Act by any income-tax authority, shall be deemed to be authenticated, if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.
(3) In this section, "designated income-tax authority" means any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (*2*)."

502.1 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 282A: Authentication of notices and other documents.

'"(1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.
(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.
(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2)."

502.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 502 of the Bill provides for authentication of notices and other documents. This clause corresponds to section 282A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

502.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

“The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961”.

502.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 502 of the Bill provides for authentication of notices and other documents, aligns with existing Section 282A of the Income-Tax Act, 1961; but features simplified linguistic construction with no policy change. Expressing their concurrence with the justification given by the Ministry of Finance (Department of Revenue) in this regard, the Committee accept Clause 502 as it is.

Clause 503: Service of notice when family is disrupted or firm etc., is dissolved.

503.1 Provision proposed in the Income-Tax Bill, 2025:

" (*1*) After a finding of total partition has been recorded by the Assessing Officer under section 315 for any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person, who was its last manager, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.
(*2*) Where a firm or other association of persons is dissolved, notices under this Act for the income of such firm or association may be served on any person, who was a partner (not being a minor) or member of the association, immediately before its dissolution."

503.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 283: Service of notice when family is disrupted or firm, etc., is dissolved.

" (1) After a finding of total partition has been recorded by the Assessing Officer under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.
(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution."

503.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 503 of the Bill provides for service of notice when family is disrupted or firm, etc., is dissolved. This clause corresponds to section 283 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

503.4 Examination by the Committee

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

503.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 503 of the Bill note that the Clause deals with service of notice when family is disrupted or firm etc., is dissolved, and corresponds to section 283 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 503 as proposed.

Clause 504: Service of notice in case of discontinued business.

504.1 Provision proposed in the Income-Tax Bill, 2025:

"Where an assessment is to be made under section 320, the Assessing Officer may serve on the—

(a) Person whose income is to be assessed ;or

(b) person who was a member of a firm or association of persons at the time of its discontinuance, in the case of a firm or an association of persons; or

(c) principal officer, in case of a company,

a notice containing all or any of the requirements which may be included in a notice under section 268(*1*) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section."

504.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 284: Service of notice in the case of discontinued business.

" Where an assessment is to be made under section 176, the Assessing Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section."

504.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 504 of the Bill provides for service of notice in case of discontinued business. This clause corresponds to section 284 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

504.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

504.5 <u>Examination by the Committee:</u>

The Committee note that Clause 504 stipulates service of notice in case of discontinued business, aligns with the provisions of Section 284 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of Clause 504 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

Clause 505: Submission of statement by a non-resident having liaison office.

505.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"Every person, being a non-resident, having a liaison office in India setup as per the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a tax year, prepare and deliver to the Assessing Officer having jurisdiction, within sixty days from the end of such tax year, a statement, in such form and containing such particulars, as prescribed."

505.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 285: Submission of statement by a non-resident having liaison office.

" Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999 (42 of 1999), shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within [38][*such period, a statement*] in such form and containing such particulars as may be prescribed.]

38. Sub. For "sixty days from the end of such financial year, a statement" by Act No.15 of 2024,w.e.f. 1-4-2025.**"**

505.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 505 of the Bill provides for submission of statement by a non-resident having liaison office. This clause corresponds to section 285 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

505.4 <u>Examination by the Committee:</u>

505.4.1 Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

505.4.2 On the Committee's explicit query regarding changes in the Clause as compared to the earlier provisions, the Ministry accepted drafting error and submitted as follows:

“ There is no change in the Bill and the provisions of the Income-tax Act, 1961. However, there is a drafting error which specifies submission of statement in prescribed form and manner within sixty days from the end of such tax year in prescribed form. The relevant rule 114DA has been amended vide Notification bearing G.S.R 125(E) dated 7th July, 2025 and now time period has been prescribed under the said rule as “within eight months from the end of such financial year”.

Hence, necessary correction shall be carried out in clause 505 of the I T Bill, 2025.”

505.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 505, a textual simplification of Section 285 of the Income-Tax Act, 1961, deals with submission of statement by a non-resident having liaison office. As accepted by the Ministry, correction may be carried out in clause 505 as under:

'within sixty days' may be replaced with 'within eight months'

Subject to the aforesaid correction, the Committee accept Clause 505 as proposed by the Department of Revenue.

Clause 506: Furnishing of information or documents by an Indian concern in certain cases

506.1 Provision proposed in the Income-Tax Bill, 2025:

"Where,—

(a) any share of, or interest in, a company or an entity registered or incorporated outside India, derives, directly or indirectly, its value substantially from the assets located in India, as referred to in section 9(*9*)(*a*); and

(b) such company or, entity, holds, directly or indirectly, such assets in India through, or in, an Indian concern,

then, such Indian concern shall, for the determination of any income accruing or arising in India under the said clause, furnish within such period, the information or documents in such manner, as prescribed, to the prescribed income-tax authority."

506.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 285A: Furnishing of information or documents by an Indian concern in certain cases.

"Where any share of, or interest in, a company or an entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, as referred to in *Explanation 5* to clause (*i*) of sub-section (1) of section 9, and such company or, as the case may be, entity, holds, directly or indirectly, such assets in India through, or in, an Indian concern, then, such Indian concern shall, for the purposes of determination of any income accruing or arising in India under clause(*i*)of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the information or documents, in such manner, as may be prescribed."

506.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 506 of the Bill provides for furnishing of information or documents by an Indian concern in certain cases. This clause corresponds to section 285A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

506.4 Important Views/Suggestions given by Experts/Stakeholders:

An important suggestion received from the stakeholder in the clause under examination are as follows:

"This section may be reworded as follows: Where, - (a) any share of, or interest in, a company or an entity registered or incorporated outside India, derives,

directly or indirectly, its value substantially from the assets located in India, as referred to in clause (a) of section 9(9)(a); and then, such Indian concern shall, for the determination of any income accruing or arising in India under the said clause, furnish within such period, the information or documents in such manner, as prescribed, to the prescribed income-tax authority.

There is mentioning of "under the said clause" in the latter part of the section, without any clause being referred to earlier in the section. Section 9(9)(a) in clause (a) of Section 506 may be written as clause (a) of section 9(9).

Then, the usage of "under the said clause" in the latter part would be correct."

506.5 <u>Examination by the Committee:</u>

The Ministry while accepting the suggestion regarding redrafting of Clause under consideration stated in their written replies as follows :

"Accepted. The suggestion seeks to redraft the clause 506(section 285A Furnishing of information or documents by an Indian concern in certain cases) to align it with Act.

Drafting may be corrected to align the same with the rest of the section**."**

506.6 Observation/ Recommendations of the Committee:

The Committee observe that Clause 506, which addresses the submission of information or documents by Indian concerns, mirrors Section 285A of the Income-Tax Act, 1961, without introducing any policy changes. A stakeholder pointed out a necessary drafting correction in Clause 506: "section 9(9)(a)" should be changed to "clause (a) of section 9(9)" for consistency with Section 285A. Given the Ministry's acceptance of this change, the Committee recommend redrafting Clause 506 to align with the current Act. Subject to this correction, the Committee approve Clause 506 as presented.

Clause 507: Submission of statements by producers of cinematograph films or persons engaged in specified activity

507.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any tax year shall, furnish within such period, a statement in such form and in such manner, as prescribed, to the prescribed income-tax authority.

(2) The statement referred in sub-section (*1*) shall contain particulars of all payments of over fifty thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.

(3) In this section, "specified activity" means any event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification, specify."

507.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 285B: **Submission of statements by producers of cinematograph films or persons engaged in specified activity.**

"Any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any financial year shall, in respect of the period during which such production or specified activity is carried on by him in such financial year, furnish within the prescribed period, a statement in the prescribed form to the prescribed income-tax authority in the prescribed manner, containing particulars of all payments of over fifty thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.

Explanation.—For the purposes of this section, "specified activity" means any event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf."

507.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

“Clause 507 of the Bill provides for submission of statements by producers of cinematograph films or persons engaged in specified activity. This clause corresponds to section 285B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.”

507.4 Examination by the Committee:

The Committee note that Clause 507 of the Bill prescribing provisions for submission of statements by producers of cinematograph films or persons engaged in specified activity, aligns with existing Section 285B of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Ministry of Finance (Department of Revenue) in this regard, the Committee accept Clause 507 as it is.

Clause 508: Obligation to furnish statement of financial transaction or reportable account.

508.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"*1*) Any person, being—

(a) an assessee; or

(b) the prescribed person, in the case of an office of Government; or

(c) a local authority or other public body or association; or

(d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

(e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or

(f) the Director General as referred to in section 2(*a*) of the Post Office Act, 2023; or

(g) the Collector referred to in section 3(*g*) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

(h) the recognised stock exchange referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956; or

(i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or

(j) a depository referred to in section 2(*1*)(*e*) of the Depositories Act, 1996; or

(k) a prescribed reporting financial institution; or

(l) any other person, as prescribed,

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account, as prescribed, under any law in force, shall furnish a statement regarding such specified financial transaction or such reportable account, which is registered or recorded or maintained by him and information relating to which is relevant and required for this Act, to the income-tax authority or such other authority or agency, as prescribed.

(2) The statement referred to in sub-section (*1*) shall be furnished for such period, within such time and in the form and manner, as prescribed.

(3) In sub-section (*1*), "specified financial transaction" means any transaction—

(a) of purchase, sale or exchange of goods or property or right or interest in a property; or

(b) for rendering any service; or

(c) under a works contract; or

(d) by way of an investment made or an expenditure incurred; or

(e) for taking or accepting any loan or deposit, as prescribed.

(4) The Board may prescribe different values for different transactions specified in sub-section (*3*) for different persons having regard to the nature of such transaction.

(5) If the prescribed income-tax authority finds a defect in the statement furnished under sub-section (*1*), he may intimate the defect to the person furnishing such statement, to rectify the defect within thirty days from the date of such intimation, and at his discretion, extend the said period upon an application made for this purpose.

(6) If the defect mentioned in sub-section (*5*) remains unrectified within the initial period of thirty days or extended period as applicable, then, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement, irrespective of anything contained in any other provision of this Act.

(7) If a person required to furnish a statement under sub-section (*1*) fails to do so within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement, within a period not exceeding thirty days from the date of service of notice, and he shall furnish the statement within the time specified therein.

(8) If a person, having furnished a statement under sub-section (*1*), or in pursuance of a notice issued under sub-section (*7*), becomes aware of any inaccuracy in the information provided, he shall within ten days, inform the prescribed income-tax authority or other authority or agency referred to in sub-section (*1*), of the inaccuracy and furnish the correct information in such manner, as prescribed.

(9) The Central Government may, specify by rules,—

(a) the persons referred to in sub-section (*1*) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(c) the due diligence to be carried out by the persons for the identification of any reportable account referred to in sub-section (*1*)."

508.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 285BA: Obligation to furnish statement of financial transaction or report able account.

"(1) Any person, being—

(a) an assessee; or

(b) the prescribed person in the case of an office of Government; or

(c) a local authority or other public body or association; or

(d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or

(e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988) ; or

(f) the Post Master General as referred to in clause (*j*) of section 2 of the Indian Post

Office Act, 1898 (6 of 1898) ; or

(g) the Collector referred to in clause (*g*) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) ; or

(h) the recognised stock exchange referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ; or

(i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) ; or

(j) a depository referred to in clause (*e*) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996) ; or

(k) a prescribed reporting financial institution; or

(l) a person, other than those referred to in clauses (*a*) to (*k*), as may be prescribed,

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, under any law for the time being in force, shall furnish a statement in respect of such specified financial transaction or such reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of this Act, to the income-tax authority or such other authority or agency as may be prescribed.

(2) The statement referred to in sub-section (1) shall be furnished for such period, within such time and in the form and manner, as may be prescribed.

(3) For the purposes of sub-section (1), "specified financial transaction" means any—

(a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or

(b) transaction for rendering any service; or

(c) transaction under a works contract; or

(d) transaction by way of an investment made or an expenditure incurred; or

(e) transaction for taking or accepting any loan or deposit,

which may be prescribed :

Provided that the Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction.

(4) Where the prescribed income-tax authority considers that the statement furnished under sub-section (1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said income-tax authority may, in his discretion, allow; and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.

(5) Where a person who is required to furnish a statement under sub-section (1) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(6) If any person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within a period of ten days inform the income-tax authority or other authority or agency referred to in sub-section (1), the inaccuracy in such statement and furnish the correct information in such manner as may be prescribed.

(7) The Central Government may, by rules made under this section, specify—

(a) the persons referred to in sub-section (1) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(c) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in sub-section (1).

508.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

Clause 508 of the Bill provides for obligation to furnish statement of financial transaction or reportable account. This clause corresponds to section 285BA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

508.4 <u>Examination by the Committee:</u>

To a query of the Committee regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

508.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 508 of the Bill note that the Clause deals with obligation to furnish statement of financial transaction or reportable account, corresponds to section 285BA of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 508 as proposed.

Clause 509: Obligation to furnish information on transaction of crypto-asset.

509.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Any person, being a reporting entity, as prescribed, in respect of a crypto-asset, shall furnish information in respect of a transaction of such crypto-asset in a statement, for such period, within such time, in such form and manner and to such income-tax authority, as prescribed.

(2) Where the prescribed income-tax authority considers that the statement furnished under sub-section (*1*) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within thirty days from the date of such intimation or such further period as may be allowed, and if the defect is not rectified within such period, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.

(3) Where a person who is required to furnish a statement under sub-section (*1*) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(4) If any person, having furnished a statement under sub-section (*1*), or in pursuance of a notice issued under sub-section (*3*), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within ten days inform the prescribed income-tax authority, the inaccuracy in such statement and furnish the correct information in such manner as prescribed.

(5) The Central Government may, by rules prescribe—

(a) the persons referred to in sub-section (*1*) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(c) the due diligence to be carried out by the persons referred to in sub-section (*1*) for the purpose of identification of any crypto-asset user or owner.

(*6*) In this section, "crypto-asset" shall have the meaning assigned to it in section 2(*111*)(*d*)."

509.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 285BAA:

Following section 285BAA shall be inserted after section 285BA by the Finance Act, 2025, w.e.f.1-4-2026:

Obligation to furnish information on transaction of crypto-asset.

"(1) Any person, being a reporting entity, as prescribed, in respect of acrypto-asset, shall furnish information in respect of a transaction of such crypto-asset in a statement, for such period, within such time, in such form and manner and to such income-tax authority, as prescribed.

(2) Where the prescribed income-tax authority considers that the statement furnished under sub-section (1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within thirty days from the date of such intimation or such further period as may be allowed, and if the defect is not rectified within such period, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.

(3) Where a person who is required to furnish a statement under sub-section (1) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(4) If any person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (3), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within ten days inform the prescribed income-tax authority, the inaccuracy in such statement and furnish the correct information in such manner as prescribed.

(5) The Central Government may, by rules prescribe—

(a) The persons referred to in sub-section(1) to be registered with the prescribed income-tax authority;

(b) The nature of information and the manner in which such information shall be maintained by the persons referred to in clause (a); and

(c) the due diligence to be carried out by the persons referred to in sub-section (1) for the purpose of identification of any crypto-asset user or owner.

(6) In this section, "crypto-asset" shall have the meaning assigned to it in sub-clause (d) of clause (47A) of section 2."

509.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 509 of the Bill provides for obligation to furnish information on transaction of crypto-asset. This clause corresponds to section 285BAA of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

509.4 Examination by the Committee:

509.4.1 On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

509.4.2 Regarding Section 285AA in the Income-Tax Act, 1961 which mentions that "Following Section 285BAA shall be inserted after section 285BA by the Finance Act, 2025, w.e.f. 1-4-2026", the Committee desired to be apprised of the factual position in regard to Section 285BAA and know whether this may qualify as policy change, the Ministry in a written submission clarified as under:

> **"** Section 285BAA has been introduced vide Finance Act, 2025 and the section provides for obligation to furnish information on transaction of the crypto-asset. The provisions of the section will be effective from 01.04.2026. Hence the provisions of sec 285BAA are kept in the Bill from 1.4.2026 as they are in the Income-tax Act, 1961. There is absolutely no policy change in Bill vis-à-vis Act in respect of the said provision."

509.4.3 Further, on the suggestion of defining 'reporting entity' under Clause 2 relating to 'Definition' so as to bring clarity, certainty and transparency, the Ministry expressed reservation and submitted in written replies as follows:

> **"** Clause 2 of the Bill provides for definitions of various terms used in the Bill. Clause 2 contains such terms which are widely used (more than once) in different clauses of the Bill and have the same meaning across the clauses. The term "reporting entity" as being used in the clause 509 is specific to the entity which shall be obliged to furnish information on transaction of crypto-asset. The term "reporting entity" used in other clauses of the Bill is different from that used in cl 509 of the Bill. Hence, definition of the term "reporting entity" cannot be provided in clause 2 of the Bill."

509.4.4 On the query whether provision related to disclosure of particular in regard to Clause 509 should be incorporated in clauses 258(3) or 494 regarding 'Disclosure of particulars by public servants', the Ministry in written replies submitted as under:

> "There Cl 258(3) provides the power to the Central Government to notify matters relating to class of assessee where the public servant is not required to furnish or produce the documents or information. This is a general clause. Since the spectrum of the clause is wide enough, no useful purpose will be served by providing specific items in the ambit of cl. 258(3) including say cl. 509."

509.5 Observation/ Recommendations of the Committee:

Clause 509 of the Income-Tax Bill 2025, which provides for obligation to furnish information on transaction of crypto-asset, corresponding to Section 285BAA of the Income-Tax Act, 1961. The Committee find that this Clause has been textually simplified and retained with the same intent in this clause. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 509 as it is.

Clause 510: Annual information statement.

510.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) The prescribed income-tax authority or the person authorised by such authority, shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and along with such information, which is in the possession of an income-tax authority, as prescribed.

(*2*) In sub-section (*1*), "registered account" means the electronic filing account registered by the assessee in the web portal, as may be designated by the prescribed income-tax authority or the person authorised by such authority."

510.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 285BB: Annual information statement.

"The prescribed income-tax authority or the person authorised by such authority shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and alongwith such information, which is in the possession of an income-tax authority, as may be prescribed.

Explanation.—For the purposes of this section, "registered account" means the electronic filing account registered by the assessee in designated portal, that is, the web portal designated as such by the prescribed income-tax authority or the person authorised by such authority."

510.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 510 of the Bill provides for annual information statement. This clause corresponds to section 285BB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

510.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

510.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 510 of the Bill, which outlines the annual information statement, aligns with Section 285BB of the Income-Tax Act, 1961. The Committee observe that the language of the existing section has been textually simplified in this new clause while retaining its original intent. Therefore, the Committee accept Clause 510 as proposed.

Clause 511: Furnishing of report in respect of international group.

511.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

"(*1*) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority in the form and manner, on or before such date, as prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed income-tax authority within twelve months from the end of the said reporting accounting year, in such form and manner, as prescribed.

(3) In sub-sections (*2*) and (*4*), the report in respect of an international group shall include—

(a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;

(b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;

(c) the nature and details of the main business activity or activities of each constituent entity; and

(d) any other information, as prescribed.

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (*2*), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year within the period, as prescribed, if the parent entity is resident of a country or territory,—

(a) where the parent entity is not obligated to file the report of the nature referred to in the said sub-section;

(b) with which India does not have an agreement providing for exchange of the report of the nature referred to in the said sub-section;

(c) where there has been a systemic failure and such failure has been intimated by the prescribed income-tax authority to such constituent entity.

(5) If there are more than one such constituent entities of the group, resident in India, the report as mentioned in sub-section (*4*) shall be furnished by any one

constituent entity, if—

(a) the international group has designated such entity to furnish the report as per sub-section (*2*) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed income-tax authority.

(6) The provisions of sub-sections (*4*) and (*5*) shall not apply, if—

(a) an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (*2*), with the tax authority of the country or territory in which such entity is resident, on or before the date specified by that country or territory; and

(b) the following conditions are satisfied:—

(i) the said report is required to be furnished under any law in force in the said country or territory;

(ii) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(iii) the prescribed income-tax authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(iv) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and

(v) the prescribed income-tax authority has been informed by the entity referred to in sub-sections (*4*) and (*5*) as per sub-section (*1*).

(7) The prescribed income-tax authority may, for determining the accuracy of the report furnished by any reporting entity, issue notice in writing, requiring the entity to produce such information and document as specified in the notice within thirty days of the date of receipt of the notice and such period may be extended by up to an additional thirty days upon application by the entity.

(8) The provisions of this section shall not apply to an international group for an accounting year, if the total consolidated group revenue, as per the consolidated financial statement for the accounting year preceding such accounting year, does not exceed the prescribed amount.

(9) The provisions of this section shall be applied as per such guidelines and subject to such conditions, as prescribed.

(10) In this section,—

(a) “accounting year” means,—

(i) a tax year, in a case where the parent entity is resident in India; or

(ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law in force or the applicable accounting standards of the country or territory of which such

entity is resident, in any other case;

(b) "agreement" means a combination of all of the following agreements:—

(i) an agreement entered into under section 159(*1*) or (*2*); and

(ii) an agreement for exchange of the report referred to in sub-section (*2*) and notified by the Central Government;

(c) "alternate reporting entity" means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature referred to in sub-section (*2*) in the country or territory in which the said constituent entity is resident on behalf of such group;

(d) "constituent entity" means—

(i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;

(ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or

(iii) any permanent establishment of any separate business entity of the international group included in sub-clause (*i*) or (*ii*), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

(e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes—

(i) is required to be prepared under any law in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared, had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;

(f) "consolidated financial statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;

(g) "international group" means any group that includes—

(i) two or more enterprises which are resident of different countries or territories; or

(ii))an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

(h) "parent entity" means a constituent entity, of an international group holding,

directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that—

(i) it is required to prepare a consolidated financial statement under any law in force or the accounting standards of the country or territory of which the entity is resident; or

(ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange, and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in sub-clause (*i*) or (*ii*), that includes the separate financial statement of the first mentioned constituent entity;

(i) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(j) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-sections (*2*), (*4*) and (*5*);

(k) "reporting entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (*2*);

(l) "systemic failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (*2*), but—

(i) in violation of the said agreement, it has suspended automatic exchange; or

(ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India.

511.2 Relevant Provision of the Principal Act

Section 286: Furnishing of report in respect of international group.

286. "(1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for

every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority within a period of twelve months from the end of the said reporting accounting year, in the form and manner as may be prescribed.

(3) For the purposes of sub-section (2) and sub-section (4), the report in respect of an international group shall include,—

(a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;

(b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;

(c) the nature and details of the main business activity or activities of each constituent entity; and

(d) any other information as may be prescribed.

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year within the period as may be prescribed, if the parent entity is resident of a country or territory,—

(a) where the parent entity is not obligated to file the report of the nature referred to in sub-section (2);

(*aa*) with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or

(b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

Provided that where there are more than one such constituent entities of the group, resident in India, the report shall be furnished by any one constituent entity, if,—

(a) the international group has designated such entity to furnish the report in accordance with the provisions of sub-section (2) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed authority.

(5) Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified by that country or territory and the following conditions are satisfied, namely:—

(a) the report is required to be furnished under the law for the time being in force in

the said country or territory;

(b) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(d) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and

(e) the prescribed authority has been informed by the entity referred to in sub-section (4) in accordance with sub-section (1).

(6) The prescribed authority may, for the purposes of determining the accuracy of the report furnished by any reporting entity, by issue of a notice in writing, require the entity to produce such information and document as may be specified in the notice within thirty days of the date of receipt of the notice:

Provided that the prescribed authority may, on an application made by such entity, extend the period of thirty days by a further period not exceeding thirty days.

(7) The provisions of this section shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed the amount, as may be prescribed.

(8) The provisions of this section shall be applied in accordance with such guidelines and subject to such conditions, as may be prescribed.

(9) For the purposes of this section,—

(a) "accounting year" means,—

(i) a previous year, in a case where the parent entity is resident in India; or

(ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;

(b) "agreement" means a combination of all of the following agreements, namely:—

(i) an agreement entered into under sub-section (1) of section 90 or sub-section (1) of section 90A; and

(ii) an agreement for exchange of the report referred to in sub-section (2) and notified by the Central Government;

(c) "alternate reporting entity" means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature

referred to in sub-section (2) in the country or territory in which the said constituent entity is resident on behalf of such group;

(d) "constituent entity" means,—

(i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;

(ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or

(iii)any permanent establishment of any separate business entity of the international group included in sub-clause (*i*) or sub-clause (*ii*), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

(e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—

(i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;

(f) "consolidated financial statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;

(g) "international group" means any group that includes,—

(i) two or more enterprises which are resident of different countries or territories; or

(ii) an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

(h) "parent entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that,—

(i) it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or

(*ii*) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock

exchange,

and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in sub-clause (*i*) or sub-clause (*ii*), that includes the separate financial statement of the first mentioned constituent entity;

(i) "permanent establishment" shall have the meaning assigned to it in clause (*iiia*) of section 92F;

(j) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-sections (2) and (4);

(k) "reporting entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (2);

(l) "systemic failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (2), but—

(i) in violation of the said agreement, it has suspended automatic exchange; or

(ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India."

511.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 511 of the Bill provides for furnishing of report in respect of international group.This clause corresponds to section 286 of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

511.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>:

511.4.1 An important suggestion received from the stakeholder in the clause under examination are as follows:

"Clause (c) of sub-section (4) may be substituted with the following: (c) where there has been a systemic failure of the country or territory, and such failure has been intimated by the prescribed income-tax authority to such constituent entity

The removal of “of the country or territory” after systemic failure makes the sentence incomplete and may create a disconnect between this paragraph and the definition of “systemic failure” provided under 511(10).”

511.5 <u>Examination by the Committee:</u>

The Ministry in response to the suggestion by the stakeholder has furnished in written replies as under:

> “The suggestion seeks to redraft the clause 511 by adding the word “of the country or territory” after systemic failure.
> The definition provided in sub-clause 511(10)(b) is applicable to whole section. Thus, systemic failure relates to systemic failure of country or territory.
> Thus, the suggestion is already addressed.”

511.6 Observation/ Recommendations of the Committee

The Committee observe that Clause 511 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 286 of the Act regarding immunity from penalty. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Ministry, the Committee accept Clause 511 as proposed.

Clause 512: Publication of information respecting assessees in certain cases.

512.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the names of any assessees and any other particulars relating to any proceedings or prosecutions under this Act in respect of such assessees, it may publish such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made for any penalty imposed under this Act, until the time for filing an appeal under section 356 or 357 has expired and no appeal has been filed, or if an appeal is filed, it has been disposed of.

(3) The names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published under sub-section (*1*), if, in the opinion of the Central Government, the circumstances of the case justify it."

512.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 287: Publication of information respecting assessees in certain cases.

" (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assessees and any other particulars relating to any proceedings or prosecutions under this Act in respect of such assessees, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the [Joint Commissioner (Appeals) or to the] Commissioner (Appeals) has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it."

512.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 512 of the Bill provides for publication of information respecting assessees in certain cases. This clause corresponds to section 287 of the Act.. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause.

512.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

512.5 Observation/ Recommendations of the Committee:

The Committee, upon reviewing Clause 512 of the Bill, acknowledge that it addresses the publication of information respecting assessees in certain cases, directly paralleling Section 287 of the Income-Tax Act, 1961. This Clause represents textual simplification, no change in policy. The Committee, therefore, approve Clause 512 in its current form.

Clause 513: Appearance by registered valuer in certain matters.

513.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

(*1*) Any assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal in matters relating to the valuation of any asset, may attend through a registered valuer.

(2) The provisions of sub-section (*1*) shall not apply, where the assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) In this section, “registered valuer” means a person registered as a valuer under section 514.

513.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 287A: Appearance by registered valuer in certain matters.

Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Explanation.—In this section, "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

513.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

Clause 513 of the Bill provides for appearance by registered valuer in certain matters. This clause corresponds to section 287A of the Act. There is no policy change. The provisions of the existing section have been divided into clause 513 and 514 where new clause 514 has been introduced to provide the method of registration of the valuers by specified Income-tax authorities.

513.4 <u>Examination by the Committee:</u>

513.4.1 On the Committee’s query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> “The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961”.

513.4.2 Justifying the introduction of new clause introduced in the bill, the Ministry in written replies furnished as under:

> “This clause 514 has been provided to define the “registered valuer” for the purposes of clause 513. In the Income-tax Act, registered valuer made a reference to section 2 of the Wealth Tax Act 1957 which in turn referred to section 34AB of the said Act. As the reference to Wealth Tax Act has been removed from the Bill therefore to provide the same, the provisions of s. 34AB of the Weath Tax Act have been incorporated in cl. 514 of the Bill. Therefore, there is no addition in substance by way of insertion of cl. 514.”

513.5 Observation/ Recommendations of the Committee

The Committee note that Clause 513 of the Bill addresses appearance of registered valuer in certain matters, corresponding to section 287A of the Income-Tax Act, 1961. Notably, the Committee find that the provisions of the existing Section 287A have been divided between Clause 513 and a newly introduced Clause 514. The new Clause 514 now outlines the method for registering valuers by specified Income-tax authorities. Acknowledging the Ministry's assurance that the proposed provisions in the Income-Tax Bill 2025 are a simplified version of their counterparts in the IT Act, 1961, the Committee accept Clause 513 as proposed.

Clause 514: Registration of valuers.

514.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) The Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, shall maintain a register of valuers in which the names and addresses of persons registered under sub-section (*2*) shall be entered.

(2) Any person, possessing such qualification for valuing such class of assets, may apply to the Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, for getting registered as a valuer, in such form, verified in such manner and accompanied by such fee, as prescribed, along with a declaration stating that the applicant will—

(a) conduct an impartial and true valuation of any asset required to be valued;

(b) furnish a valuation report in the prescribed form;

(c) charge fees not exceeding the prescribed rate or rates; and

(d) refrain from undertaking the valuation of any asset in which such person has a direct or indirect interest.

(3) The valuation report prepared by a registered valuer for any asset shall be in such form and verified in such manner, as prescribed."

514.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

This is a new clause introduced in the Bill.

514.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 514 of the Bill provides for Registration of valuers. This is a new clause introduced in the bill to enable registration of valuers by specified Income-tax authorities and also other procedural matters connected with valuation."

514.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholder regarding the clause under examination are as follows:

514.4.1 "NAFRA Companies (Registered Valuers and Valuation) Rules, 2017 prescribed pursuant to Section 247 of Companies Act 2013 contain comprehensive requirements regarding eligibility, qualifications and registrations of valuers, recognition of registered valuers organisation and valuation standards etc. We suggest inclusion of reference to some important requirements of registered valuers in the IT bill 2025 with corresponding details being set out in the underlying Rules. (It may be considered

aligning the qualifications/eligibility of a registered valuer with the prescriptions incorporated in the Rules framed under the Companies Act, 2013 to ensure that the valuer has the expertise to value certain class of assets."

514.4.2 The term "Competent Authority" may be used in place of the different authorities. Accordingly, sub-sections (1) and (2) may be substituted as follows: (1) The Competent Authority shall maintain a register of valuers in which the names and addresses of persons registered under sub-section (2) shall be entered. (2) Any person, possessing such qualification for valuing such class of assets, may apply to the Competent Authority, for getting registered as a valuer,……. Further, the following sub-section (4) may be inserted - (4) In this section "The Competent Authority" means the Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General

Including the authorities within the meaning of "Competent Authority" will help avoid repetition at different places."

514.5 <u>Examination by the Committee</u>

The Ministry in response to the suggestions by the stakeholder has furnished in written replies as under:

514.5.1 "Accepted. The qualifications for a registered valuer may have to be prescribed under the provisions of the new Bill. This would require drafting correction in clause 514. The suggestion is acceptable to that extent."

514.5.2 "The suggestion seeks to use the term "Competent Authority" in place of the different authorities in clause 514(Registration of valuers).
The suggestion is in nature of drafting improvement without any concomitant benefits. Thus, the suggestion is not feasible."

514.5.3 On Ministry's assurance regarding drafting correction in clause 514 to include qualification for a registered valuers, the Committee particularly desired to be apprised of the robust legal mechanism that the Ministry proposes to put in place to ensure absolute clarity and prevent future interpretive ambiguities for valuers, tax authorities, and courts regarding the interplay between the Income-Tax Bill and the Companies Act Rules, thereby safeguarding the legal certainty in valuation practices for tax purposes. The Ministry reassured the Committee as under:

> "The clause 514 of the Bill provides for prescription of any person, possessing such qualification for valuing such class of assets, for getting registered as a valuer, in such form, verified in such manner and accompanied by such fee, as prescribed. In the Bill, the related provisions are brought from the Wealth Tax Act. The suggestion regarding qualifications pertains to rules and delegated

legislation. Further, section 247 of Companies Act 2013 and NAFRA Companies (Registered Valuers and Valuation) Rules, 2017 will be perused in detail at the time for drafting relating rules."

514.6 Observation/ Recommendations of the Committee

The Committee note the introduction of Clause 514 in the Bill, which establishes a framework for the registration of valuers by specified Income-tax authorities and addresses related procedural matters. The Committee also note that in response to a stakeholder's suggestion for prescribing specific qualifications for registered valuers to ensure expertise in valuing certain asset classes, the Ministry has concurred that this constitutes a necessary drafting correction. The Ministry has further assured the Committee that Section 247 of the Companies Act, 2013, and the NAFRA Companies (Registered Valuers and Valuation) Rules, 2017, will be thoroughly reviewed during the drafting of the relevant rules. Having considered the perspectives of both stakeholders and the Ministry, the Committee accept Clause 514 as proposed, subject to the incorporation of the aforementioned drafting correction.

Clause 515: Appearance by authorised representative

515.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) An assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal for any proceeding under this Act, may attend through an authorised representative.

(2) The provisions of sub-section (*1*) shall not apply where an assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) In this section,—

(a) "authorised representative" means a person authorised by the assessee, in writing, to appear on his behalf, being—

(i) a person related to or regularly employed by the assessee in any manner; or

(ii) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings; or

(iii) any legal practitioner, who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person, who has passed any accountancy examination recognised by the Board; or

(vi) any person, who has acquired such educational qualifications, as prescribed; or

(vii) any person who, before the coming into force of the Income-tax Act, 1961 in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than as an employee or relative of that assessee; or

(viii) any other person who, immediately before the coming into force of the said Act, was an income-tax practitioner as per section 61(*2*)(*iv*) of the Indian Income-tax Act, 1922, and was actually practising as such;

(ix) any other person as prescribed;

(b) "accountant" means a chartered accountant as defined in section 2(*1*)(*b*) of the Chartered Accountants Act, 1949, who holds a valid certificate of practice under section 6(*1*) of that Act, but does not include [except for representing the assessee under sub-section (*1*)],—

(i) in case of an assessee, being a company, a person who is not eligible for appointment as an auditor of the said company under section 141(*3*) of the Companies Act, 2013; or

(ii) in any other case,—

(A) the assessee himself, or in the case of being a firm or association of

persons or a Hindu undivided family, any partner of such firm or a member of such association or such Hindu undivided family;

(B) for an assessee, being a trust or institution, any person referred to in section 355(*h*)(*i*) or (*ii*) or (*iii*) or (*iv*);

(C) for any person other than the persons referred to in sub-clauses (*A*) and (*B*), the person who is competent to verify the return under section 263 as per section 265;

(D) any relative of any of the persons referred to in sub-clauses (*A*), (*B*) and (*C*);

(E) an officer or employee of the assessee;

(F) an individual, who, is a partner, or who is in the employment, of an officer or employee of the assessee;

(G) an individual, who or his relative or partner—

(I) is holding any security of, or interest in, the assessee and the face value of such security or interest held by his relative does not exceed one lakh rupees;

(II) is indebted to the assessee, and such debt in case of his relative does not exceed one lakh rupees;

(III) has given a guarantee or provided security in connection with the indebtedness of a third person to the assessee and such relative gives a guarantee or provides security for an amount not exceeding one lakh rupees;

(H) a person who, whether directly or indirectly, has business relationship with the assessee of such nature, as prescribed;

(I) a person convicted by a court of an offence involving fraud and ten years has not elapsed from the date of such conviction.

(*4*) No person,—

(a) who has been dismissed or removed from Government service; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, except a penalty imposed under section 275(*1*)(*ii*) of the Income-tax Act, 1961 or section 465(*1*)(*d*); or

(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud, shall be qualified to represent an assessee under sub-section (*1*), for—

(i) all times, in case of a person referred to in clause (*a*);

(ii) for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine, in case of a person referred to in clause (*b*);

(iii) for the period during which the insolvency continues, in case of a person referred to in clause (*c*); and

(iv) for ten years from the date of conviction, in case of a person referred to in

clause (*d*).

(5) If a person,—

(a) who is a legal practitioner or an accountant, is found guilty of misconduct in his professional capacity by any authority authorised to institute disciplinary proceedings against him, the order passed by that authority shall affect his right to attend before an income-tax authority in the same manner as it affects his right to practise as a legal practitioner or accountant, as the case may be;

(b) who is not a legal practitioner or an accountant, and is found guilty of misconduct in any income-tax proceedings by the prescribed income-tax authority, may be directed by such authority that he shall henceforth be disqualified from representing an assessee under sub-section (*1*).

(6) Every order or direction under sub-section (*4*)(*b*) or (*5*)(*b*) shall be subject to the following conditions:—

(a) no such order or direction shall be made against any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom such an order or direction is made may, within one month of the said order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until one month has passed from the making thereof, or, if an appeal has been filed, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of section 61(*3*) of the Indian Income-tax Act, 1922 or section 288(*5*) of the Income-tax Act, 1961 shall be disqualified to represent an assessee under sub-section (*1*).

(8) In this section, "relative", in relation to an individual, means—

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

(f) spouse of a person referred to in clauses (*b*), (*c*), (*d*) or (*e*);

(g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual."

515.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 288: Appearance by authorized representative.

"288 (1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on

oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or

(ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or

(*via*) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or

(vii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner within the meaning of clause (*iv*) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), and was actually practising as such;

(viii) any other person as may be prescribed.

Explanation.—In this section, "accountant" means a chartered accountant as defined in clause (*b*) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or

(b) in any other case,—

(i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;

(ii) in case of the assessee, being a trust or institution, any person referred to in clauses (*a*), (*b*), (*c*) and (*cc*) of sub-section (3) of section 13;

(iii) in case of any person other than persons referred to in sub-clauses (*i*) and (*ii*), the person who is competent to verify the return

under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in sub-clauses (*i*), (*ii*) and (*iii*);

(v) an officer or employee of the assessee;

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

(II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.

(3) [***]

(4) No person—

(a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him under clause (*ii*) of sub- section (1) of section 271 or clause (*d*) of sub-section (1) of section 272A; or

(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (*a*), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (*b*), for the period during which the insolvency continues in the case of a person referred to in clause (*c*), and for a period of ten years from the date of conviction in the case of a person referred to in clause (*d*).

(5) If any person—

(a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;

(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).

(6) Any order or direction under clause (*b*) of sub-section (4) or clause (*b*) of sub-section (5) shall be subject to the following conditions, namely :—

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), shall be disqualified to represent an assessee under sub-section (1).

Explanation.—For the purposes of this section, "relative" in relation to an individual, means—

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

(f) spouse of a person referred to in clause (*b*), clause (*c*), clause (*d*) or clause(*e*)

(g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual."

515.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 515 of the Bill provides for appearance by authorized representative. This clause corresponds to section 288 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

515.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholders in the clause under examination are as follows:

A. 'Authorised Representative'

515.4.1 “Define the word 'Authorised Representative' under Section 2 itself to clarify the scope of roles in Section 515 (3).”

515.4.2 “(In 515(3)(a)(iii)) The word “any Legal practitioner” may be replaced by the word “an Advocate” as well as the word “any Civil Court” may be replaced by the word “any Civil Court or other Higher Court”.

515.4.3 In context of, 515(3)(vi), “Rename it as ``Income Tax Practitioner`` since a qualified person is called an Income Tax Practitioner only. Restore the representation rights as in the 1922 Income-Tax Act. (However all eligible qualifications specified will lead to the issuance of the ``Income Tax Practitioner enrolment`` only).”

515.4.4 “Insert a new clause (ix) to include Income Tax Practitioners Enrolled with the Income Tax Department as per the existing provisions of Section 288 (2) (vi) of the Income-Tax Act, 1961Clause (xi) be introduced as ``any other person as prescribed” To ensure the legacy Tax Practitioners are smoothly transitioned, included as similar to Section 515 (3) (vii) & (viii).”

515.4.5 “Allow GST Practitioners enrolled under the provisions of CGST/SGST/UTGST laws as Authorised Representatives. GST law has parallel experience and qualifications and GST Law covers supply turnovers of Business/Profession/Commission and related activities and has exhaustive provisions for maintaining the documents, records & Books of Accounts.”

515.4.6 Definition of "accountant" under the bill, and its potential ramifications for MSMEs and the professional landscape Prioritize the reinstatement of CSs in the definition of "accountant" under the Income-Tax Bill 2025.

515.4.7 In context of 515(3)(b), “In order to ensure the quality of audit and certifications under the Income-tax Act, 1961, it needs to be ensured that the role of an “accountant” as defined in clause 515(3)(b) of the Income-tax Bill, 2025 in line with the definition in the Explanation appended to section 288(2) of the Income-tax Act, 1961 continues to be restricted exclusively to chartered accountants in practice, who alone possess the requisite professional competence & expertise to perform the said audit and certifications efficiently and effectively. Reasons: (i) Judicial Recognition of Chartered Accountants as sole expert in the area of accounting and auditing (ii) Different and distinct areas of expertise of Chartered Accountants vis-à-vis Cost Accountants &

Company Secretaries (iii) competence of Chartered Accountants to perform tax audit. Therefore, it is Chartered Accountants alone who by virtue of their qualification, training, experience and expertise were accorded the status of “Accountant” under the Income-tax Act, 1961 and the same has been upheld by the judiciary including the Supreme Court in the above referred cases.”

515.4.8 Numerous stakeholders have made suggestion for expanding the definition of ‘Accountant’ to include other professionals. There suggestions are as under:

> *“*The Parliamentary Standing Committee on Finance (2022) had already recognized this issue and proposed the establishment of the Indian Institute of Accounting (IIA) to break the statutory monopoly of the Institute of Chartered Accountants of India (ICAI) The objective was to ensure fair competition and improve the quality of financial and taxation services available to the public, similar to how IITs and IIMs broaden opportunities in engineering and management education However, the recent Income-Tax Bill contradicts this intent by reinforcing the monopoly of a single profession over tax-related work.”

515.4.9 “Meaning of “accountant” should be enlarged by adding Cost and Management Accountant as defined in the Cost and Management Accountant Act – 1966, Company Secretary as defined in The Company Secretaries Act 1980, and M.Com (Specialization in Accountancy) with LLB degree holder, because that “accountant” meaning was elaborated in The Income-Tax Act 1961 whenever only Chartered Accountants Act, 1949 was enforced in India.”

515.4.10 “Inclusion of Company Secretary (CS) in the definition of "Accountant". “accountant" means a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under section 6(1) of that Act or a Company Secretary as defined in section 2(1)(c) of the Company Secretaries Act, 1980, who holds a valid certificate of practice under Section 6 (1) of that Act, but does not include..”

515.4.11 “Definition should be inserted to sustain in court of law May refer section 2(13) & 66(1) of the CGST ACT, 2017.Include Cost Accountant under section 515(3)(b). Justification: It will be clear to all stake holders and enhance the revenue, mitigate the disputes, availability of more professional tax experts to the assessee and government will get qualitative report within the due date and due to competition quality of tax audit or especial tax audit report will enhance.”

B. Suggestion regarding proviso (4) of the Clause under examination (515(4))

515.4.12 **(**4) No person,— (a) who has been dismissed or removed from Government service; or (b) who has been convicted of an offence connected with any income-tax

proceeding or on whom a penalty has been imposed under this Act, except a penalty imposed under section ~~275(1)(ii)~~ 271(1)(ii) of the Income-tax Act, 1961 or section 465(1)(d); or

There is no Clause (ii) under 275(1) of the Income-tax Act, 1961. In clause (b), the reference to Section 275(1)(ii) to be corrected as 271(1)(ii)."

C. Suggestion regarding Clause 515(5)(b)

515.4.13 Regarding Clause 515(5)(b), the stakeholder stated that there is no corresponding Section in Income-Tax Act, 1961. The provision is covered under Rules. The stakeholder has suggested as under:

" Disqualification of Authorised Representatives, other than a Legal Practitioner or Accountant.
To Regulate and monitor the activities of un-regulated Authorised Representatives (including enrolled Income Tax Practitioners)"

515.5 <u>Examination by the Committee:</u>

A. The Ministry in response to various suggestions by the stakeholder has furnished the corresponding written replies as under:

515.5.1 "The suggestion seeks to include definition of Authorised Representative' under Section 2 itself. The suggestion is in nature of drafting improvement. Cl. 515 is a self-contained section. Therefore the suggestion is not feasible."

515.5.2 "The proposal here is with regard to 515(3)(a)(iii), which states that 'any legal practitioner, who is entitled to practise in any civil court in India'.
1. The first suggestion is to replace the term "any Legal practitioner" with the words "an Advocate". It is in the nature of Policy Change which is outside the scope of the Bill. There is no change in the provisions of the Bill vis-a-vis Act.
Section (1) of Advocates Act 1961, defines
"(a) "advocate" means an advocate entered in any roll under the provisions of this Act;
(i) "legal practitioner" means an advocate or vakil of any High Court, a pleader, mukhtar or revenue agent;"
The term 'legal practitioner' is wider and includes 'advocate'. Therefore, the proposal is not acceptable."
The second suggestion of replacing the word "any Civil Court" with the phrase "any Civil Court or other Higher Court" is not acceptable as even Supreme Court is included in civil court."

515.5.3 “The suggestion seeks to rename "any person, who has acquired such educational qualifications, as prescribed" as ``Income Tax Practitioners``. Any delegated legislation which is required to be made through prescription vide rules need not be clarified in the primary legislation. Thus, the suggestion is not feasible.”

515.5.4 “The suggestion seeks to include "Income Tax return practitioners" as authorised representative in 515(3)(ix).ITP is already included in cl. 515(3)(viii). There is no ambiguity. Thus, the suggestion is already addressed.”

515.5.5 “The suggestion seeks to allow GST Practitioners enrolled under the provisions of CGST/SGST/UTGST laws as Authorised Representatives`. It is in the nature of Policy Change .
There are separate qualification for a GST practitioner under CGST/SGST/UTGST and for an authorised representative under clause 515. They may not have enough expertise to represent income-tax cases. This is so because the functions and laws thereof are different. Thus, the suggestion is not feasible.”

515.5.6 On the issue of definition of ‘Accountant’ and its potential ramifications for MSMEs, the Ministry in a written reply stated as under:

> “The stakeholder seeks inclusion of company secretaries in the definition of accountant.
> The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025. There is no change in the provisions of the Bill vis a vis Act.”

515.5.7 Responding to stakeholder’s suggestions to restrict the definition of "accountant” in Section 515(3)(b) exclusively to chartered accountants in practice for audit and certifications, arguing their unique expertise, the Ministry stated as under:

> *“*The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025 “

515.5.8 In response to multiple suggestions received from various stakeholders regarding expanding the scope of definition of ‘Accountant’ to include various professionals, the Ministry categorically stated as follows:

> “The suggestion made by the stakeholder is in the nature of policy change which is beyond the scope of the objectives of the IT Bill, 2025.”

515.5.9 Responding to Committee’s further query on the issue, the Ministry clarified on the issue of parity in Cost Accountant and Chartered Accountants under Clause 515, and furnished a detailed note in written replies as under:

"Cost Accountant's parity issue:

The functions of a cost account are regulated and governed by the Cost and Works Accountants Act 1959. The Act clearly lays down that a member of the Institute shall be in practice if he :-

"(i) engages himself in the practice of [cost accountancy]; or

(ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or [certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice]; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice,"

By comparison a chartered accountant under the Chartered Accountant Act 1949 lays down that member shall be in practice if :-

"(i) engages himself in the practice of accountancy; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant [in practice];"

515.5.10 In continuation of the response to the issue under examination, the Ministry further clarified that parent legislations of cost accountants and chartered accountants are different and elaborated in written replies as follows:

"It is therefore clear that the parent legislations of cost accountants and chartered accountants are different and lay down specific functions. The functions mandated in the Income-tax Act related to audit and accounting, do not find a place in the domain of work specified for cost accountants in their Act. Whereas

audit of books and financial transactions is specifically included in Chartered accountant's Act.

Therefore the basic issue that a cost accountant can be or should be considered equivalent for the purposes of tax audit does not hold merit. It is principally limited by the respective Acts and till such demarcations exist the audit related function under the Income-tax Act have to be handled by Chartered Accountants only."

515.5.11 On the issue of enlarging the pool of professionals to represent the assessee, the Ministry in written replies stated as under:

"At present, there are various class of professionals who can appear on behalf of assessee as authorized representative as has been provided in cl 515(3)(a)(i) to (ix) of the Bill. There is already large pool of professional who are qualified to appear on behalf of the assessee as authorized representative.

Ministry cannot introduce any bridge course and qualifying papers for any class of professionals. Ministry can only recognize any accountancy exam or can prescribe educational qualification to enable a person to appear as authorized representative on behalf of the assessee."

B. Suggestion regarding proviso (4) of the Clause under examination (515(4))

515.5.12 The Ministry in response to the suggestions by the stakeholder regarding drafting correction in clause 515(4) has accepted and furnished in written replies as under:

"Accepted. It is nature of drafting correction."

C. Suggestion regarding Clause 515(5)(b)

515.5.13 The Ministry in response to suggestion by the stakeholder regarding modification in Clause 515(5)(b), in written replies furnished as follows:

"The suggestion seeks that unregulated ARs should be regulated. Cl. 515(5)(b) already covers misconduct of persons other than legal practitioner or accountant. The suggestion is already addressed."

515.5.14 In regard to reference to the repealed Income-Tax Act, 1922, the Revenue Secretary deposed before the Committee as under:

“अब आपने जो सलाह दी है, उसके हिसाब से हम लोग यह कोशिश कर रहे हैं कि सेविंग्स क्लॉज़ में ही इसकी स्पेसिफिकसिटी को किसी एक एनेक्सचर के रूप में ले आएं, ताकि, एक्ट में पुराने एक्ट का रेफरेंस न रहे।“

515.5.15 He further added as follows:

“कनसेप्च्युअली सेविंग्स क्लॉज़ में किस तरह से जोड़े, ताकि आपकी यह जो एक्सपेक्टेशन है कि नए एक्ट में पुराने एक्ट का रेफरेंस सदाकाल के लिए न रहे, उसे हम लोग स्टडी करके आपको अलग से रिवाइज्ड फॉर्म में बताएंगे।“

515.6 Observation/ Recommendations of the Committee

The Committee observe that Clause 515 of the Bill, which governs appearances by authorized representatives, aligns with Section 288 of the Income-Tax Act, 1961. The Ministry has asserted that this clause maintains the existing policy, merely simplifying the text. However, a stakeholder identified a drafting error in sub-clause (4)(b) of Clause 515, where it incorrectly refers to Section 275(1)(ii) instead of Section 271(1)(ii). The Ministry has acknowledged this error, and the Committee, therefore, recommend its correction.

The Committee note that in Clause 515 references have been made to Income-Tax Act, 1922 and Income-Tax Act, 1961. Considering the stated aims and objectives of the Bill, the Committee recommend that references to both the Acts may be omitted in Clause 515 and the relevant proviso may be incorporated under Repeals and Savings clause viz. Clause 536 of the Bill.

After having considered the views of stakeholders and the Ministry, the Committee accept Clause 515 as it stands, with the exception of the above recommendations.

Clause 516: Rounding off of amount of total income, or tax payable or refundable.

516.1 Provision proposed in the Income-Tax Bill, 2025:

"The amount of total income computed or any amount payable or refundable under this Act, shall be rounded off to the nearest multiple of ten rupees ignoring any part of a rupee consisting of paise and thereafter if such amount is not
a multiple of ten, then—

(a) such amount shall be increased to the next higher amount which is a multiple of ten, if the last figure in that amount is five or more; or

(b) such amount shall be reduced to the next lower amount which is a multiple of ten, if the last figure is less than five,

and the amount so rounded off shall be deemed to be the total income of the assessee or the amount payable and refund due, under this Act."

516.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 288A: **Rounding off of income.**

"The amount of total income computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the total income of the assessee for the purposes of this Act."

". Any amount payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount

which is a multiple of ten."

516.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 516 of the Bill provides for rounding off of amount of total in-come, or tax payable or refundable. This clause corresponds to section 288A and 288B of the Act. There is no policy change. The provisions of the existing sections have been textually simplified and retained with the same intent in this clause. Section 288A and 288B has

been merged into single section considering that both the sections were related to rounding off."

516.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc., the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

516.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 516 of the Bill note that the Clause deals with rounding off of amount of total income, or tax payable or refundable and corresponds to sections 288A and 288B of the Income-Tax Act, 1961. The Committee observe that there is no policy change, however, existing Sections 288A and 288B have been merged into single section considering that both the sections were related to rounding off. The Committee take note of Ministry's justification that the provisions of the existing sections have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 516 as proposed.

Clause 517: Receipt to be given.

517.1 Provision proposed in the Income-Tax Bill, 2025:

"A receipt shall be given for any money paid or recovered under this Act."

517.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 289: Receipt to be given.

"A receipt shall be given for any money paid or recovered under this Act."

517.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 517 of the Bill provides for receipt to be given. This clause corresponds to section 289 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

517.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

517.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 517, which provides for receipt to be given, is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the Ministry.

Clause 518: Indemnity.

518.1 Provision proposed in the Income-Tax Bill, 2025:

"Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of an income belonging to another person shall be indemnified for the deduction, retention, or payment thereof."

518.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 290: Indemnity.

"Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof."

518.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 518 of the Bill provides for indemnity. This clause corresponds to section 290 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

518.4 Examination by the Committee:

Regarding the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

518.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 518 of the Bill outlines indemnity, akin to Section 290 of the Income-Tax Act, 1961. The Committee further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Ministry.

Clause 519: Power to tender immunity from prosecution.

519.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) The Central Government may, if it is of the opinion that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income it is necessary or expedient so to do, for reasons to be recorded in writing, tender to such person,—

(a) immunity from prosecution for any offence under this Act or under the Bharatiya Nyaya Sanhita, 2023, or under any other Central Act in force; and

(b) from imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made, or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section—

(a) has not complied with the conditions on which the tender was made; or

(b) is wilfully concealing anything; or

(c) is giving false evidence,

the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn.

(4) The person whose immunity has been withdrawn under sub-section (*3*) may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to imposition of any penalty under this Act to which he would otherwise have been liable."

519.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 291: Power to tender immunity from prosecution.

"(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code* (45 of 1860), or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his

making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.

519.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 519 of the Bill provides for power to tender immunity from prosecution. This clause corresponds to section 291 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

519.4 <u>Examination by the Committee:</u>

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc., the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

519.5 Observation/ Recommendations of the Committee:

Clause 519 of the Income-Tax Bill 2025 which grants power to tender immunity from prosecution, corresponding to Section 291 of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, noting that there is no policy change in this regard, the Committee accept Clause 519 as proposed.

Clause 520: Cognizance of offences

520.1 Provision proposed in the Income-Tax Bill, 2025:

"No court inferior to that of a Judicial Magistrate of the first class shall try any offence under this Act."

520.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 292: Cognizance of offences.

"No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act."

520.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 520 of the Bill provides for cognizance of offences. This clause corresponds to section 292 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

520.4 Examination by the Committee:

Regarding the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

520.5 Observation/ Recommendations of the Committee:

Noting that Clause 520 of the Bill, dealing with cognizance of offences is a textual simplification of Section 292 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.

Clause 521: Probation of Offenders Act, 1958 and section 401 of Bharatiya Nagarik Suraksha Sanhita, 2023, not to apply

521.1 Provision proposed in the Income-Tax Bill, 2025:

"The provisions of section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Probation of Offenders Act, 1958 shall not apply to a person convicted of an offence under this Act unless that person is under eighteen years of age."

521.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 292A: Section 360 of the Code of Criminal Procedure, 1973†, and the Probation of Offenders Act, 1958, not to apply.

"Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

521.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 521 of the Bill deals with 'probation of Offenders Act, 1958 and section 401 of Bharatiya Nagarik Suraksha Sanhita, 2023, not to apply'. This clause corresponds to section 292A of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However, reference of Code of Criminal Procedure, 1973 has been replaced with reference of Bharatiya Nagarik Suraksha Sanhita, 2023."

521.4 Examination by the Committee:

521.4.1 Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

521.4.2 The Committee desired clarification that the age limit mentioned in section 401 of Bharatiya Nagarik Suraksha Sanhita, 2023, is 21 years while that in the Bill is 18 years. The Ministry in written replies justified as under:

> **"**Clause 521 of the Bill prescribes the provision relating to non-applicability of section 401 of Bhartiya Nagarik Suraksha Sanhita, 2023 and Probation of Offenders Act, 1958. Clause 521 is the textually simplified version of the

corresponding section 292A of the Income-Tax Act, 1961. There is no change in the provisions of clause 521 viz-a-viz section 292A of the Act. The Income-tax Act makes a reference to s. 360 of CrPC and CrPC also provided an age limit of 21 years for release of offender on probation on account of good conduct. Therefore, the matter requires detailed examination of CrPC(Bhartiya Nagarik Suraksha Sanhita, 2023) and also Probation of Offenders Act, 1958 in consultation with Law Ministry."

521.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 521 of the Bill, dealing with the non-application of the Probation of Offenders Act, 1958, and Section 401 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, directly corresponds to Section 292A of the Income-Tax Act, 1961. There are no underlying policy changes. The provisions of the existing section have been textually simplified in this clause while retaining their original intent, with the specific update of replacing the reference to the Code of Criminal Procedure, 1973, with the BNSS, 2023. The Committee accept Clause 521 as proposed.

522: Return of income, etc., not to be invalid on certain grounds

522.1 Provision proposed in the Income-Tax Bill, 2025:

"No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken, or purported to have been furnished or made or issued or taken, in pursuance of any of the provisions of this Act, shall be invalid or shall be considered to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purposes of this Act."

522.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 292B: Return of income, etc., not to be invalid on certain grounds.

" No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act."

522.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 522 of the Bill provides for return of income, etc., not to be invalid on certain grounds. This clause corresponds to section 292B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

522.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

522.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 522 of the Bill note that the Clause deals with return of income, etc., not to be invalid on certain grounds and corresponds to section 292B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 522 as proposed.

Clause 523: Notice deemed to be valid in certain circumstances

523.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under this Act, which is required to be served upon him, has been duly served upon him in time as per the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or
(b) not served upon him in time; or
(c) served upon him in an improper manner.

(*2*) The provisions of sub-section (*1*) shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment.

523.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 292BB: Notice deemed to be valid in certain circumstances.
"Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or
(b) not served upon him in time; or
(c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment."

523.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 523 of the Bill provides for notice deemed to be valid in certain circumstances. This clause corresponds to section 292BB of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

523.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc., the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

523.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 523 of the Bill addresses notice deemed to be valid in certain circumstances, aligns with the existing Section 292BB and involves no policy shift. The Committee, therefore, accept Clause 523 as proposed by the Ministry.

Clause 524: Presumption as to assets, books of account, etc.

524.1 Provision proposed in the Income-Tax Bill, 2025:

"*1*) Where any books of account, other documents money, bullion, jewellery, virtual digital asset or other valuable article or thing, is found in the possession or control of any person in the course of a search under section 247 or survey under section 253, it may, in any proceeding under this Act, be presumed—

(a) that such books of account, other document, money, bullion, jewellery, virtual digital asset or other valuable article or thing belong or belongs to such person;

(b) that the contents of such books of account and other document are true;

(c) that the signature and every other part of such books of account and other document, which purports to be in the handwriting of any particular person, or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person; and

(d) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested article or thing belong or belongs to such person;

(*2*) Where any books of account, other documents or assets have been delivered to the requisitioning officer as per section 248, then, the provisions of sub-section (*1*) shall apply as if such books of account, other documents or assets, which had been taken into custody from the person referred to in sub-section (*1*)(*a*) or (*b*) or (*c*) of the said section, had been found in the possession or control of that person in the course of a search under section 247."

524.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 292C: Presumption as to assets, books of account, etc.

" (1) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search under section 132 or survey under section 133A, it may, in any proceeding under this Act, be presumed—

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132."

524.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 524 of the Bill provides for presumption as to assets, books of account, etc. This clause corresponds to section 292C of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

524.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

524.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 524 of the Bill provides for presumption as to assets, books of account, etc., aligns with existing Section 292C of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Ministry of Finance (Department of Revenue) in this regard, the Committee accept Clause 524 as it is.

Clause 525: Authorisation and assessment in case of search or requisition

525.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) Irrespective of anything contained in this Act,—

(a) it shall not be necessary to issue an authorisation under section 247 or make a requisition under section 248 separately in the name of each person;

(*b*) where an authorisation under section 247 has been issued or requisition under section 248 has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be considered to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(*2*) Irrespective of an authorisation issued under section 247 or a requisition made under section 248 mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition."

525.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 292CC: Authorisation and assessment in case of search or requisition.

" (1) Notwithstanding anything contained in this Act,—

(i) it shall not be necessary to issue an authorisation under section 132 or make a requisition under section 132A separately in the name of each person;

(ii) where an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(2) Notwithstanding that an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition

525.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 525 of the Bill provides for authorisation and assessment in case of search or requisition. This clause corresponds to section 292CC of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

525.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

525.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 525 outlines the framework for authorisation and assessment in case of search or requisition, aligns with the existing Section 292CC of the extant Act and involves no policy shift. They, therefore, accept Clause 525 as proposed by the Ministry.

Clause 526: Bar of suits in civil courts.

526.1 Provision proposed in the Income-Tax Bill, 2025:

"No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act, and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act."

526.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 293: Bar of suits in civil courts.

" No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act; and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act."

526.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 526 of the Bill provides for bar of suits in civil courts. This clause corresponds to section 293 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

526.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, the Ministry in their written replies stated as follows:

"The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

526.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 526 of the Bill note that the Clause deals with bar of suits in civil courts and corresponds to section 293 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 526 as proposed.

Clause 527: Power to make exemption, etc., in relation to participation in business of prospecting for, extraction, etc., of mineral oils.

527.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) If the Central Government is satisfied that it is necessary or expedient in the public interest, it may, by notification, make an exemption, reduction in rate, or other modification of income-tax for any class of persons specified in sub-section (*2*) or in regard to the whole or any part of the income of such class of persons or the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in sub-section (*2*)(*a*), effective from tax year beginning on or after 1st April, 1992.

(2) The persons referred to in sub-section (*1*) shall be the following:—

(a) persons with whom the Central Government has entered into agreements for the association or participation of that Government, or any person authorised by that Government in any business of prospecting for or extraction or production of mineral oils;

(b) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by sale or hire) for any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government, or any person specified by that Government by notification; and

(c) employees of the persons referred to in clause (*a*) or (*b*).

(3) Every notification issued under this section shall be laid before each House of Parliament.

(4) In this section,—

(a) "mineral oil" includes petroleum and natural gas;

(b) "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed."

527.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 293A: Power to make exemption, etc., in relation to participation in the business of prospecting for, extraction, etc., of mineral oils.

"(1) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of persons specified in sub-section (2) or in regard to the whole or any part of the income of such class of persons or in regard to the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in clause (*a*) of sub-section (2) :

Provided that the notification for modification in respect of the status may be given

effect from an assessment year beginning on or after the 1st day of April, 1993.

(2) The persons referred to in sub-section (1) are the following, namely :—

(a) persons with whom the Central Government has entered into agreements for the association or participation of that Government or any person authorised by that Government in any business consisting of the prospecting for or extraction or production of mineral oils;

(b) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government or any person specified by that Government in this behalf by notification in the Official Gazette; and

(c) employees of the persons referred to in clause (*a*) or clause (*b*).

(3) Every notification issued under this section shall be laid before each House of Parliament.

Explanation.—For the purposes of this section,—

(a) "mineral oil" includes petroleum and natural gas;

(b) "status" means the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on."

527.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 527 of the Bill provides for power to make exemption, etc., in relation to participation in business of prospecting for, extraction, etc., of mineral oils. This clause corresponds to section 293A of the Act. there is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

527.4 <u>Examination by the Committee:</u>

527.4.1 Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

527.4.2 On the issue of inclusion of Shale Gas/ Oil Exploration and Exploitation to make the Bill comprehensive and future ready, the Ministry in written replies informed as under:

> **"**The issue may require examination of various aspects including discussion with

stakeholders and revenue loss, if any. These are significant aspects of larger policy. Further, at present the stated policy of the Government is to phase out deductions and exemptions."

527.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 527 of the Bill lays down power to make exemption, etc. in relation to participation in business of prospecting for, extraction, etc., of mineral oils, corresponding to Section 293A of the Income-Tax Act 1961. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause 527 as proposed.

Clause 528: Power of Central Government or Board to condone delays in obtaining approval.

"Where, the approval of the Central Government or the Board is required to be obtained before a specified date under this Act, it shall be open to the Central Government or the Board to condone, for sufficient cause, any delay in obtaining such approval."

528.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 293B: Power of Central Government or Board to condone delays in obtaining approval.

"Where, under any provision of this Act, the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval."

528.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 528 of the Bill provides for power of Central Government or Board to condone delays in obtaining approval. This clause corresponds to section 293B of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

528.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961, alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

528.5 Observation/ Recommendations of the Committee:

The Committee while examining the Clause 528 of the Bill note that the Clause grants power to Central Government or Board to condone delays in obtaining approval, akin to Section 293B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 528 as proposed.

Clause 529: Power to withdraw approval.

529.1 Provision proposed in the Income-Tax Bill, 2025:

"Where the Central Government or the Board or an income-tax authority, has the power to grant any approval under any provision of this Act to any assessee, the Central Government or the Board or such income-tax authority may, withdraw such approval at any time after recording the reasons therefor, even if such provision does not specifically allow for its withdrawal, after giving such a assessee areasonable opportunity of being heard.

529.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 293C: Power towithdrawapproval.

"Where the Central Government or the Board or an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, the Central Government or the Board or such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time :

Provided that the Central Government or Board or income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so."

529.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 529 of the Bill provides for power to withdraw approval.This clause corresponds to section 293C of the Act.There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

529.4 Examination by the Committee:

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

529.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 529 of the Bill provides for power to withdraw approval. The Committee also note that this Clause is simplified textual version of existing Section 293C of the Income-Tax Act, 1961 maintaining Government original policy. The Committee observe that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. The Committee, therefore, approve Clause 529 as proposed by the Ministry.

Clause 530: Act to have effect pending legislative provision for charge of tax.

530.1 Provision proposed in the Income-Tax Bill, 2025:

"If on the 1st April in any tax year, provision has not yet been made by a Central Act for the charging of income-tax for that tax year, this Act shall nevertheless have effect until such provision is so made, as if the provision in force in the preceding tax year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force."

530.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 294: Act to have effect pending legislative provision for charge of tax.

"If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

530.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 530 of the Bill provides for Act to have effect pending legislative provision for charge of tax. This clause corresponds to section 294 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

530.4 Examination by the Committee:

Regarding the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc., the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

530.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 530 provides for Act to have effect pending legislative provision for charge of tax representative assessee, aligns with the provisions of Section 294 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 530 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.

Clause 531: Power to rescind exemption in relation to certain Union territories already granted under section 294A of the Income-tax Act, 1961.

531.1 Provision proposed in the Income-Tax Bill, 2025:

"Where the Central Government considers it necessary or expedient so to do may, by general or special order, rescind an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assesses, made as per the provisions of section 294A of the Income-tax Act, 1961."

531.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 294A: Power to make exemption, etc., in relation to certain Union territories.

"If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assessees :

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made."

531.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 531 of the Bill provides for power to rescind exemption in relation to certain Union territories already granted under section 294A of the Income-tax Act, 1961. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. However redundant provisions of the section 294A which were applicable before 31.03.1967, have been removed."

531.4 Examination by the Committee:

Responding to the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc., the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

531.5 Observation/ Recommendations of the Committee:

The Committee has examined Clause 531 of the Bill, which pertains to the revocation of tax exemptions previously granted to certain Union Territories under Section 294A of the Income-tax Act, 1961. The Committee note the Ministry's efforts to simplify the language of the original Section 294A while ensuring its core intent remains intact within this new clause. A significant change is the elimination of obsolete provisions from Section 294A, specifically those that became irrelevant after March 31, 1967.

In view of the reference to the Income-Tax Act, 1961 in Clause 531, the Committee recommend that in Clause 531 reference to the Act may be eliminated and the relevant proviso may be incorporated under Clause 536 related to Repeals and Savings.

The Committee conclude that Clause 531 is consistent with the Bill's overarching objectives and, therefore, approve it as proposed, subject to the aforesaid recommendation.

Clause 532: Power to frame schemes.

532.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) The Central Government may, by notification, make a scheme for any of the purposes of this Act, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface with the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation.

(2) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(3) Where a scheme has been notified under the provisions of the Income-tax Act, 1961 with a view to eliminating the interface with the assessee or any other person, the Central Government may by notification amend or modify the said scheme as per the provisions of sub-section (*1*), and the provisions of sub-section (*2*) shall apply accordingly.

(4) Every notification issued under sub-sections (*1*), (*2*) and (*3*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

532.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

This is a new clause incorporated in the Bill.

532.3 Reasons/Justification given by the Ministry of Finance for the proposed provision:

"Clause 532 of the Bill provides for power to frame schemes. This is a new clause incorporated in the Bill. On the same subject, there were multiple sections in the existing Income-tax Act, 1961, in which power to frame different schemes relating to faceless provisions was provided to the Central Government. There was no rationale to provide the same power at multiple places. With a view to rationalise and consolidate the provisions and remove repetition, omnibus clause 532 has been provided for."

532.4 Examination by the Committee:

532.4.1 On Committee's query regarding incorporation of new clause in the Bill, the Ministry in written replies informed as under:

> "Clause 532 is a new addition to the Bill, there is no change in the clause as far as the procedure to make the schemes are considered. The clause provides for

making of a scheme by the Central Government, by notification, for any of the purposes of this Act, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface with the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation.

The clause further provides that every notification issued under sub-clauses (1), (2) and (3) of clause 532 shall, as soon as may be after the notification is issued, be laid before each House of Parliament. There is no departure on this account from the position present in the existing IT Act, 1961."

532.4.2 During the course of evidence, while deliberating upon the challenges being faced by the asseessee under the new regime in the faceless assessment regarding repeated notices being served on the same issue, the representative of the Ministry accepted the possibility for errors and elaborated on remedial measures undertaken as follows:

"हम टेक्नोलॉजी का ज्यादा से ज्यादा यूज करना चाहते हैं और उसमे फेसलेस प्रोसेस भी एक प्रयत्न है। उसमें हमें कांस्टेंट ओपन रहना चाहिए कि उसमें भी गलतियां हो सकती हैं। सॉफ्टवेयर और मशीन कोई ऐसी चीज नहीं है, उसमें भी कई बार गलतियां हो जाती हैं। उसमें लॉजिक गलत जा सकता है। उसमें कोई नोटिस दिया है और यदि कहीं से कोई गलत डेटा आ गया है तो बहुत बड़ी-बड़ी डिमांड आ जाती हैं।...हमारे ह्यूमन सिस्टम और आईटी सिस्टम में हमें हमेशा यह देखते हना होगा कि दोनों तरफ से सिटीजन की सहूलियत को बढ़ाएं और स्पष्टवादिता तथा सच को नपोर्ट करें। उसमें जहां-जहां पर भी गलतियां आती हैं, उनमें सुधार के लिए हमें सतत प्रयास करने होंगे।"

532.4.3 On Committee's particular query regarding any provision for assessee to sit across and explain his point of view to the Department, the Ministry in written replies submission stated as follows:

"There is no such facility in faceless system where the taxpayer can sit across and explain his point of view. However, for faceless assessment and appeal proceedings, video conferencing facilities have been introduced for appellate hearings. The department is also doing outreach with taxpayers, representatives to resolve technical issues as well as to improve the processes. The Department is also considering strengthening the operationalisation of e-kiosks (ASK centres) within the tax offices. These will provide digital infrastructure to taxpayers who lack the means or familiarity to engage with the faceless system independently."

532.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 532 of the Bill introduces a new provision that grants the power to frame various schemes. Previously, the Income-tax Act, 1961, contained multiple sections that separately empowered the Central Government to create schemes related to faceless provisions. The Committee observe that this approach lacked a clear rationale and led to avoidable repetition within the existing legislation. To address this, The Ministry has incorporated the Clause 532 as an omnibus clause, with the purpose of rationalizing and consolidating these provisions into a single, comprehensive power. The Committee find this consolidation to be a logical step that enhances clarity and removes redundancy.

The Committee note that in Clause 532 reference has been made to Income-Tax Act, 1961. The Committee are of the view that considering the objectives of the Bill, the reference to the Act may be omitted and the relevant proviso may be incorporated under Repeals and Savings clause viz. Clause 536 of the Bill.

Therefore, the Committee accept Clause 532 as proposed in the Bill, subject to the aforesaid recommendation.

533: Power to make rules.

533.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"(*1*) The Board may, subject to the control of the Central Government, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(a) the ascertainment and determination of any class of income;

(b) the manner in which and the procedure by which the income shall be arrived at in the case of—

(i) income derived in part from agriculture and in part from business;

(ii) persons residing outside India;

(iii) operations carried out in India by a non-resident;

(iv) transactions or activities of a non-resident;

(v) an individual who is liable to be assessed under section 99(*3*) and (*4*);

(c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(d) the percentage on the written down value which may be allowed as depreciation for buildings, machinery, plant or furniture;

(e) the matters specified in section 62;

(f) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 134;

(g) the matters specified in Chapter XI;

(h) the time within which any person may apply for the allotment of a Permanent Account Number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which Permanent Account Number shall be quoted on documents relating to such transactions under section 262;

(i) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 263(*2*)(*a*);

(j) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 263(*2*)(*a*);

(k) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under section 263(*2*)(*b*);

(l) the form of the report of audit or inventory valuation and the particulars which such report shall contain under section 268(*5*);

(m) remuneration of Chairperson and members of the Approving Panel under section 274(*21*) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel under section 274(*24*);

(n) the form and manner in which the information relating to payment of any sum may be furnished under section 397(*3*)(*d*);

(o) the authority to be prescribed for any of the purposes of this Act;

(p) the procedure for giving effect to any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation entered into by the Central Government under this Act;

(q) the procedure for granting of relief or deduction, of any income-tax paid in any country or specified territory outside India, under section 159 or 160, against the income-tax payable under this Act;

(r) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

(s) the manner in which any document required to be filed under this Act may be verified;

(t) the procedure to be followed on applications for refunds;

(u) the procedure for calculating interest payable by assessees or by the Government to assessees under this Act, including the rounding off of periods when a fraction of a month is involved, and specifying the circumstances under which and the extent to which petty amounts of interest payable by assessees may be ignored;

(v) the regulation of any matter for which provision is made in section 420;

(w) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation referred to in section 358(*3*)(*b*) may be served;

(x) the circumstances, conditions and the manner in which, the Joint Commissioner (Appeals) or the Commissioner (Appeals) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Assessing Officer;

(y) the form in which the statement under section 507 shall be delivered to the Assessing Officer;

(z) the maintenance of a register of persons other than legal practitioners or accountants practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in section 515(*5*);

(*za*) the issue of certificate verifying the payment of tax by assessees;

(*zb*) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases, where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee, which is unreasonable, the rules made under this section may—

(a) prescribe methods by which an estimate of such income may be made; and

(b) in cases of income derived in part from agriculture and in part from business, specify the proportion of the income which shall be considered to be income liable to tax,

and an assessment based on such estimate or proportion shall be considered to be duly made as per this Act.

(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesses."

533.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 295: Power to make rules.

"(1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

(a) the ascertainment and determination of any class of income;

(b) the manner in which and the procedure by which the income shall be arrived at in the case of—

(i) income derived in part from agriculture and in part from business;

(ii) persons residing outside India;

(*iia*) operations carried out in India by a non-resident;

(*iib*) transactions or activities of a non-resident;

(iii)an individual who is liable to be assessed under the provisions of sub-section (2) of section 64;

(c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(d) the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture;

(*dd*) the extent to which, and the conditions subject to which, any expenditure referred to in sub-section

(3) of section 37 may be allowed;

(*dda*) the matters specified in sub-sections (2) and (3) of section 44AA;

(e) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG;

(*ee*) the matters specified in Chapter X-A;

(*eea*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (6) of section 139;

(*eeb*) the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A;

(*eeba*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 139C;

(*eebb*) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 139D;

(*eec*) the form of the report of audit [41-42][or inventory valuation] and the particulars which such report shall contain under sub-section (2A) of section 142;

(*eed*) remuneration of Chairperson and members of the Approving Panel under sub-section (18) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel under sub-section (21) of section 144BA;

(f) the manner in which and the period to which any such income as is referred to in section 180 may be allocated;

(*fa*) the form and manner in which the information relating to payment of any sum may be furnished under sub-section (6) of section 195;

(g) the authority to be prescribed for any of the purposes of this Act;

(h) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act;

(*ha*) the procedure for granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act;

(i) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

(j) the manner in which any document required to be filed under this Act may be verified;

(k) the procedure to be followed on applications for refunds;

(kk) the procedure to be followed in calculating interest payable by assessees or interest payable by Government to assessees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored;

(l) the regulation of any matter for which provision is made in section 230;

(m) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (*c*) of sub-section (2) of section 249 may be served;

(*mm*) the circumstances in which, the conditions subject to which and the manner in which, the [41-42][Joint Commissioner (Appeals) or the] Commissioner (Appeals) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Assessing Officer;

(*mma*) the form in which the statement under section 285B shall be delivered to the Assessing Officer;

(n) the maintenance of a register of persons other than legal practitioners or accountants as defined in sub-section (2) of section 288 practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section;

(o) the issue of certificate verifying the payment of tax by assessees;

(p) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases coming under clause (*b*) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—

(a) prescribe methods by which an estimate of such income may be made; and

(b) in cases coming under sub-clause (*i*) of clause (*b*) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.

(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees."

533.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 533 of the Bill provides for power to make rules. This clause corresponds to section 295 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

533.4 <u>Important Views/Suggestions given by Experts/Stakeholders</u>:

533.4.1 To enable stakeholder participation in changes made to Income Tax Rules, the stakeholder suggested as under:.

"Insert the following after 533(1): For the purpose of making rules, the Board shall publicise the following, seeking comments: (a) a draft of the proposed rules along with a reference on the specific provision of the Income-Tax Act under which the Board proposes rules; (b) a statement of the problem that the proposed rules seeks to address and explaining key changes in simple language; (c) an economic analysis of the proposed rules; (d) a statement on the international best practices relevant to the proposed rules; (e) the manner and timeline of implementation of the proposed rules; and (f) the manner and process for receiving comments from the public The Board shall allow at least thirty days for the public to submit their comments.

To enable stakeholder participation in changes made to Income Tax Rules."

533.4.2 On the legal requirement for public consultation for the Rules making process under the Act, the representative of Ministry of Law, clarified to the Committee as under:

> "..in rules, if Act permits, there is a usual provision that the Central Government may with the previous publication. If the statute empowers, then there is minimum 30 days. The Committee on Subordinate Legislation has recommended that whenever consultation is there, minimum 30 days, it is to be published in the gazette inviting objections and suggestions."

533.4.3 "In 533(2)(z), "Specify e-Register in automation form(from Registration to till removal of enrolment of Income Tax Practitioners*)* To prevent fraud and unqualified representations by keeping public digital platforms in full active mode for public access on the government portal)."

533.4.4 During the course of evidence, the Ministry in further clarified as follows:

> *"The suggestion is that we should specify e-register in place of register where rules for maintaining register are to be framed for persons whether they are legal practitioners or accountants. So, the register includes e-register. If he maintains information relating to persons other than legal practitioner or accountant, we can*

maintain in the form of e-register also because we are saying that it includes e-register."

533.5 <u>Examination by the Committee:</u>

The Ministry in response to the suggestions by the stakeholder has furnished in corresponding written replies as under:

533.5.1. "Consultation with public is a process done at various stages of law making including the instant case of drafting of IT Bill. While a law is being made, wide consultations are held and the rule making being part of the law-making process, consultations about rules are also made therein. In some instances, separate consultations are also held for drafting of specific rules. Citizens' opinions and suggestions are always welcome and such views and opinions have a bearing on law as well as rule making. Since consultation is a wider process for law as well as rule making, making stakeholder participation mandatory as part of the statute itself is not necessary, Therefore, the suggestion is not feasible."

533.5.2 "The suggestion seeks to Specify e-Register in place of register where rules for maintaining register are to be framed for persons other than legal practitioner or accountant.

Suggestion related to secondary legislation. Register in any case includes e-register. The suggestion stands already addressed."

533.5.3 Responding to the Committee's query regarding need for undertaking massive exercise to convert all the live circulars, which are still relevant under the existing Act, into the rules under the new Act, the Ministry during the course of evidence informed the Committee as under:

"At places in the Bill, we have written prescription as it is written in the present Act. Some clauses contain the words 'as may be prescribed'. So, we are not borrowing from the old prescriptions. The new prescriptions will be laid down in the rules. They come in the form of notification of rules. To that extent, a new delegated legislation will appear as a part of this Bill in the next six months whenever the Bill gets passed."

533.5.4 During the course of evidence, regarding Committee's query on anticipation anticipate the possibility of disputes and confusion arising from this issue, the Ministry clarifies as under:

Savings Clause 536(2)(j). "Any agreement undertaken, appointment made, approval given, recognition granted, direction, instruction, notice, order or rule issued under the provision of the Repealed Income-Tax Act, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have

been entered into, made, granted, given or issued under the corresponding provision of this Act." So, circular will come under this part. We need not reiterate all circulars again. That is our take on it.

533.5.5 On Committee's further query in regard to the position in respect of the Bill under consideration, the representative of Ministry of Finance further clarified as follows:

"In general, if the Act does not permit, we will not do. Since the Income-Tax Bill is a tax matter, that is why in many provisions, it is not there."

533.6 Observation/ Recommendations of the Committee:

The Committee, in its examination of Clause 533 of the Bill, concerning 'Power to make rules' (which corresponds to Section 295 of the Income-Tax Act, 1961), has carefully considered suggestions from various stakeholders. After reviewing the response of the Ministry, the Committee accept Clause 533 as proposed.

Clause 534: Laying before Parliament.

534.1 <u>Provision proposed in the Income-Tax Bill, 2025:</u>

"The Central Government shall cause—

(a) every rule made under this Act;

(b) rules of procedure framed by the Appellate Tribunal under section 364; or

(c) every notification issued under sections 263(*3*) and 264 and Chapter XIII-G,

to be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such rule, or notification or both Houses agree that the rule, should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification."

534.2 <u>Relevant Provision of the Principal Act (Income-Tax Act, 1961):</u>

Section 296: Rules and certain notifications to be placed before Parliament.

"The Central Government shall cause every rule made under this Act, the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255 and every notification issued before the 1st day of June, 2007 under sub-clause (*iv*) of clause (*23C*) of section 10 and every notification issued under sub-section (1C) of section 139 or third proviso to sub-section (1) of section 153A or second proviso to sub-section (1) of section 153C to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification."

534.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 534 of the Bill provides for laying before Parliament. This clause corresponds to section 296 of the Act. There is no policy change. The provisions of the existing section have been textually simplified and retained with the same intent in this clause."

534.4 <u>Examination by the Committee:</u>

534.4.1 On Committee specific query regarding any departures or additions or deletions with regard to provisions related to subordinate legislation (ex. laying in both Houses of the Parliament etc.), the Ministry categorically stated as under:

> "No such deviations has been made. Procedure to draft sub-ordinate legislation remains same in the Income-tax Bill, 2025 vis-à-vis the IT Act, 1961."

534.4.2 The Committee desired to know whether there have been any departures or additions or deletions regarding laying provisions and provisions related to modification by both Houses of the Parliament and Chapter-wise and Clause-wise comparative details of provisions related to subordinate legislation in Income-Tax Act, 1961 and Income-Tax Bill, 2025. The Ministry in written replies stated as under:

> **"** It is submitted that there has been no departures or additions or deletions regarding provisions related to subordinate legislation including laying in both Houses of the Parliament. Procedure to draft sub-ordinate legislation remains same in the Income-tax Bill, 2025 vis-à-vis the IT Act, 1961.
>
> Subordinate legislation for Income-tax Bill, 2025 shall be framed after the Bill becomes a law. As of now, there is no subordinate legislation in existence for the Bill. Therefore, it is not feasible to provide any Chapter-wise and Clause-wise comparative details of provisions related to subordinate legislation."

534.5 Observation/ Recommendations of the Committee

The Committee while examining the Clause 534 of the Bill note that the Clause deals with 'Laying before Parliament' and corresponds to section 296 of the Income-Tax Act, 1961. The Committee take note of the Ministry's justification that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 534 as proposed, without any further amendment.

Clause 535: Removal of difficulties.

535.1 Provision proposed in the Income-Tax Bill, 2025:

" (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with the provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any order referred to in sub-section (*1*) may provide for the adaptations or modifications subject to which the Income-tax Act, 1961 shall apply in relation to the assessments for the tax year ending on the 31st March, 2026, or any earlier tax year.

(3) No order under sub-section (*1*) shall be made after the expiration of three years from the 1st April, 2026.

(4) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament."

535.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 298: Power to remove difficulties.

"(1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year.

(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament."

535.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 535 of the Bill provides for removal of difficulties. This clause corresponds to section 298 of the Act. A time limit of three years after 1.4.2026 has been provided after which no order could be passed for removal of difficulties. "

535.4 <u>Examination by the Committee:</u>

On the Committee's query regarding comparison of the clause in the Bill with the corresponding section in the Income-Tax Act, 1961 with regard to any addition or omission or replacement of words etc. alongwith the justification for the proposed modification, the Ministry in their written replies stated as follows:

> "The provisions proposed in the Income-Tax Bill 2025 is the simplified version of the corresponding provisions of IT Act 1961".

535.5 Observation/ Recommendations of the Committee:

The Committee note that Clause 535 of the Bill addresses the removal of difficulties, serving as the direct counterpart to Section 298 of the Income-Tax Act, 1961. The Committee further observe that this clause includes a specific sunset provision: no order for the removal of difficulties can be passed after a period of three years from April 1, 2026. This establishes a clear time limit for such actions. Therefore, the Committee accept Clause 535 as proposed.

Clause 536: Repeal and savings

536.1 Provision proposed in the Income-Tax Bill, 2025:

"(*1*) The Income-tax Act, 1961 is hereby repealed.

(*2*) Irrespective of the repeal of the Income-tax Act, 1961 (hereinafter referred to as the repealed Income-tax Act), and subject to sub-section (*3*)—

(a) affect the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act or orders under such repealed Act;

(c) the provisions of the repealed Income-tax Act shall continue to apply to any proceedings (including notices, assessment, re-assessment, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act;

(d) any proceeding for the imposition of a penalty in respect of any tax year beginning before the 1st April, 2026, may be initiated and any such penalty may be imposed under the repealed Income-tax Act, as if this Act had not been enacted;

(e) any proceeding pending on the commencement of this Act before any income-tax authority or any other authority constituted under the repealed Income-tax Act, Appellate Tribunal, or any court, by way of application, appeal, reference or revision or by any other means, shall be continued and disposed of as if this Act had not been enacted;

(f) any election or declaration made, or option exercised, by an assessee under any provision of the repealed Income-tax Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made, or option exercised, under the corresponding provision of this Act;

(g) where in respect of any proceeding relating to any tax year beginning before the 1st April, 2026,—

(i) a refund falls due after commencement of this Act; or

(ii) default is made after such commencement in the payment of any sum due under such proceeding,

the provisions of this Act, relating to interest payable by the Central Government on refunds and interest payable by the assessee for default, shall apply for the period after the commencement of this Act;

(h) where any deduction has been allowed or any amount has not been included in the total income of any person, subject to fulfilment of certain conditions for any tax year beginning before the 1st April, 2026, and in case of violation of such conditions in any tax year beginning on or after 1st April, 2026, any sum (on account of deduction earlier allowed or amount not included) was required to be

included in the total income of such subsequent tax year under the repealed Income-tax Act if it had not been so repealed, then such sum shall be—

(i) deemed to be the income of the tax year in which the violation takes place; and

(*ii*) included in the total income of the said person under the same head of income as it would have been included under the repealed Income-tax Act;

(i) any sum payable under the repealed Income-tax Act may be recovered under this Act without prejudice to any action already taken for the recovery of such sum under repealed Income-tax Act;

(j) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Income-tax Act shall, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision of this Act and shall continue in force accordingly;

(k) where the period provided for any application, appeal, reference or revision under the repealed Income-tax Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority;

(l) any amount of credit, in respect of tax paid, allowable to be carried forward in the case of an assessee, under the provisions of section 115 JAA or 115JD of the repealed Income-tax Act for the tax year beginning before the 1st April 2026, had the Income-tax Act, 1961 not been repealed,—

(i) shall be deemed to be the amount eligible for credit under corresponding provision of this Act in the case of said assessee; and

(ii) credit for the tax paid under the repealed Income-tax Act shall be allowed under this Act for the period for which it would have been allowed under the repealed Income–tax Act if the assessee otherwise continues to satisfy the conditions as specified in the corresponding provisions of this Act in such tax years;

(m) any amount of loss under the source or head of income specified in column B of the Table given below and referred to in the section of the repealed Income-tax Act specified in column C of the said Table, brought forward for the tax year beginning before the 1st April, 2026 had the Income-tax Act not been repealed, shall be set off and carried forward against 5 the income computed under this Act , in the manner provided in the respective section of the repealed Income-tax Act specified in column C of the said table, for the tax years beginning on or after the 1st April, 2026:

Table

Sl. No.	Source or head of income under the repealed Income-tax Act	Section of the repealed Income-tax Act
A	B	C
1.	Income from house property.	71B.
2.	Profits and gains of business or profession.	72.
3.	Speculation business.	73.
4.	Specified Business.	73A.
5.	Activity of owning and maintaining race horses.	74A.

(n) any amount of loss under the head capital gains, whether related to a long-term capital asset or a short term capital asset, referred to in section 74 of the repealed Income-tax Act, brought forward from the tax year beginning before the 1st April, 2026 had the Income-tax Act, 1961 not been repealed,

shall be set off and carried forward against the income under the head "Capital gains" computed under this Act for any tax year beginning on or after the 1st April, 2026 upto eight financial years immediately succeeding the financial year in which such loss was first computed under the repealed Income-tax Act;

(o) any set off of loss or allowance for depreciation made in any tax year beginning before the 1st April, 2026 in the hands of the amalgamated company, successor company or the successor limited liability partnership, in accordance with the provisions of section 72A of the repealed Income-tax Act, shall be deemed to be the income of the amalgamated company, successor company or the successor limited liability partnership, as the case may be, chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(p) any set off of accumulated loss or unabsorbed depreciation allowed in any tax year beginning before the 1st April, 2026 to the successor co-operative bank, in accordance with the provisions of section 72AB of the repealed Income-tax Act, shall be deemed to be the income of the successor co-operative bank chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(q) any amount of profits or gains arising out of transfer of capital asset not charged under the head capital gains by virtue of the provisions contained in section 47(*iv*), (*v*), (*xiii*), (*xiiib*) or (*xiv*) of the repealed Income-tax Act in any tax year beginning before the 1st April, 2026 shall be deemed to be the income chargeable under the head "Capital gains" under this Act , if any of the conditions laid down in section 47A(*1*)(*i*) or (*ii*) of the repealed Income-tax Act are satisfied or conditions laid down in section 47(*xiii*), (*xiiib*) or (*xiv*), as the case may be, of the repealed Income-

tax Act are not complied with, for the tax year in which such conditions are satisfied or not complied with, as the case may be;

(r) where any allowance or part thereof, under section 32(*2*) or 35(*4*) of the repealed Income-tax Act, is to be carried forward to tax year beginning on the 1st April, 2026, had the Income-tax Act not been repealed, then, the allowance or part thereof shall be added to the amount of capital allowances referred to corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for that tax year, be deemed to be allowance for that tax year;

(s) the deduction referred to in section 35ABB, 35D, 35DD, 35DDA, 35E or the first proviso to section 36(*1*)(*ix*) of the repealed Income-tax Act, shall, on fulfilment of the conditions mentioned in the said provisions, continue to be allowed under this Act for tax year beginning on or after the 1st April, 2026 had the Income-tax Act not been repealed and such deduction shall be added to the amount of deferred revenue expenditure allowance referred to corresponding provisions of this Act for the tax year beginning on or after the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for a tax year, be deemed to be that allowance for that tax year;

(t) credit balance in the provision for bad and doubtful debts account made under section 36(*1*)(*viia*) of the repealed Income-tax Act standing on the last day of the tax year beginning on 1st April, 2025 shall be added to the amount credited to the provision for bad and doubtful debts accounts referred to in the corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of amount credited to the provision for bad and doubtful debts accounts, or if there is no such amount credited for that tax year, be deemed to be amount credited for that tax year;

(u) any scheme which has been notified under the provisions of the repealed Income-tax Act with a view to eliminating the interface with the assessee or any other person, the said scheme shall be deemed to have been made—

(i) under the corresponding provisions of this Act; or

(ii) under section 294B where there is no such corresponding provision,

and shall continue in force accordingly; and

(v) where a search has been initiated under section 132 or requisition is made under section 132A prior to the 1st April, 2026, the provisions of repealed Income-tax Act, shall continue to apply to any proceedings connected in respect of such search or requisition, as the case may be, as if this Act has not been enacted.

(*3*) Without prejudice to the provisions of sub-section (*2*), the provisions of section 6 of the General Clauses Act, 1897 shall apply with regard to the effect of repeal."

536.2 Relevant Provision of the Principal Act (Income-Tax Act, 1961):

Section 297: Repeals and savings.

"297. (1) The Indian Income-tax Act, 1922 (11 of 1922), is hereby repealed.

(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (11 of 1922) (hereinafter referred to as the repealed Act),—

(a) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed;

(b) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act;

(c) any proceeding pending on the commencement of this Act before any income-tax authority, the Appellate Tribunal or any court, by way of appeal, reference, or revision, shall be continued and disposed of as if this Act had not been passed;

(d) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—

(i) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed;

(ii) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly;

(e) subject to the provisions of clause (*g*) and clause (*j*) of this sub-section, section 23A of the repealed Act shall continue to have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962 or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed;

(f) any proceeding for the imposition of a penalty in respect of any assessment completed before the first day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed;

(g) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such

penalty may be imposed under this Act;

(h) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act;

(i) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply;

(j) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

(k) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;

(l) any notification issued under sub-section (1) of section 60 or section 60A of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force:

Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder;

(m) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority."

536.3 <u>Reasons/Justification given by the Ministry of Finance for the proposed provision</u>:

"Clause 536 of the Bill provides for repeal and savings. This clause corresponds to section 297 of the Act. The clause seeks to repeal the Income-tax Act, 1961 from the date the Bill comes into force i.e. 1.4.2026. Further, the clause incorporates savings which have to be carried forward in the new Bill from the Income-tax Act, 1961. As provisions of 1922 Act and 1961 Act are different, the nature of savings also has changed vis-à-vis savings mentioned in section 297 of the Act."

536.4 Important Views/Suggestions given by Experts/Stakeholders:

Some important suggestions received from the stakeholder in the clause under examination are as follows:

A. Replacement of term, 'Notwithstanding':

536.4.1 "Settled Position of Law to continue in the New Regime

The position in law in respect of many of the provisions of the present Income-tax Act in existence for the past six decades, have been critically examined by the judiciary and settled. These provisions for which the law is settled should not be changed in the Income- tax Bill, 2025, else, the same may result in extensive litigation.

For example, in the Income-tax Bill, 2025, "Notwithstanding anything contained in" is proposed to be replaced with "Irrespective of anything contrary contained in". There is significant jurisprudence on the expression "Notwithstanding anything" which is now proposed to be replaced with "Irrespective of anything contrary". Since the meaning of "notwithstanding" is judicially settled, replacing the same with "irrespective of" merely due to the reason that it sounds simpler, may give rise to a fresh spate of litigation as to whether "irrespective" has the same meaning as "notwithstanding".

B. Suggestions received regarding Clause 536(2)(a)/(b):

536.4.2 " (T)he provisions of clause (a) and (b) are adapted from S. 6 of the General Clauses Act, 1897. (GCA) However, as they presently read, they do not form a coherent sentence. This may be due to the fact that the provisions of GCA are negatively worded wherein similar clauses of GCA are preceded by "the repeal shall not" . Such negative wording beingmissed out appears to be a drafting oversight. Recommended to add the words "shall not" at the beginning of both clause (a) and (b) to ensure that the proper intent of the transitional provisions is reflected."

536.4.3 In 536(2)(a)/(b), Error in Drafting Contains a grammatical error by omitting the phrase "nothing shall" in clauses (a) and (b), potentially creating confusion. It is recommended to include the phrase "nothing shall" in the beginning of clause (a) and (b).

C. Suggestion regarding omission of clause corresponding to Section 297(2)(l) of the Income-Tax Act, 1961

536.4.4 Inclusion of Income Tax exemption for war wounded / battle casualty pensioners receiving War Injury Pension under Income-Tax Bill, 2025 highlighting Omission of clause 297(2)(l) of the Income-Tax Act, 1961.

D. Suggestions received regarding Clause 536(2)(c):

536.4.5 Regarding Clause536(2)(c)), one of the stakeholders stated that “(T)he fresh proceedings after the enactment of the Income-Tax Bill, 2025 shall be undertaken under the New Act whereas proceedings initiated under the Income-Tax Act, 1961 shall continue to be governed by the Income-Tax Act, 1961 This was also done when Income-Tax Act, 1961 repealed Income-Tax Act, 1922 [refer section 297 of Income-Tax Act, 1961]”

E. Suggestions received regarding Clause 536(2) (a)(c)(g):

536.4.6 “(T) here is some confusion in Clause 536 (2) (a),(c) and (g) because the Income-Tax Act, 1961 is being limited to 2025-26 and the new law is proposed to be implemented from 2026-27. Now, around 72 thousand old cases are lying pending. Now, the question is whether all these cases will be cleared in the remaining period of this year. Then whether the decisions will be made under the old law or under the new law, this will increase the complexity. There will be more court cases. Therefore, along with the new law, the Committee should also discuss in detail the arrangement for continuing the old law for pending cases.”

F. Suggestions regarding incorporating explicit proviso for continuous applicability of Circulars, notifications etc. (Clause 536(2)(j))

536.4.7 “No specific provision to prescribe continuity of applicability of circulars and notifications issued in respect of existing Act. It is suggested to incorporate appropriate provision to prescribe applicability of circulars and notifications issued in respect of existing provisions of the Act until new circulars or notifications supersedes the same.”

536.4.8 “Existing guidance, circulars or notifications that were issued under the Act as well as decisions rendered by Courts, should apply to provisions in the Bill that are worded in identical or similar manner. There should be a mention of this in the Bill.”

536.4.9 In line with the repeals and savings section introduced at the time of Income-tax Act, 1961, repeals and savings clause be modified to provide that the Income-tax Act, 2025 would apply to any new proceedings initiated on or after April 1, 2026 and the pending proceedings as on March 31, 2026 be continued under the Income-tax Act, 1961.

G. Suggestions regarding Clause 536(2)(n):

536.4.10 “The phrase "the manner provided in the respective section of the repealed Income-tax Act" in clause 536(2)(n) may be inserted to clarify that transitional LTCL can be set off only against LTCG under ITB 2025**.”**

536.4.11 “Clause 536(2)(n) may be amended to provide for set off of losses under the head capital gains in accordance in provisions of Clause 108 of ITB 2025. Under ITA 61, capital loss relating to long term capital asset is allowed to be carried forward and set off only against capital gain in respect of long term capital asset. Similarly under ITB 25, capital loss relating to long term capital asset is allowed to be carried forward and set off only against capital gain in respect of long term capital asset. However, Clause 536(2)(n) of ITB provides that capital losses carried forward from tax year beginning before 1 April 2026 as per ITA 61 can be set off against capital gain in respect of both long term capital asset and short term capital asset. If there is no change in the policy intent of allowing set off of long term capital loss only against long term capital gain, suggested amendment in clause 536(2)(n) may be made. Rationale:

1 Remove anomaly in drafting
2 Reduce tax litigation thereby providing certainty.”

536.4.12 “Section 536(2)(n) of the new Bill worded broadly to permit loss under the head ‘Capital gains’ to be set off against income from ‘Capital gains’ However, it is suggested to retain the provision. This appears to imply that long term capital loss may be set off even under short term capital gains Since typically, repeal provisions are not expected to run counter to the existing law, the provision permitting carry forward and set off of long-term capital loss under all income under the head ‘ Capital gains’ appear to be inadvertent.”

536.4.13 *“*Clause 111 permits carry forward of loss from Capital gains and set-off of LTCL and STCL against Capital Gains income of subsequent years. However, LTCL can be set-off only against LTCG income. The drafting to permit setoff of transitioned LTCL against post-transition STCG appears to be inadvertent. Insert the phrase "the manner provided in the respective section of the repealed Income-tax Act" in S. 536(2)(n) to clarify that transitional LTCL can be set off only against LTCG under ITB 2025.”

536.4.14 *“*Sections 108(2)(a) and 111(2)(a) may be aligned with the provisions of clause 536(2)(n) permitting set-off of brought forward long-term capital loss from the Income-tax Act, 1961 against any capital gain of a tax year beginning on or after 1.4.2026. Further, as suggested in Chapter VII, inter-head set-off may be permitted without restriction, with the exception in cases of certain losses, like losses from speculation business or losses from the activity of owning and maintaining race horses or online gaming, which may be spelt out as exceptions. This would be in line with the principle of taxation of real income after set-off of losses and would relieve the burden of the taxpayers.”

H. Suggestions to align Clause 536(2)(q) with the provisions of Clause 71(1)

536.4.15 “The drafting to result in claw back in year of violation of conditions of S. 47A of ITA 1961/ 71 of ITB 2025 appears to be inadvertent. Amend S. 536(2)(q) to provide that claw-back in respect of violation of conditions of Section 47(iv)/(v) of ITA 1961 will happen in the tax year in which the original transfer takes place, as provided in Section 47A of ITA 1961.”

536.4.16 “The Capital gains taxation in case of breach of conditions under Clause 71(1) to taxed in the year of transfer.
For breach of conditions before 01.04.2026, repeals Clause 536(2)(q) to align with the provisions of Clause 71(1) and tax such breach in the year of transfer.”

536.4.17 “The drafting to result in claw back in year of violation of conditions of S. 47A of ITA 1961/ 71 of ITB 2025 appears to be inadvertent. Amend S. 536(2)(q) to provide that claw-back in respect of violation of conditions of Section 47(iv)/(v) of ITA 1961 will happen in the tax year in which the original transfer takes place, as provided in Section 47A of ITA 1961.”

I. Suggestions regarding Clause 536(2)(s):

536.4.18 “Clause 536(2)(s) of the Bill contains the repeal and savings provisions Deductions referred to in section 35ABB, 35D, 35DD, 35DDA, 35E or the first proviso to section 36(1)(ix) of the repealed Act can be continued under the Bill for tax year beginning on or after 1.4.2026 subject to the fulfilment of the conditions mentioned in the said provisions However, there is no savings clause for a deduction under section 35ABA(1) for the relevant previous years the spectrum for which the fee is paid is in force and is required to be included.”

536.4.19 “Section 52(2) and 536(2)(s) of the New Income-Tax Bill 2025 contain omissions relating to the deduction of capital expenditure for the right to use spectrum for telecommunication services.”

536.4.20 “The provision inadvertently does not refer to: • Explanation to S.24(b) of ITA 1961 which provides for allowing propionate deduction of interest on borrowed funds incurred for a period prior to the date of acquisition • Unamortised deduction u/s. 94B of ITA 1961 which limits deduction on interest paid to AE to 30% of EBIDTA with balance permitted to be carried forward to next year upto 8 years • S. 35ABA pertaining to deduction for fee for obtaining right to use spectrum for telecommunication services over the life of the spectrum. Amend S. 536(2)(s) to provide continuity for the unexpired period in respect of deductions u/s 24(b), 35ABA and 94B of ITA 1961 to ensure complete neutrality between ITA 1961 and ITA 2025”

J. Suggestions regarding Clause 536(2)(u):

536.4.21 *(Clause* 536(2)(u)) **"**Faceless assessment of income escaping assessment.

1. To make following procedure faceless: Issuance of· notice under section 280; Conducting· of enquiries or issuance of show cause notice or passing of order under section 281 or Sanction for· issue of such notice under section 284.
2. Section 536(2)(u) does not save Notification vide S.O 1466(E) [NO 18/2022/F NO 370142/16/20 22 TPL(PART1], dated 29.03.2022 – "e Assessment of Income Escaping Assessment Scheme, 2022" for the following reasons: There is no· corresponding provision in the IT Bill 2025; There is no· Section 294B in the IT Bill 2025 or in ITA 1961, unless reference is changed from 294B to 532(1)."

536.5 <u>Examination by the Committee:</u>

A. Use of terminology, 'Notwithstanding'

536.5.1 The Ministry while justifying the proposed changes in terminology furnished in their written replies as follows:

> "Non-obstante clause 'Notwithstanding' has been replaced in the Bill with the phrase 'irrespective of' so as to make language more lucid and easy for the common man. This is also an international best practice."

536.5.2 The Ministry further in response to the suggestion by the stakeholder has furnished in written replies as under:

> "The amendment has been made with a view to rationalise the provision so as to provide tax certainty and reduce litigation and to make the language clear and direct. Therefore, no change in the provision may be necessary."

536.5.3 The Committee desired to ascertain whether replacing "Notwithstanding anything contained in…" with "Irrespective of anything contrary contained in…" is meant to simplify language and reduce litigation. Though, "notwithstanding" has a well-settled legal meaning, consistently upheld by courts (e.g., ICICI Bank v. SIDCO Leathers Ltd., (2006) 10 SCC 452), particularly in resolving conflicts between statutory provisions. The Ministry, while justifying the use of new terminologies, in written replies stated as follows:

> (i) 'Irrespective of' has been used for ease of understanding by a '*common graduate*'.
> (ii) "Notwithstanding" signifies a statutory override. It's interpretive function is fully preserved with the simpler expression "irrespective of". The statutory primacy of the clause is clear and there is no erosion of its overriding effect.

(iii) In all likelihood, Courts will continue to give effect to the intended hierarchy of provisions, irrespective of the lexical form employed and without dilution of legislative intent. Both terms serve the same operative purpose of ensuring that specified provisions apply without being affected by any contrary provision.

(iv) The judgment rendered by the Hon'ble Supreme Court in *ICICI Bank Ltd. v. Sidco Leathers Ltd.* is in the context of statutory conflict and priority (insolvency and inter-creditor rights). However, its relevance may be limited when evaluating changes made in the drafting of income-tax provisions which are with the objective of making the law more readable without compromising legal substance.

(v) Accordingly, while *ICICI Bank v. Sidco Leathers* remains authoritative within its domain, its applicability here may not be directly determinative. Even in advanced tax jurisdictions such as the United Kingdom, the use of the phrase *notwithstanding* is now sparing and generally avoided in modern legislative drafting"

536.5.4 The Ministry further clarified as follows:

"Before change of law, the word notwithstanding was used 204 times in UK law (193 in Income and Corporation Taxes Act 1988 and 11 times in Taxes Management Act, 1970). In contrast, the Income-tax Act, 1961, still contains this expression in over 400 instances. Retaining all such legacy expressions may amount to retaining the original Act itself, defeating the very purpose of simplification".

536.5.5 Regarding introduction of a specific provision to provide that the judicial interpretations developed over several years under the Income-tax Act, 1961 should apply to corresponding provisions in the Income-tax Act, 2025 and the department should be prevented from disregarding judicial interpretations merely due to change in language, for instance use of the word "irrespective of" in place of "notwithstanding". The Ministry in written replies stated as follows:

"It is to be submitted that such kind of provisions cannot be dealt by any provision in the IT Bill 2025.It is to be dealt by the Courts. Statutes dealing with the same or similar subject matter should be interpreted together as a whole and judicial interpretations developed over several years under the Income-tax Act, 1961 will also apply to corresponding provisions in the Income-tax Bill, 2025. The suggestion is already taken care of."

B. Suggestions received regarding Clause 536(2)(a)/(b):

536.5.6 The Ministry in response to the suggestions given by the stakeholders regarding Clause 536(2)(a)/(b), the Ministry accepted the drafting correction and furnished in written replies as under:

> "Suggestion is acceptable as drafting correction. The term 'Nothing shall' may be added before subclause (a) and subclause (b) of clause 536(2) of the Bill."

C. Suggestion regarding omission of clause corresponding to Section 297(2)(l) of the Income-Tax Act, 1961

536.5.7 The Ministry while addressing the suggestion regarding inclusion of Income Tax exemption for war wounded / battle casualty pensioners receiving War Injury Pension under Income-Tax Bill, 2025 and omission of clause 297(2)(l) of the Income-Tax Act, 1961, clarified as follows:

> "Suggestion seeks inclusion of clause 297(2)(l) of the I T Act relating to 'repeal and savings' in clause 536 of the Bill relating to similar provisions.
> Clause 536(2)(a)and (b) takes care of any such situation."

D. Suggestions received regarding Clause 536(2)(c):

536.5.8 While addressing the stakeholder's concern, the Ministry in response to the suggestions regarding continuation of already initiated proceedings under Income Tax, 1961 stated in written replies as follows:

> " The manner in which savings ought to be done in a new statute might vary. As per clause 536(c), repealed IT Act shall continue to apply to any proceedings in respect of tax year beginning before 01.04.2026, and as per clause 536(e) the pending proceedings shall be continued and disposed as per the repealed IT Act. The manner of savings suggested by the proposer is another model. Since a particular model has already been adopted, changing the same into another type of savings clause is not necessary. Thus, suggestion is not required to be acted upon."

E. Suggestions received regarding Clause 536(2) (a)(c)(g):

536.5.9 Addressing the apprehensions of the stakeholders regarding fate of pending cases, the Ministry clarified as follows:

> "As per clause 536(c), repealed IT Act shall continue to apply to any proceedings in respect of tax year beginning before 01.04.2026, and as per clause 536(e) the pending proceedings shall be continued and disposed as per the repealed IT Act. An exception has been carved out in clause 536(g), where new law will be applicable for interest on refund or outstanding demand, as the case may be,

arising out of proceedings in respect of tax year beginning before 01.04.2026. for the period after the new law comes into effect. There is no confusion with regard to whether old law or the new law is applicable. The savings clauses take care of all situations. However, the suggestion to have in-depth discussion on the matter is acceptable."

F. Suggestions regarding incorporating explicit proviso for continuous applicability of Circulars, notifications etc. (Clause 536(2)(j))

536.5.10 The Ministry while clarify apprehensions of the stakeholders regarding continuous applicability of Circulars, notifications etc. and partially accepting the suggestions, stated as follows:

"Accepted. The suggestion seeks to redraft the clause 536 to include applicability of circular and notifications. Section 536(2)(j) (Repeal and Savings) already takes care of notifications. Circulars shall be considered for inclusion." However, to remove ambiguity, the word "circulars" may also be provided for in the said provision.

536.5.11 During the course of evidence, the Ministry informed the Committee that 536(2)(j) specifically covers those notifications.

536.5.12 While assuring, the Ministry further stated in the written replies as under:

"Reference may be made to clause 536(2)(c) which clearly provides that provisions of repealed Act shall continue to apply for proceedings in respect of tax year beginning before 1.4.2026. Therefore, the suggestion made is already provided for."

536.5.13 On the query regarding linking of the interest provision to the tax year in line with 536(2)(c) of the Income-tax Act, 2025, the Ministry in written replies stated as under :

"There is no change of any rates of interest mandated under the ITB 2025 and IT Act 1961.Any change at a later stage will apply in the same manner as it applied in the IT Act 1961.

The suggestion has no merits."

536.5.14 Furthermore, on the suggestion that the taxpayer should be given an option to opt-out of any option or election made of declaration exercised under the Income-tax Act, 1961 if the corresponding provisions under the Income-tax Act, 2025 are inconsistent with the Income-tax Act, 1961, the Ministry in written replies stated as follows:

"There is no inconsistency provided in the provisions of IT Bill 2025 viz-a-viz corresponding provision of IT Act 1961. Therefore such a situation does not arise wherein such option is to be given to any taxpayer. The suggestion has no merits."

536.5.15 On application of Rules, Circulars etc. issued under Income-Tax Act, 1961, after coming into force of the new Act, the Ministry during the course of evidence informed the Ministry as follows:

"as far as a circular or notification is issued under the old Act, correspondingly the same will apply to corresponding clauses in the new Act…
But wherever delegated legislation, prescription or notification is there, there we have to come with a prescription of rules under this new Bill. So, the entire rules will come, new forms will come."

G. Suggestions regarding Clause 536(2)(n):

536.5.16 The Ministry while accepting the drafting error regarding setting-off LTCL only against LTCG income stated that it is an inadvertent drafting error and in written replies stated as under:

"Accepted. The stakeholder has pointed that as per clause 536(2)(n) of the Bill LTCL can be set off against STCG also. It is an inadvertent drafting error."

536.5.17 The Ministry while clarifying on the suggestions regarding aligning the provisions of clause 536(2)(n) with Sections 108(2)(a) and 111(2)(a), submitted as under:

"The stakeholder through the suggestion seeks sections 108(2)(a) and 111(2)(a) be aligned with provisions of clause 536(2)(n) of the IT permitting of brought forward long-term capital loss from the Income-tax Act, 1961 against any capital gain of a tax year beginning on or after 1.4.2026. The stakeholder further seeks inter-head set-off may be permitted without restriction, with the exception in cases of certain losses.

Both the suggestions are in the nature of policy change which is beyond the scope of the IT Bill, 2025. There is no change in the provisions of the Bill vis-a-vis Act.

Clause 108 of the Bill provides for set off of losses under the same head of income and corresponds to section 70 of the Act. Clause 111 of the Bill provides for carry forward and set off of loss from capital gains and corresponds to section 74 of the present Act. The provisions of the existing section have only been

textually simplified and retained with the same intent in the corresponding clauses in the Bill.

Under the present provisions of the Income-tax Act, 1961, short term capital losses are allowed to be set off against both long term capital gains and short term capital gains. However, long-term capital losses are allowed to be set off only against the long term capital gains.

However, the current drafting of clause 536(2)(n) permits setoff of transitioned long term capital loss against post-transition short term capital gains. This is a drafting error which shall be appropriately corrected to reflect the current position of law. So, the suggestion to align sections 108(2)(a) and 111(2)(a) with provisions of clause 536(2)(n) of the IT Bill is not feasible.

Further, income under different heads of income is taxed at different rate. Restrictions have been placed on set off of losses under one head with income from other head to prevent the abuse of the provisions of the Act. Hence, allowing inter-head set-off without restrictions is not feasible."

H. Suggestions to align Clause 536(2)(q) with the provisions of Clause 71(1)

536.5.18 Addressing the stakeholder's concern regarding claw back in year of violation of conditions of S. 47A of ITA 1961/ 71 of ITB 2025, the Ministry admitted to drafting correction as stated as follows:

"Drafting Correction. In the case of transfers defined as exempt from Capital Gains in Sections 47(iv) and (v), as per the provisions of Section 47A, the Capital Gain will be calculated for the year in which the transfer took place, and not in the year in which the conditions prescribed are satisfied. Suitable changes may be made in Clause 536(2)(q) (Repeal and Savings)"

536.5.19 The Ministry while responding to the concern of the stakeholder regarding alignment of Clause 536(2)(q) with the provisions of Clause 71(1) stated as follows:

"Capital gains taxation in case of breach of conditions under Clause 71(1) to taxed in the year of transfer. For breach of conditions before 01.04.2026, repeals Clause 536(2)(q) to align with the provisions of Clause 71(1) and tax such breach in the year of transfer."

I. Suggestions regarding Clause 536(2)(s):

536.5.20 While addressing stakeholders query regarding repeal and savings provisions in respect of various Deductions referred to in section 35ABB, 35D, 35DD, 35DDA, 35E, the Ministry in written replies clarified as follows:

"Clause 536(2)(a)and (b) takes care of any such situation. The suggestion made by the stakeholder is acceptable as reference of sec 35ABA of the Act has not been provided in sec 536(2)(s) of the Bill.

The deduction as referred is already allowed for later years by the IT Act, 1961. The repeal and savings clause protects the deduction as it protects all rights and privileges accrued or incurred under the repealed Act. Therefore, the suggestion is already taken care of."

J. Suggestions regarding Clause 536(2)(u):

536.5.21 The Ministry while responding to the concern of the stakeholders regarding provisions under Clause 536(2)(u) in written replies stated as follows:

"The suggestion seeks to insert new clause 284A on the lines of section 151A of the Act prescribing faceless assessment of income escaping assessment. Similar prescription of formulating faceless schemes was prescribed at different places in the Act. Therefore, all such prescriptions have been clubbed under one omnibus clause i.e. clause 532. Further, in saving clause, specific sub-clause 536(2)(u) has been drafted to save the faceless schemes already notified by the CBDT. Further, with respect to the faceless assessment of income escaping assessment, scheme was notified vide S.O. 1466(E), which is already saved as per the provision of 536(2)(u). Thus, separate clause on the lines of section 151A is not required. Therefore, suggestion is already addressed.

536.5.22 The Ministry accepted the suggestion regarding drafting correction and stated that cross referencing error in section 536(2)(u) saving clause shall be corrected by replacing word "294B" with "532(1)"."

K. <u>Omitting References to Income-Tax Act 1922 and Income Tax, 1961</u>

536.5.23 The Committee during the course of examination of the Bill have reiterated that the reference to Income-Tax Act, 1922 and Income-Tax Act, 1961 should be done away with. The Committee desired to know whether the provisions having reference to older and Existing Act can be redrafted in order to have a clean slate with no cross referencing to old act and whether the same can be put up in an annexure, the Ministry in written replies stated as follows:

"Reference to Income-tax Act, 1922 was made 31 times in the Income-tax Act, 1961. At some places the reference may be unavoidable. It shall be examined as to where the reference may be discontinued."

536.5.24 In this connection, the Revenue Secretary deposed before the Committee as under:

"कनसेप्च्युअली सेविंग्स क्लॉज़ में किस तरह से जोड़े, ताकि आपकी यह जो एक्सपेक्टेशन है कि नए एक्ट में पुराने एक्ट का रेफरेंस सदाकाल के लिए न रहे, उसे हम लोग स्टडी करके आपको अलग से रिवाइज्ड फॉर्म में बताएंगे।"

L. Change in nature of savings

536.5.25 During the course of evidence, while responding to the Committee's query regarding the clause 'Repeal and savings', the Ministry informed as under:

"..repeal and saving, is saying that whatever action you take after 01.04.2026, you take in the new Act. Whatever was done before that, that will be in the repealed Act. This was the policy followed in the 1961 Act when they repealed the 1922 Act. This time we have said that the provisions of the old Act will continue to be applicable to the proceedings up to the assessment year 2026-27. After that, whatever new tax year is coming, to that new Bill will apply."

536.5.26 Further clarifying the factual position in regarding to the Bill under condition, the Ministry stated as follows*:*

"Till the midnight before this Act is implemented, all things, all disputes, everything will be governed by the old Act. All things relating to the previous period, or proceedings begun later but relating to the previous period will be governed by the old Act."

536.5.27 The Committee desired to be apprised on the rationale for difference in nature of 'savings' in the IT Act, 1961 and ITB 2025. The Ministry in written replies stated as under:

" Clause 536 corresponds to section 297 of the Act. The clause seeks to repeal the Income-tax Act, 1961 from the date the Bill comes into force i.e. 1.4.2026. Further, the clause incorporates savings which have to be carried forward in the new Bill from the Income-tax Act, 1961.

Provisions of Income-tax Act, 1961 would apply to any proceedings (notices, assessment, re-assessment, rectification, penalty, reference, revision and appeals) in respect of any tax year up to 2025-26 (the proceedings for tax 2026-27 onwards would be covered under the Income-tax Act, 2025).

Further, any declaration or election made or option exercised under the repealed Income- tax Act, 1961 shall be deemed to be election or declaration made or option exercised under the corresponding provisions of the Income-tax Act, 1961.

The difference in nature of savings has arisen due to the difference in the computerized business applications that are already in place for running the processes of the IT Act, 1961. The processes of the Income-tax Department have been made all electronic and done through the computerized business applications. The system already in place for the Income-tax Act, 1961 shall cater to the proceedings in respect of years pertaining to period when the 1961 Act remained in force. New System shall be put in place for the processes and proceedings for the years when the Income-tax Bill 2025 becomes law. It is not possible to run a hybrid system. Therefore, the savings clause has been provided in a manner which is somewhat different from the savings under the Income-tax Act, 1961."

536.5.28 On the issue of implications of 'difference in nature of 'Saving'' in the Act and Bill on existing Notifications, Circulars and Schemes etc. and on cases under litigation, the Ministry while furnishing comparative chart on the difference in 'nature of Savings' in written replies also clarified as under:

"The difference in nature of saving in the 1961 Act and 2025 Bill have arisen due to difference in the provisions of Income-tax Act 1922 which were required to be saved and the provisions of 1961 Act which are now required to be saved. Law is dynamic and ever evolving and thus the savings clause has to be tuned to the existing dynamics to save on the essential provisions for smooth roll out, transition and implementation. Cl. 536(2)(j) clearly saves all notifications, directions, instructions, approvals, appointments made, agreements etc. Further, it has been accepted by the Ministry to include circulars within the ambit of the said clause. Regarding litigation, reference may kindly be made to cl. 536(2)(e) which provides that savings on litigations which shall continue as if the Bill has not been enacted.

536.5.29 On Committee suggestion to insert proviso in Clause 536 to omit the references to Income Tax At, 1922 and 1961 and any other Acts/erstwhile Acts like 'The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)' etc in the Act, the Ministry in written replies stated as under:

"..apart from clause 536, wherever reference to Income-tax Act, 1961 or any other Act has been made in the Bill, it is required that the said references may be retained to avoid confusion, mis-interpretation of provisions and litigation. Hence, there seems no requirement for proviso to be inserted in clause 536".

536.6 Observation/ Recommendations of the Committee:

The Committee note that Clause 536 aims to repeal the Income-tax Act, 1961, effective from April 1, 2026, the date the new Bill comes into force. Crucially, it also incorporates savings provisions that are intended to be carried forward from the 1961 Act into the new Bill. The Committee acknowledges the Ministry's justification that due to the differences between the 1922 and 1961 Acts, the nature of these savings has evolved compared to those in Section 297 of the earlier Act. The Committee has undertaken an exhaustive deliberation on Clause 536 of the proposed Income-Tax Bill, 2025, which addresses 'Repeals and savings' and corresponds to Section 297 of the Income-Tax Act, 1961.

Regarding the application of Rules, Circulars, etc., issued under the Income-Tax Act, 1961, after the new Act comes into force, the Ministry clarified during evidence that: (i) Circulars and notifications issued under the old Act will correspondingly apply to the equivalent clauses in the new Act; (ii) however, for areas involving delegated legislation, prescriptions, or notifications, new rules and forms will need to be prescribed under the new Bill.

Further, the Committee has identified several drafting corrections based on stakeholder suggestions, which they believe are essential for clarity and unambiguous interpretation. The Committee, therefore, approve clause 536, subject to incorporation of the following amendments:

- **(i) Adding the term 'Nothing shall' before proviso (a) and proviso (b) of sub-clause 536(2) of the Bill.**
- **(ii) Including the word 'Circular' in sub-clause (j) of Clause 536(2).**
- **(iii) Redrafting Clause 536(2)(n) to explicitly state that Long Term Capital Gain can be set off against Long Term Capital Gain only.**
- **(iv) Redrafting Clause 536(2)(q) to ensure alignment with Clause 71(1).**
- **(v) Redrafting Clause 536(2)(s) to include a reference to Section 35ABA of the existing Act.**
- **(vi) Correcting Clause 536(2)(u) by replacing "294B" with "532(1)."**

Furthermore, during examination of the Bill, the Committee observed multiple lingering references to the Income-Tax Act, 1922, and the Income-Tax Act, 1961. The Committee are of the opinion that there should be a clean break from the reference to the old Act, on the lines of the Bharatiya Nyaya Sanhita, 2023, wherein reference to the Indian Penal Code were not carried forward, and all references may be brought under clause 536(2) of the Bill on repeals and savings.

Moreover, the Committee also noted references to other repealed Acts, such as "The Sick Industrial Companies (Special Provisions) Act, 1985," which was repealed in 2003 with effect from 1.12.2016. Given the extensive exercise undertaken for a comprehensive review of the Income-Tax Act, 1961, the Committee suggest that all references to repealed Acts be consolidated and incorporated under Clause 536 of the Bill. This action aims to achieve the stated objective of making the new Act concise, lucid, easy to read, and understand.

The Committee, therefore, accept Clause 536 as proposed, subject to the aforementioned suggestions.

CHAPTER – III

CONSOLIDATED OBSERVATIONS/RECOMMENDATIONS OF THE SELECT COMMITTEE

Sl. No	Para No	Clause No.	Observation/Recommendation
1.	2.6.1	Sub-Clause 2(1) – "accountant"	The thorough examination of the proposed Sub-Clause 2(1), pertaining to the definition of 'accountant', reveals that while various suggestions for its expansion were received, the provision retains the long-standing legal position from the Income-tax Act, 1961. The proposed Clause 2(1) aligns with the stated objective of the Bill to ensure continuity and avoid major policy changes. The Committee note the Ministry's detailed justification that the scope of practice for different professionals is governed by their respective parent legislations, and the functions mandated under the Income-tax Act, such as the audit of financial transactions, fall within the domain specified under the Chartered Accountants Act, 1949. Thus, the Committee, having considered the extensive deliberations and the justification provided by the Ministry of Finance, accept the proposed Clause 2(1) in its entirety.
2.	2.6.2	Sub-Clause 2(5) "Agricultural Income"	During the review of the proposed Sub-Clause 2(5), which defines 'agricultural income', the Committee considered submissions arguing for an expansion of the definition to cover a wider range of activities . However, Committee note that the sub-clause, as drafted, is a textual simplification that preserves the existing legal framework from the 1961 Act. The provision aligns with the Bill's core principle of ensuring continuity by avoiding major policy changes. The Committee took note of the Ministry's detailed justification, which cautioned that broadening the definition could inadvertently bring commercial trading activities under the ambit of agricultural income, creating avenues for tax avoidance. Given these considerations, and after reviewing the Ministry's stance, the Committee accept the proposed Clause 2(5) in its entirety and recommend no change.
3.	2.6.3	Sub-Clause 2(6) –	The Committee, upon deliberation of the provisions of the Clause 2(6), note a minor textual ambiguity that

Sl. No	Para No	Clause No.	Observation/Recommendation
		"amalgamation"	could lead to misinterpretation. In Clause 2(6), the phrase "amalgamating company, and the companies" needs to be replaced with "amalgamating company, or companies". The Ministry, when this was pointed out, was amenable to this correction. Thus, the Committee recommend the Ministry to rephrase it to ensure precise legislative intent and also reduce potential misinterpretations and future litigation.
4.	2.6.4	Sub-Clause 2(7) "Annual Value"	The Committee note that Sub-Clause 2(7) of the Income-Tax Bill, 2025 provides for the definition of 'Annual Value' and corresponds to Section 2(2) of the Income-Tax Act, 1961. This definition is of fundamental importance as 'annual value' serves as the primary basis for the computation of income under the head "Income from house property". The Committee further observe that the substantive meaning has been carried forward without alteration from the erstwhile Section 2(2) into the proposed Clause 2(7). The revision is primarily one of textual simplification, undertaken for enhanced clarity in alignment with the Bill's overarching goals. Concurring with the Ministry's satisfactory justification for the related provisions, and acknowledging that the essence of the original provision is preserved, the Committee find the clause acceptable as drafted and recommend its adoption without any modification.
5.	2.6.5	Sub-Clause 2(17) "block of assets"	The Committee note that Sub-Clause 2(17) of the Income-Tax Bill, 2025 provides for the definition of 'block of assets' and corresponds to Section 2(11) of the Income-Tax Act, 1961. This definition is fundamental to the scheme of depreciation, providing a basis for grouping various tangible and intangible assets for the purpose of calculating depreciation allowances. It is also noteworthy to mention here that there is migration of the contents from the erstwhile Section 2(11) to the Clause 2(17) of the IT Bill, 2025 in terms of scope and intent. The major difference lies only in the textual simplification of the language for better clarity, which is in line with the Bill's objectives. The justification given by the Ministry is also found to be satisfactory. Therefore, the Committee accept the Clause 2(17) as proposed by

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Ministry.
6.	2.6.6	Sub-Clause 2(19) "Books or Books of account"	In the review of the proposed Clause 2(19), which lays out the definition for 'books or books of account' and is the corresponding provision to Section 2(12A) of the 1961 Act, the Committee took note of its importance. The scope of this definition is crucial as it determines the nature of records required to be maintained for tax purposes. The Committee noted that the provision has been suitably modernized to encompass contemporary methods of data storage while retaining the essence of the original section. Specifically, the inclusion of records maintained in 'any digital form', through 'cloud based storage', and on various 'portable data storage devices' represents a timely and essential update to the law. The Committee find the Ministry's rationale for this update to remove ambiguity surrounding modern technology to be sound. Consequently, recognizing that this modernized definition brings essential clarity, the Committee recommend the adoption of Clause 2(19) without modification.
7.	2.6.7	Sub-Clause 2(21) "Business trust"	The Committee reviewed provisions defining a 'Business Trust' as given in the subclause. This subclause, which is the corresponding provision to Section 2(13A) of the Income-tax Act, 1961, defines the term by referencing the relevant regulations of the Securities and Exchange Board of India. The Committee observe that the essence and scope of the definition from the erstwhile Act have been preserved in the Bill. The revision primarily focuses on textual simplification, ensuring the definition is clear and directly aligned with the current regulatory framework. The Ministry's justification that the provision has been simplified while retaining the same intent is found to be satisfactory. Therefore, the Committee recommend the acceptance of Clause 2(21) as proposed, without any modifications.

Sl. No	Para No	Clause No.	Observation/Recommendation
8.	2.6.8	Sub-Clause 2(22) “Capital Asset”	During the review of subclause 2(22), the Committee identified a need to align its definition of 'capital asset' with recent amendments introduced by the Finance Act, 2025. This alignment is necessary to reflect the contemporary legal landscape regarding the treatment of certain securities held by Foreign Institutional Investors and investment funds. The Ministry acknowledged this as a valid drafting correction and conveyed its acceptance . The Committee, therefore, recommend that subclause 2(22)(b) be modified to incorporate these statutory changes to avoid discrepancies and ensure a clear, consistent, and relevant tax framework and rest of the subclause be accepted as proposed.
9.	2.6.9	Sub-Clause 2(23)– "charitable purpose"	The Committee, upon extensive deliberations on the sub clause 2(23) and the justifications provided by the Ministry, note that the sub clause aligns with Section 2(15) of the Income-tax Act, 1961 and therefore, accept the sub clause in its original form.
10.	2.6.10	Sub-Clause 2(28) – "company"	Following a review of Clause 2(28)(c), the Committee found a terminological inconsistency with the Bill's new lexicon. This clause, corresponds to Section 2(17) of the Income-tax Act, 1961. To enhance consistency throughout the new Bill, the phrase "assessment year" in Clause 2(28)(c) should be substituted with "tax year". The Ministry acknowledged this as a necessary drafting correction and agreed to the modification. The Committee, therefore, recommend the Ministry rephrase the clause to ensure a coherent and easily comprehensible legislative framework.
11.	2.6.11	Sub-Clause 2(29) – "company in which the public are substantially interested"	Upon careful consideration of Clause 2(29)(f), the Committee identified a drafting ambiguity that could cause unintended interpretations. The provision should be amended to make it clear that the conditions for classification—namely, stock exchange listing and specific public/government shareholding—are alternative, not cumulative. The Ministry accepted this as a necessary drafting correction to align with the original legislative intent. In light of this, the Committee recommend that the Ministry amend the provision to ensure these criteria are distinctly articulated, which is vital for simplifying

Sl. No	Para No	Clause No.	Observation/Recommendation
			compliance and reducing the scope for future litigation.
12.	2.6.12 2.6.12.2	Sub-Clause 2(35) – "demerger"	The Committee, having thoroughly examined sub clause 2(35) along with justification given by the Ministry, note that the said sub clause is mere textual simplification of the Section 2(19AA) of the Income-tax Act, 1961. The Committee note that the intent of the corresponding section of the old Act has been retained in the current provision with enhanced clarity. The Committee, therefore, accept the sub lause 2(35) as proposed.
13.	2.6.13	Sub-Clause 2(40) – "dividend"	The Committee observe that the proposed Clause 2(40) of the Income-Tax Bill, 2025, provides an inclusive definition of the term 'dividend' and corresponds to Section 2(22) of the Income-Tax Act, 1961. This definition is crucial as it outlines various types of corporate distributions that are treated as dividend income for tax purposes, including essential anti-abuse provisions related to deemed dividends. The Committee note that intent of the corresponding section from the 1961 Act have been retained without any substantive deviation. The primary revision in the proposed clause is the textual simplification and logical re-ordering of its components, which aligns with the Bill's objective of enhancing clarity. The justification provided by the Ministry for retaining the existing principles within this simplified structure is found to be satisfactory. Therefore, the Committee accept Clause 2(40) as proposed by the Ministry and recommend no change.
14.	2.6.14	Sub-Clause 2(48) – "hearing"	The Committee note that this subclause, corresponding to Section 2(23C) of the Income-tax Act, 1961, formally incorporates modern communication methods into the legal framework. The Committee note that explicitly including the 'communication of data and documents through electronic mode' within the definition is a crucial step towards providing statutory backing for virtual and faceless proceedings. The Ministry's justification is that this inclusive definition provides clarity and is sufficient to cover virtual interactions, which the Committee find satisfactory. Therefore, recognizing that this definition codifies current administrative practices and supports the digital transformation of tax administration, the Committee accept Clause

Sl. No	Para No	Clause No.	Observation/Recommendation
			2(48) as proposed and recommend no change.
15.	**2.6.15**	**Sub-Clause 2(49) – "income"**	***Sub-Clause 2(49) – "income"*** **Upon careful consideration of Clause 2(49), the Committee note a drafting error in sub-clause (x) that undermines the Bill's objective of being a self-contained legislative code, making reference to the Income-tax Act, 1961. The Ministry accepted this as an inadvertent drafting error and agreed to the omission. In light of this, the Committee recommend the Ministry to remove reference to the old Act 1961 from the body of the Bill and by clubbing it in the Savings clause 536 of the Bill. The rest of the provision of the subclause may be accepted as proposed.**
16.	**2.6.16**	**Sub-Clause 2(50) – "Income Computation and Disclosure Standards"**	**Committee note that this clause provides a direct reference point for the standards notified under Section 276(2) of the Bill, which are essential for computing income under certain heads. The Committee are of the opinion that placing this definition in Clause 2 improves the the structural coherence and accessibility of the Bill while maintaining an established legal principle, the Committee accept Clause 2(50) as proposed and recommend no change.**
17.	**2.6.17**	**Sub-Clause 2(55) – "infrastructure capital company"**	**The Committee upon consideration of Clause 2(55), note that the definition of 'infrastructure capital company' relies on cross-references to provisions in the repealed Income-tax Act, 1961, leading to unnecessary complexity. The Committee, therefore, recommend the Ministry to incorporate the full definition of 'infrastructure facility' in the new Bill itself, remove reference to the old Act and make the current Bill self-contained by clubbing it in the savings clause 536 of the Bill appropriately.**
18.	**2.6.18**	**Sub-Clause 2(72) – "Non-Resident"**	**The Committee note that this clause, corresponds to Section 2(30) of the Income-tax Act, 1961, and defines a 'non-resident' by reference to the primary residency tests contained in Clause 6 of the Bill. The Committee find that this cross-referential approach is structurally sound, placing the basic definition in the main definitional clause while the detailed criteria for**

Sl. No	Para No	Clause No.	Observation/Recommendation
			determination remain in the operative section. The Ministry's justification for retaining this definitional structure is that the term is used extensively throughout the Bill, and this approach provides necessary consistency while avoiding repetition. Therefore, recognizing that the proposed clause preserves the established legal meaning within a logical legislative structure, the Committee accept Clause 2(72) as proposed and recommend no change.
19.	**2.6.19**	**Sub-Clause 2(86) – "Profession"**	**Committee note that this clause, corresponds to Section 2(36) of the Income-tax Act, 1961, states that 'profession' includes 'vocation'. The Committee note that this is a settled legal concept, having been part of India's tax statutes and upheld by judicial pronouncements, including by the Supreme Court. The Ministry's detailed justification, highlighting that this approach is also consistent with global best practices, is found to be satisfactory. Therefore, the Committee accept Clause 2(86) as proposed and recommend no change.**
20.	**2.6.20**	**Sub-Clause 2(101) – "short-term capital asset"**	**After the consideration of Clause 2(101), the Committee identified a crucial drafting error in sub-clause (c)(A) that could have lead to an incorrect application of holding period rules for a company in liquidation. The provision in sub-clause (c)(A) should be amended to explicitly state that the exclusion of the post-liquidation period from the holding period computation applies specifically to shares. The Ministry acknowledged this as an inadvertent drafting error and confirmed its acceptance of the necessary textual addition to clarify this point. In light of this, the Committee recommend that the Ministry amend the provision as stated, as rectifying such drafting oversights is paramount for creating a robust legislative text and providing clarity on the tax treatment of shares in companies undergoing liquidation.**
21.	**2.6.21**	**Sub-Clause 2(103) – "slump sale"**	**The Committee note that this clause, corresponds to Section 2(42C) of the Income-tax Act, 1961, and it has been textually simplified as part of the Bill's redrafting, while retaining the core principle of a transfer of an undertaking for a lump sum consideration. The Committee accept the Ministry's**

Sl. No	Para No	Clause No.	Observation/Recommendation
			justification that a specific explanation cross-referencing the definition of 'transfer' was removed as a simplification measure. This is because the comprehensive definition of 'transfer' provided in Clause 2(109) of the Bill applies to all provisions, making the separate explanation redundant. Therefore, the Committee accept the Clause 2(103) as proposed and recommend no change.
22.	**2.6.22**	**Sub-Clause 2(108) – "Total Income"**	**The Committee have reviewed Clause 2(108), which defines 'Total Income' and corresponds to Section 2(45) of the 1961 Act. The Committee note that the definition is foundational, establishing that total income is computed based on the comprehensive provisions laid out across the Act. The Committee concurs with the Ministry's justification that a broad reference to the Act's overall computation method is essential for its correct application to all classes of taxpayers and income. Accordingly, the Committee recommend no changes in the Clause 2(108).**
23.	**2.6.23**	**Recommendation for the rest of Sub-clauses of Clause 2**	**The Committee have examined in detail Clause 2 of the Income-tax Bill, 2025, which lays down the definitional background of the proposed legislation through 112 distinct sub-clauses. Committee note that there are 23 newly added definations in the bill 2(1) "accountant", 2(30) "convertible foreign exchange", 2(31) "co-operative bank", 2(33) "currency", 2(47) "foreign currency", 2(50) "Income Computation and Disclosure Standards", 2(54) "Indian currency", 2(61) "International Financial Services Centre", 2(71) "non-banking financial company", 2(73) "notification", 2(74) "partner", 2(75) "partnership", 2(76) "Permanent Account Number (PAN)", 2(78) "person of Indian origin", 2(87) "public sector bank", 2(92) "recognised stock exchange", 2(95) "Reserve Bank of India", 2(98) "scheduled bank", 2(99) "Securities and Exchange Board of India", 2(100) "senior citizen", 2(104) "Special Economic Zone", 2(105) "stamp duty value", and 2(110) "Valuation Officer".** **The definitions in this clause serve as reference points for the provisions across the Bill. The Committee note that this Clause draws substantially from Section 2 of the existing Income-tax Act, 1961, with modifications made largely for purposes of textual simplification, harmonisation with**

Sl. No	Para No	Clause No.	Observation/Recommendation
			contemporary laws, and introduction of modern terms.Upon scrutiny of the stakeholder engagement process, the Committee observe that substantive views or suggestions from experts, professional bodies, or industry associations were received only on a select number of key definitions on around 22 sub-clauses, mostly involving policy shifts, or sectoral ramifications. These include terms such as "accountant", "charitable purpose", "books of account", etc. among others. **In contrast, for the vast majority of sub-clauses under Clause 2, no stakeholder comments were received. The Committee understand this absence not as a sign of neglect, but rather as an indication of broad-based acceptance of the provisions concerned. Many of these definitions pertain to statutory designations (such as "Additional Commissioner", "Joint Director", "Principal Commissioner"), procedural terms (like "assessment", "advance tax", "firm"), or references to institutions and roles already well-established in the statutory ecosystem. In several such cases, the Bill either replicates the 1961 Act with updated language or aligns with contemporary definitions in the major legislations including the Companies Act (sub-clause 2(29), 2(35), 2(38)) , Banking Regulation Act (sub-clause 2(31)), Bharatiya Nyaya Sanhita, 2023 (sub-clause 2(89)); Foreign Exchnage Management Act,1999 ((sub-clause 2(30), 2(33)) the Information Technology Act(sub-clause 2(41)) etc.** **After extensive deliberations on all of the subclauses in Clause 2, the Committee find that the sub-clauses not commented on above are legally sound and well-aligned with the proposed legislation. Therefore, the Committee recommend that the remaining sub-clauses under Clause 2 be accepted as proposed in the Income-tax Bill, 2025.**
24.	**3.6**	**Clause 3 Definition of "tax year".**	**Committee find that Clause 3 of the Bill proposes a significant change by replacing the dual concepts of "previous year" and "assessment year" with a single, unified term: "tax year". The Committee note that this change represents a major simplification, addressing a long-standing point of confusion for countless taxpayers. The adoption of a**

Sl. No	Para No	Clause No.	Observation/Recommendation
			single, consistent "tax year" streamlines tax period references throughout the legislation, making the law more accessible and easier to understand. Despite many countries using a calendar year, the Bill retains India's traditional April to March cycle.The Committee believe that this definitional clarity is a commendable step towards enhancing the ease of comprehension and compliance, thereby aligning the Bill with its core objective of simplifying the tax framework. Accordingly, the Committee accept Clause 3 as it stands.
25.	**4.6.1**	**Clause No. 4:Charge of income-tax <u>Sub clause 4(1)</u>**	**The Committee, after a careful review of Clause 4(1), identified a need to enhance its clarity to avoid legal ambiguity regarding the application of tax rates. The Committee, therefore, propose that in Clause 4(1), the phrase "subject to the provisions of this Act" be incorporated. The Ministry conveyed its acceptance of this change as a necessary drafting correction. Accordingly, the Committee recommend that the Ministry amend the clause accordingly.**
26.	**4.6.2**	**Clause No. 4:Charge of income-tax <u>Sub clause 4(5)</u>**	**The Committee, during deliberation on Clause 4(5), identified a drafting omission that could affect the comprehensive application of tax collection mechanisms . Accordingly, the Committee recommend that Clause 4(5) be amended to explicitly clarify that its provisions for tax collection through deduction at source, collection at source, and advance payment apply to all income chargeable under Clause 4, including income mentioned in sub-section (4).The Committee further accept the remaining provisions of Clause 4 as proposed.**
27.	**5.4**	**Clause No. 5 : Scope of total income**	**The Committee, after a detailed examination of Clause 5 of the Income-tax Bill, 2025, which defines the scope of total income, note that the provision corresponds to Section 5 of the Income-tax Act, 1961. The Committee observe that the structure and language of the clause have been simplified, while the substantive legal position regarding the taxation of income based on residential status—whether resident, not ordinarily resident, or non-resident—has been retained without alteration.The Committee also take note of the Ministry of Finance's justification that the intent and coverage of the existing provision**

Sl. No	Para No	Clause No.	Observation/Recommendation
			remain unchanged, and that the revisions are only intended to enhance clarity and readability. The Committee further observe that no material concerns or substantive objections have been raised by stakeholders with respect to this clause.Accordingly, the Committee find the proposed Clause 5 to be in line with the existing legal framework and accept the clause as it stands.
28.	**6.6.1**	**Clause No. 6: Residence in India.** **<u>Subclause 6(1)</u>**	**The Committee, during the review of Clause 6(1), identified a textual ambiguity that could inadvertently limit the scope of the provision for determining residential status. The Committee, therefore, recommended that the Clause 6(1), the wording be amended to clarify that the clause applies to determining the residence in India of any person, not just persons who are already physically present in the country. This modification is essential for minimizing potential disputes over jurisdiction.**
29.	**6.6.2**	**Clause No. 6: Residence in India.** **<u>Subclause 6(3)(b)</u>**	**The Committee, after a review of Clause 6(3), identified that a change in wording from the previous Act could unintentionally narrow the scope of an important exemption for Indian citizens leaving the country for work. The Committee, therefore, recommend that in Clause 6(3)(b), the phrase "for employment outside India" be substituted with "for the purposes of employment outside India" to avoid ambiguity and align with settled judicial interpretation .**
30.	**6.6.3**	**Clause No. 6: Residence in India.** **<u>Subclause 6(13)</u>**	**The Committee, during the delibertaions on Clause 6(13), identified an omission in sub-clause (b)(ii) that could create ambiguity in its application when determining residential status . The Committee, accordingly, recommend that Clause 6(13)(b)(ii) be amended to explicitly state that the presence requirement of "one hundred and twenty days or more" pertains to the current tax year. The Committee further accept the remaining provisions of Clause 6 as proposed.**
31.	**7**	**Clause No.7: Income deemed to be received**	**The Committee, after a careful review of Clause 7, identified a structural issue arising from the merger of two distinct provisions from the previous Act, which were historically in separate sections . The Committee, therefore, recommend that the clause be amended to better distinguish between its two**

Sl. No	Para No	Clause No.	Observation/Recommendation
			components: general 'income deemed to be received' and the specific 'deeming of dividend income for a year'. This will lead to better readability and will minimize potential misinterpretations regarding the scope of the provision, ensuring absolute clarity in categorization.
32.	8.4	Clause No. 8: Income on receipt of capital asset or stock-in-trade by specified person from specified entity.	The Committee note that Clause 8 of the Income-tax Bill, 2025 corresponds to Section 9B of the Income-tax Act, 1961 and deals with the tax implications arising from the receipt of capital assets or stock-in-trade by a specified person from a specified entity in the event of its dissolution or reconstitution.The Committee also note that necessary definitions have been retained, and the existing provisions have been textually simplified while retaining their original intent. Since no major concerns were raised by stakeholders and the Ministry has clarified that there is no change in intent or substance, the Committee are of the view that the proposed clause faithfully carries forward the original provision and improves its readability. Accordingly, the Committee recommend acceptance of Clause 8 as proposed in the Bill.
33.	9.6.1	Clause No 9: Income Deemed to Accrue or Arise in India <u>Subclause 9(5)</u>	The Committee, after a careful review of Clause 9(5), identified drafting issues related to incorrect referencing and structural incoherence that could affect its interpretation. The Committee, therefore, recommend that in Clause 9(5)(b), the reference be corrected to point to the broader Clause 9(5)(a), and that sub-clauses 9(5)(b)(i) and (ii) be combined to improve logical flow and textual coherence.
34.	9.6.2	Clause No 9 <u>Subclause 9(6)</u>	The Committee, upon deliberations on Clause 9(6), identified a critical typographical error in sub-clause (a)(iii)(B) that could significantly alter the scope of taxable royalty income for non-residents . The Committee, therefore, recommend that in the said sub-clause, the phrase "making or earning any income from any source outside India" be corrected to read "making or earning any income from any source in India".
35.	9.6.3	Clause No 9 <u>Subclause 9(8)</u>	The Committee, after a review of Clause 9(8)(c), identified that a key qualifying phrase appeared to have been inadvertently omitted from sub-clauses

Sl. No	Para No	Clause No.	Observation/Recommendation
			(ii)(A) and (B), which could lead to ambiguity in applying these crucial exclusions 1111. The Committee, therefore, recommend that in Clauses 9(8)(c)(ii)(A) and (B), the phrase "in case of Non-resident" be added to align the provision with the corresponding sections of the prevailing Income-tax Act, 1961.
36.	**9.6.4**	**Clause No 9 <u>Subclause 9(10)</u>**	**The Committee, after reviewing sub-clause 9(10), identified a misspelt word. The Committee, therefore, recommend that in Clause 9(10)(b), the word "accure" be corrected to read "accrue". The Committee further accept the remaining provisions of Clause 9 as proposed.**
37.	**10.6**	**Clause No 10: Apportionmenet of income between spouses governed by Portuguese Civil Code.**	**The Committee, after considering Clause 10 of the Income-tax Bill, 2025, which relates to the apportionment of income between spouses governed by the Portuguese Civil Code, note that the provision corresponds to Section 5A of the Income-tax Act, 1961. The Clause retains the existing position regarding taxation of income of spouses who are governed by the community of property system in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu.** **The Committee deliberated on a suggestion regarding deletion of the provision on the grounds that there is no longer a need for a separate tax treatment based on the Portuguese Civil Code, and that a uniform tax regime should now be applicable more than sixty years after Goa's liberation. However, the Committee note the Ministry's response that the provision reflects a long-standing and settled legal treatment, and its deletion would amount to a broader policy change beyond the scope of the present Bill. Accordingly, the Committee are of the view that Clause 10, which simplifies the language of the existing provision without altering its intent, may be accepted as proposed.**
38.	**11.6.1**	**Clause No.11: Incomes not to be included in total income** **<u>Subclause 11(4)</u>**	**The Committee, after a careful review of Schedule II, identified a significant drafting error concerning the tax exemption for Unit Linked Insurance Plans (ULIPs) as outlined in Sl. No. 2, specifically in items 4 and 5, Column C. The Committee, therefore, recommend that in the relevant parts of Schedule II, the word "all" be replaced with the word "any" to**

Sl. No	Para No	Clause No.	Observation/Recommendation
			ensure parity between the existing Act and the Bill. The Committee, having examined the clause in its entirety, endorse the remaining provisions of Clause without any modifications.
39.	11.6.2	Clause No.11: Schedule II	The Committee, after a careful review of Schedule II, identified a significant drafting error concerning the tax exemption for Unit Linked Insurance Plans (ULIPs) as outlined in Sl. No. 2, specifically in items 4 and 5, Column C. The Committee, therefore, recommend that in the relevant parts of Schedule II, the word "all" be replaced with the word "any" to ensure parity between the existing Act and the Bill. The Committee, having examined the clause in its entirety, endorse the remaining provisions of Clause without any modifications.
40.	12.4	Clause No.12: Incomes not to be included in total income of political parties and electoral trusts	The Committee, after examining Clause 12 of the Income-tax Bill, 2025, note that it relates to the exemption of certain incomes of political parties and electoral trusts from inclusion in total income. The Committee observe that the clause corresponds to Sections 13A and 13B of the Income-tax Act, 1961 and retains the substance of those provisions and present them in a simplified and consolidated manner through a newly introduced Schedule VIII. The Committee also note that the structure of Schedule VIII consolidates information in a tabular format, enhancing clarity and ease of compliance. The Committee find that there is no change in the intent or scope of the provision compared to the existing law, and the proposed drafting seeks to improve accessibility and administrative efficiency. No comments have been raised by stakeholders in this regard.Accordingly, the Committee are of the view that Clause 12 may be accepted as proposed.
41.	13.6	Clause No. 13: Heads of income	The Committee, after examining Clause 13 of the Income-tax Bill, 2025, note that it relates to the classification of income under specified heads for the purpose of computation, corresponding to Section 14 of the Income-tax Act, 1961. The provision maintains the existing five heads of income viz. salaries, income from house property, profits and gains of business or profession, capital gains, and income from other sources and presents them in a simplified and coherent manner.The Committee observe that the clause retains the scope and intent of the existing

Sl. No	Para No	Clause No.	Observation/Recommendation
			provision without any substantive alteration, and no concerns have been raised by stakeholders in this regard.
42.	14.6	Clause No. 14: Income not forming part of total Income and expenditure in relation to such Income	The Committee, upon review of Clause 14 of the Income-tax Bill, 2025, note that it relates to the disallowance of expenditure incurred in relation to income which does not form part of the total income. The clause corresponds to the existing Section 14A of the Income-tax Act, 1961 and seeks to maintain the underlying principle that no deduction shall be allowed for expenses incurred to earn exempt income. The Committee observe that the provision has been retained in substance and merely restated with minor editorial simplifications. No concerns or suggestions were raised by stakeholders regarding the clause.In light of the above, the Committee endorse Clause 14 as proposed, without suggesting any modification.
43.	15.6	Clause No.15: Salaries	The Committee, after examining Clause 15 of the Income-tax Bill, 2025, note that it pertains to the chargeability of income under the head "Salaries" and corresponds to Section 15 of the Income-tax Act, 1961. The provision continues to follow the principle that salary income is taxable either on due basis or on receipt, whichever is earlier, and covers various categories of payments including advances, arrears, and dues from past employment.Accordingly, the Committee are of the view that Clause 15 may be accepted in its current form without any amendment.
44.	16.4	Clause No.16:Income from Salary	The Committee, after examining Clause 16 of the Income-tax Bill, 2025, note that it defines the scope of income to be taxed under the head "Income from Salary." The Committee further note that this clause corresponds to Section 17(1) of the Income-tax Act, 1961. It retains the essential components of 'salary'—such as wages, pension, gratuity, and leave encashment—while simplifying the text without making any substantive changes. Accordingly, the Committee recommend that Clause 16 may be accepted as proposed.
45.	17.6	Clause No. 17:	The Committee note that while Clause 17(1)(a)

Sl. No	Para No	Clause No.	Observation/Recommendation
		Perquisite **<u>Subclause 17(1)(b)</u>**	**includes the phrase "computed in such manner, as prescribed," the corresponding provision in Clause 17(1)(b) lacks this reference, potentially leading to ambiguity in interpreting the valuation method for concessional accommodation.The Committee, therefore, recommend that in Clause 17(1)(b), the phrase "computed in such manner, as prescribed" be explicitly inserted, mirroring the language used in Clause 17(1)(a). Accordingly, the Committee recommend that the Ministry amend the clause as proposed. The Committee further accept the remaining provisions of the Clause 17 as proposed.**
46.	**18.4**	**Clause No. 18: Profits in lieu of Salary**	**The Committee, after examining Clause 18 of the Income-tax Bill, 2025, note that it relates to the definition and scope of "profits in lieu of salary," and corresponds to section 17(3) of the Income-tax Act, 1961. The Committee observe that the clause seeks to enumerate various payments such as compensation on termination or modification of employment terms, amounts received before joining or after cessation of employment, payments from funds not comprising employee contributions, etc. that are to be treated as profits in lieu of salary for taxation purposes.The Committee note that the provision retains the substance of the existing law but improves readability. Accordingly, the Committee are of the view that Clause 18 may be accepted as proposed.**
47.	**19.6**	**Clause No 19: Deductions from salaries** **(Schedule VII)**	**The Committee, after a careful review of Clause 19, identified a gap in the equitable tax treatment of commuted pension for different types of recipients. The Committee, therefore, recommend that a deduction for commuted pension, similar to that available to employees under Clause 19, be explicitly allowed under the head "Income from other sources" for non-employees who receive such pension from a fund. Accordingly, the Committee finds no further modifications are necessary for Clause 19 and recommend the acceptance of its remaining provisions as drafted.**
48.	**20.6**	**Clause No. 20:**	**The Committee, upon reviewing of Clause 20,**

Sl. No	Para No	Clause No.	Observation/Recommendation
		Income from house property Subclause 20(2)	identified a change in wording in 20(2) from the previous Act that could lead to an incorrect tax treatment for certain business properties . The Committee, therefore, recommend that in Clause 20(2), the word "occupied" be replaced with the phrase "as he may occupy" to ensure that temporarily unutilized or ready-to-use business properties are clearly excluded from taxation under the house property head. Accordingly, the Committee, recommend that the Ministry amend the clause as proposed to accurately delineate the scope of "Income from house property". The Committee further accept the remaining provision of the Clause 20 as proposed.
49.	21.6	Clause No.21: Determination of annual value. Subclause 21(2)	The Committee, after a careful review of Clause 21, identified drafting issues in 21(2) that could lead to ambiguity in determining the annual value for properties experiencing vacancy. The Committee, therefore, recommend two key changes: first, that the phrase "in normal course" be deleted, and second, that the clause be amended to explicitly provide for a comparison of the actual rent received with the "deeming rent," as was available in the existing Act. Committee believe these adjustments are vital for enhancing fairness, reducing ambiguity in the valuation of vacant properties, and leading to a more equitable tax treatment for property owners. The Committee, further, recommend that rest of the Clasues may be accepted in their current form.
50.	22.6	Clause No.22: Deductions from income from house property. Subclause 22(1) and 22(2)	The Committee, after deliberations on Clause 22, identified the need to clarify the computation of deductions to enhance fairness and transparency for property owners. The Committee, recommend two key amendments: firstly, in Clause 22(1)(a), to explicitly state that the standard 30% deduction is computed on the annual value after deducting municipal taxes; and secondly, in Clause 22(2), to ensure the deduction for pre-construction interest is available for let-out properties in addition to self-occupied ones, aligning it with the existing Act. Further, the Committee accept the remaining provisions of Clause 22 as proposed in the Bill.
51.	23.4	Clause No. 23:	After thorough deliberation on Clause 23, the

Sl. No	Para No	Clause No.	Observation/Recommendation
		Arrears of rent and unrealised rent received subsequently	**Committee observe that its provisions for taxing subsequently received arrears of rent and unrealised rent correspond to Section 25A of the 1961 Act. Finding that the clause is a textual simplification which retains the original substance, the Committee recommend its acceptance as it stands.**
52.	**24.6**	**Clause No.24:Property owned by co-owners**	**The Committee observe that Clause 24, corresponding to Section 26 of the Income-tax Act, 1961, sets out the provisions for taxing income from properties that are co-owned with definite and ascertainable shares.The Committee observe that the proposed clause is a textual simplification of the existing law, preserving its core intent and application without any substantive deviation. Therefore, the Committee accept Clause 24 as proposed by the Ministry and recommend no modification.**
53.	**25.6**	**Clause No.25 :Interpretation.**	**The Committee deliberated upon Clause 25, which provides the interpretative definition of 'owner' for the purposes of computing income from house property. This clause, corresponding to Section 27 of the Income-tax Act, 1961, consolidates the various scenarios of deemed ownership into a single, cohesive provision. The Committee observe that the clause retains the established legal principles and preserves necessary anti-abuse provisions while simplifying the language. Therefore, the Committee accept Clause 25 as proposed and recommend no change.**
54.	**26.6**	**26**	**The Committee, upon examination, note some drafting errors i.e. the usage of words 'named' and 'input' in Clause 26(2)(b) and in Clause 26(2)(e) respectively. The Committee thus, recommend that in Clause 26(2)(b), the word *'named'* be replaced with *'name'*, and in Clause 26(2)(e), the word *'input'* be substituted with *'import'*.** **Furthermore, the Committee recommend that necessary amendments be carried out in the Bill to ensure consistent application and smooth transition of Section 35AD into the new Income-Tax Bill (ITB), 2025. Specifically, Clause 26(2)(k) should incorporate a provision stating that any amount received from the sale of a capital asset acquired and used for the purpose of a specified business for which 100%**

Sl. No	Para No	Clause No.	Observation/Recommendation
			deduction was claimed under Section 35AD of the Income-Tax Act, 1961 shall be taxed as business income if such asset is sold on or after the date on which the new Income-Tax Bill comes into effect. Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause subject to the above proposed modifications.
55.	27.4	27	The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands.
56.	28.6	28	The Committee, upon examination, note that in Clause 28(1), the words "wholly and exclusively" are not necessary as if the premises, etc., are used only partly for business purposes, then provision for making disallowance has already been made under Clause 28(2). The Committee, thus recommend that in Clause 28(1), the words "wholly and exclusively" be omitted. The Committee further recommend that in Clause 28(1)(e), the phrase "by the premises occupied" be omitted to convey the correct meaning. Clause 28(1)(e) may accordingly be revised to read as follows: "(e) cost of repairs, not being capital expenditure, when the premises are occupied by the assessee as a tenant." The Committee also recommend that a new clause (f) be inserted after Clause 28(1)(e), since the current clause does not cover deductions for current repairs to machinery, plant or furniture. The proposed clause may read as follows: "(f) the amount paid on account of current repairs to machinery, plant or furniture." Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.
57.	29.6	29	The Committee after thorough examination and deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause

Sl. No	Para No	Clause No.	Observation/Recommendation
			29 to be acceptable as it is without any modifications.
58.	**30.4**	**30**	**The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause in entirety.**
59.	**31.6**	**31**	**The Committee, upon examination, note that the word *"irrevocable"* has been usedin the third and eighth lines of Clause 31(3)(b). The Committee feel that the word *"irrecoverable"* is more appropriate in the context of bad debts. The Committee, thus, recommend that in the third and eighth lines of Clause 31(3)(b), the word *"irrevocable"* may be substituted with *"irrecoverable"*.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
60.	**32.6**	**32**	**The Committee, upon examination, note that the term *"financial corporation"* has been used in Clause 32(1)(e)(ii)(A)(I) which is not defined under Section 2(72) of the Companies Act, 2013 (CA-13). The Committee, thus recommend that in Clause 32(1)(e)(ii)(A)(I), the term *"financial corporation"* be replaced with *"public financial institution"*, as the latter is the term defined under Section 2(72) of the Companies Act, 2013 (CA-13), whereas the term *"financial corporation"* is not defined therein.** **Further, with respect to Clause 32(1)(e)(ii)(C)(III), the Committee recommend that the expression *"an undertaking referred to in sub-section (10) of Section 80-IB of the Income-tax Act, 1961"* be used instead of *"an undertaking referred to in section 141(5)"*, as no such Section 141(5) exists in the draft Income-Tax Bill, 2025. The Committee on similar lines of reproducing definition of 'infrastructure facility' in the Bill from the Income-Tax Act, 1961, also urge for reproducing the definition of 'undertaking' instead of the expression "*an undertaking referred to in sub-section (10) of Section 80-IB of the Income-tax Act, 1961".* The same may be appropriately done by clubbing in the savings clause 536.** **With regard to provision 32(1)(h) for**

Sl. No	Para No	Clause No.	Observation/Recommendation
			disallowance of Marked to Market (MTM) losses not computed as per Income Computation and Disclosure Standards (ICDS), the Committee recommend that the same be provided for in Clause 32(1)(h) of the Bill. **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
61.	**33.6**	**33**	**The Committee, upon examination of Clause 33 of the Income-tax Bill, 2025, observe that the phrase "intangible assets acquired" under Clause 33(1)(b) does not specify a cut-off date. Under the provisions of the Income-tax Act, 1961, depreciation on intangible assets is allowed only for those acquired on or after 1st April, 1998. The Committee thus, recommend that in Clause 33(1)(b), the words *"acquired on or after the 1st day of April, 1998"* be inserted after the phrase *"intangible assets acquired"*, to ensure that depreciation is allowed only on those intangible assets acquired after the specified date, in line with the provisions of the 1961 Act, and not on all such assets.** **Further, with regard to the Clause, the Committee recommend that the term *"tangible assets"* be used in place of *"block of assets"*. This is because the term "block of assets" implies the inclusion of intangible assets as well for the purpose of computing the proportionate part used for business. However, under the 1961 Act, depreciation in such cases is restricted to a fair proportion as determined by the Assessing Officer and is applicable only to tangible assets that are either partly or not wholly and exclusively used for business purposes.** **In addition, the Committee recommend that the reference to sub-section (8) be deleted from sub-section (4), since sub-section (9) already contains a specific provision that restricts additional depreciation to 50% where the asset is acquired and put to use for less than 180 days.** **The Committee also recommend that a reference to Clause 33(3) be added in Clause 33(4), as Section (3) deals with the rate of depreciation applicable in the case of a block of assets.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			To enhance clarity in Clause 33(9), the Committee recommend that the condition precede the rate in sub-clauses (a) and (b), and that the sub-section be redrafted as follows: **(9) The additional deduction referred to in sub-section (8) shall be—** **(a) If the new plant and machinery is acquired and put to use for 180 days or more in the relevant tax year, 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; or** **(b) In other cases, 10% of the actual cost, and the remaining 10% shall be allowed in the immediately succeeding tax year.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
62.	**34.6**	**34**	**The Committee after thorough deliberation upon the provisions of the Clause and the justification given by the Ministry of Finance find the provisions of the proposed Clause 34 to be acceptable as it is without any modifications.**
63.	**35.6**	**35**	**The Committee, upon examination, note that the reference to Section 200 of the Companies Act, 1956, in Schedule III, Table, at S. No. 10(c), as cited in Clause 35(a)(ii), is erroneous. The corresponding provisions under Section 200 of the 1956 Act do not exist in the Companies Act, 2013. Additionally, Schedule III, Table at S. No. 10(c) already provides that the exemption on perquisites is available even if such perquisite is paid, regardless of Section 200 of the Companies Act, 1956, thereby rendering the reference redundant, the Committee thus recommend that the provisions in Schedule III, Table, at S. No. 10(c), as referred to in Clause 35(a)(ii), be omitted.** **Further, with respect to situations where tax is deducted in one year but paid after the due date for filing the return in the subsequent year which is not currently addressed in Clause 35(b)(i)and (ii), the Committee recommend that explicit provisions be incorporated in the respective clauses to address such cases.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			The Committee further recommend that Clause 35(d) be omitted, as the Government's amendments to the Finance Act, 2025, have removed the Equalization Levy on specified services, rendering this clause redundant. **Regarding Clause 35(e), the Committee recommend that it be redrafted to ensure that the phrase "a State Government undertaking or by the State Government" clearly applies to both sub-clauses of Clause 35(e) of the Bill.** **The Committee would also like to recommend redrafting of Clause 35(f)(iv) and (v) for providing better clarity as below:** **(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum,** **(v) In this clause—** **(A)"book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IVD as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;** **(B)"working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;** **(C) where an individual is a partner in a firm, on behalf of or for the benefit of any other person, such partner and any other person shall be referred as a "representative partner" and the "person so represented", respectively, then the provisions of sub-clause (ii) and (iv)—** **shall not be applicable in respect of interest paid to such individual not as a representative partner;** **shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;** **shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line**

Sl. No	Para No	Clause No.	Observation/Recommendation
			with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.
64.	**36.6**	**36**	**The Committee recommend that the page margin accompanying Clause 36 be corrected to read *"Expenses or payments not deductible in certain circumstances"* instead of *"Expenses or payments not deductible in certain circmstances"*, in order to ensure grammatical accuracy and correct spelling.** **Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to above proposed modification.**
65.	**37.6**	**37**	**The Committee observe that Clause 37(1) does not clearly specify whether expenses that are specifically disallowed under other provisions of the Income-tax Bill, 2025, can still be claimed under this clause on the basis of actual payment. The Committee recommend that to provide clarity and ensure that no ambiguity arises regarding whether expenses specifically disallowed under other provisions of the Income-Tax Bill, 2025, can be claimed under Section 37 on the basis of actual payment; the phrase *"otherwise allowable"* be inserted in Clause 37(1).** **The Committee also recommend that provisions similar to Explanation 2 to Section 43B of the Income-tax Act, 1961 defining the expression *"any sum payable"* which have presently been omitted, be incorporated into the Bill to enhance clarity and eliminate interpretational uncertainty.** **Further, the Committee recommend that the word *"advances"* at the end of Clause 37(2)(e) be replaced with the word *"borrowing"*, in order to align the new provision with the existing one and to avoid potential issues in interpretation.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
66.	**38.6**	**38**	**The Committee note the use of the word "earlier" in Clause 38(2)(a) and also observe that the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			condition in Clause 38(2)(a) is for clause 38(1) to apply viz. that "only when an allowance or deduction has been made in assessment for any earlier tax year towards the trading liability, loss or expenditure incurred". The Committee feel that this wording is repetitive and should be omitted to avoid confusion. Moreover, retaining *"earlier"* could lead to misinterpretation that if the deduction or allowance is granted in the current tax year, its remission would not be taxable, as Clause 38(2)(a) restricts the condition to allowance in an *"earlier"* tax year only. The Committee thus, recommend that in Clause 38(2)(a) the word "earlier" be removed. **The Committee further recommend that Clause 38(2)(b) should refer to section 33(2) and not section 33, being depreciation for power undertaking in line with the provisions in section 41(2) of the IT Act, 1961 and these provisions are not applicable for depreciation on WDV basis for block of assets.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
67.	**39.6**	**39**	**The Committee note that the phrase "directly or indirectly" has been used in Section 43 of the 1961 Act which provides definitions of certain terms relevant to income from profits and gains of business or profession, but has been omitted in the Bill. The Committee thus recommend that the phrase "directly or indirectly" be added in clause 39(1)(d) and 39(5)(b) of the Bill for better clarity. Including it would help preserve the original intent while simplifying the text.** **The Committee also recommend that reference made to Income-Tax Act 1961, made in Column C, Sr No. 9 of the Table in Clause 39 be removed and incorporated in Clause 536 which pertains to Repeals and Savings.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
68.	**40.4**	**40**	**The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the 1961 Act and hence accept the Clause as it is.
69.	**41.6**	**41**	**The Committee note that in Sr. No. 4 of Column B of Clause 41(1), the current drafting structure where the provision is split into sub-parts (a)(i) and (ii) results in the conditions specified under section 70(1)(c) appearing to apply only to sub-clause (ii). This creates an unintended implication that all transfers from a holding company to its subsidiary fall within the scope of the provision, even if the specific conditions under section 70(1)(c) are not fulfilled. The Committee thus, recommend that Sr. No. 4 in Column B of clause 41(1) be redrafted to avoid misinterpretation and overextension of the intended relief.** **The Committee further recommend that sr. no. 4 in column C of 41(1) also be redrafted to align the Bill with current 1961 Act wherein the expression "written down value of block of asset in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of asset in relation to the said previous tax year" has been used, while the Bill uses the expression "at the beginning of the tax year in which such transfer took place".** **The Committee also recommend the removal of bracketed portion "(for the immediately preceding tax year)" in column C of sr. no. 5 of table below clause 41(1) while determining WDV of block of assets for the demerged company for the tax yearto remove any ambiguity.** **The Committee also recommend that reference made to Income-Tax Act 1961, made in Column C, Sr No. 2 of the Table in Clause 41 and in 41(4) be removed and incorporated in Clause 536 which pertains to Repeals and Savings.** **Apart from the above recommendation(s), the Committee find the clause to be adequate and aligned with the corresponding provisions of the 1961 Act, and therefore accept the clause as it stands, subject to the proposed modifications.**
70.	**42.6**	**42**	**The Committee note that the phrase 'amount paid in Indian currency' has been used against 'B' and feel that the same is not appropriate and should be replaced with the phrase 'as expressed in Indian currency' in clause 42(2) since the asset is acquired**

Sl. No	Para No	Clause No.	Observation/Recommendation
			in foreign currency, the payment is also in foreign currency. The Committee believe that this will ensure that the Bill is in line with the 1961 Act. **Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.**
71.	**43.4**	**43**	**The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.**
72.	**44.6**	**44**	**The Committee, upon examination, note the need for the word "also" to be incorporated in Clause 44(2)(c) to affirm that deductions include other expenses listed in the remaining sub-clauses, as previously permitted in the Income-Tax Act, 1961, thereby avoiding any potential misinterpretations and thus recommend that the same be added in Clause 44(2)(c).** **The Committee further recommend that the phrase *"or ICICI Ltd."* be omitted from Clause 44(5)(c)(i), as ICICI Ltd no longer exists, having merged with ICICI Bank Ltd in 2002. Furthermore, the Committee also recommend that use of abbreviations should be avoided in the Bill.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
73.	**45.6**	**45**	**The Committee note that Clause 45(2)(c) of the Bill, which provides for an additional deduction for in-house R&D expenditure over and above the deduction allowed under Clause 45(1), currently creates doubt regarding this specific intention and thus recommend that Clause 45(2)(c) of the Bill, be redrafted to align it with the desired intent.** **Further, with respect to Clause 45(3), the Committee recommend that the same be redrafted so as to clearly specify that *"approval of scientific research"* is required from the specified authority only in the case of Clause 45(3)(c), and not for Clauses 45(3)(a)**

Sl. No	Para No	Clause No.	Observation/Recommendation
			or (b), consistent with the intent of the draft Bill and in line with the Income-Tax Act, 1961. **Regarding Clause 45(11), the Committee recommend that appropriate drafting corrections be made so that the term *"land"* is defined solely for the purpose of Clause 45(1), rather than for the entire section. This will remove the necessity to separately define *"building"*, which is currently required because both *"land"* and *"building"* have been used interchangeably in this section, while the definition of *"building"* has not been provided.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
74.	**46.6**	**46**	**The Committee, upon examination, note that there is a typographical error in cross-referencing in Clause 46(8) and thus recommend that the same be rectified i.e. "138(18) and (23)" may be replaced with "140(8) and (13)."** **Further, with regard to 46(9)(b), the Committee recommend that the Clause be redrafted to align it with the provisions of the 1961 Act as the current wordings in the Bill of Sub-section (9) suggest that if the specified asset is used for the period exceeding 8 years then there is a non compliance, which is not the intention and hence 9(b) should be redrafted as follows: "is used for a purpose other than the specified business during the period specified in clause (a)" and is not chargeable to tax under section 26(2)(k), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.** **The Committee would also like to suggest that the word "Th" may be replaced with the word "The" to remove typographical error in Clause 46(6), Column 'C', Sr No. 13.** **The Committee also recommend that reference**

Sl. No	Para No	Clause No.	Observation/Recommendation
			made to Income-Tax Act 1961, made in 46(11)(c) be removed and incorporated in Clause 536 which pertains to Repeals and Savings. Apart from the above recommendation(s), the Committee find the clause to be adequate and aligned with the corresponding provisions of the 1961 Act, and therefore accept the clause as it stands, subject to the proposed modifications.
75.	47.6	47	To align Clause 47(1) of the Bill with the existing provisions of the Act, the Committee recommend that the phrase "notified as per the guidelines issued by the Board" be replaced with the phrase "notified by the Board in this behalf in accordance with the guidelines as may be prescribed" in Clause 47(1)(b) as the former is prone to different interpretations. Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.
76.	48.6	48	The Committee note that Sub-section (2) is not in line with Para 3(2) of Schedule IX, which provides for taxability only in the case of closure of business and dissolution of firm and not in case of amount withdrawn in case of death of an assessee, partition of HUF and liquidation of company and thus recommend redrafting of the same. The Committee understand that Clause 48(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period and Rule 5(1) of Schedule IX also provides the same condition as in 48(3). Further, Rule 5(2) provides exception to rule 5(1). The Rule 5(2) of Schedule IX is to be moved to clause 48(3) as the Rule 5(2) provides for exception to provisions of clause 48(3) to bring the Bill in line with the provisions of the Income-Tax Act, 1961. Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.
77.	49.6	49	Upon examination, the Committee note that

Sl. No	Para No	Clause No.	Observation/Recommendation
			there is a need for redrafting of Sub-section (2) as Clause 49(3) taxes cost of certain assets for which deduction was claimed earlier, if asset is sold before a specified period and Rule 5(1) of Schedule X also provides the same condition as in cl. 49(3) and Rule 5(2) provides exception to Rule 5(1). The Committee thus recommend that the sub-rule 5(2) of Schedule X is to be moved to clause 49(3) as the sub-rule 5(2) provides for exception to provisions of clause 49(3). **The Committee further recommend that the words "to be installed in an industrial undertaking for the purpose of business of construction, manufacture or production of any article or thing specified in the list" be used in Rule 3(2) of Schedule X in place of " for constructing, or manufacturing or producing any items listed" to bring the Bill in line with the 1961 Act. The Bill provides that no deduction shall be allowed in respect of any amount utilized for the purchase of any new machinery or plant for constructing, manufacturing or producing any items i.e. the words 'to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list' is missing and the same needs to be rectified to align the Bill with the Income-Tax Act, 1961.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
78.	**50.4**	**50**	**The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.**
79.	**51.6**	**51**	**The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 51 to be acceptable as it is without any modifications.**
80.	**52.6**	**52**	**The Committee note that in Clause 52(b) containing provisions relating to deduction of capital expenditure being right to operate telecommunication services (license fee) and right to use spectrum for telecommunication services, the word 'license' is**

Sl. No	Para No	Clause No.	Observation/Recommendation
			appearing but word 'spectrum' is not appearing and thus recommend that the same be added at the appropriate place. **The Committee further recommend that the word "col" is to be provided in the references of the table wherever required to provide clarity to readers as to which Column is being referred to in the table.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
81.	**53.6**	**53**	**Upon examination, the Committee note that after the phrase "stamp duty" the word "value" is missing and feel that the same is required to be added to ensure that the Bill is in alignment with the Income-Tax Act, 1961 whose objective was consideration for transfer to be less than the value adopted for stamp duty purposes, while the current wording of the Bill points towards the received consideration for transfer to be less than the stamp duty itself which is a small fraction of the stamp duty value adopted. Hence, the Committee recommend that the word "value" be added after the phrase "stamp duty" to rectify the same.** **Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to the corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.**
82.	**54.6**	**54**	**Upon examination, the Committee note that the term 'mineral oil' is already defined in section 66(13) and is an unnecessary repetition in Clause 54 and hence recommend that Clause 54(8) may be deleted.** **Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.**
83.	**55.6**	**55**	**The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 55 to be**

Sl. No	Para No	Clause No.	Observation/Recommendation
			acceptable as it is without any modifications.
84.	**56.6**	**56**	**The Committee, after thorough deliberation and the justification given by the Ministry of Finance find the provisions of the proposed Clause 56 to be acceptable as it is without any modifications.**
85.	**57.6**	**57**	**With the objective of enhancing clarity and avoiding potential litigation, the Committee recommend that the language of the Clause be suitably modified. Sub-clause (2) of Clause 57 provides certain exceptions to Sub-clause (1) of the same Clause; however, both sub-clauses currently appear as independent provisions, which may give rise to ambiguity.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
86.	**58.6**	**58**	**The Committee, upon examination, note that there is a need for Clause 58(2) to be aligned with existing provisions of the Act to remove any ambiguity with respect to clearly defining the turnover (for Business, Profession, Commission Agent) in the Clause and hence, recommend the same. Subsequently, a similar alignment needs to be accordingly done in Clause 62(2) as well.** **The Committee further recommend that to avoid any misinterpretation the word "realised" should not be used in column E of Sr. No. 1 of table below clause 58(2) of the Bill as the word 'realised' has not been used in the IT Act, 1961. Further, the Committee believe that using the word 'realised' would give the impression that percentage should be computed only on amount realised and outstanding amount should not be considered.** **The Committee also recommend that the phrase "for every month or part of a month during which the vehicle is owned by the assessee during the tax year" be added in column E of Sr. No. 2 of table below clause 58(2) of the Bill as the current provision in IT Bill, 2025 does not specify Rs. 1,000 is for what period. Hence, the Committee recommend the below**

Sl. No	Para No	Clause No.	Observation/Recommendation
			wording to convey the correct meaning: **(a) The aggregate of income from goods carriage: —** **(i) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight for each vehicle, for every month or part of a month during which the heavy goods vehicle is owned by the assessee; or** **And with regard to introduction of extension for payments in specified modes after the tax year but before the due date for filing of return, the Committee recommend that the phrase "during the tax year or before the due date specified in sub-section (1) of section 263 in respect of that tax year" be added in column E of sr. no. 1 of table below clause 58 to align the Bill with the provisions of 1961 Act to avoid any litigation.** **The Committee also recommend changing wordings of Clause 58(1) to reflect that the clause provides for computing profits and is not a charging provision as the Committee feel that current provision of the Clause has become a charging section due to use of the word 'charged' and not 'computed' as the current section determines the computation of the income.** **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
87.	**59.6**	**59**	**The Committee, after thorough deliberation upon the proposals and the justification given by the Ministry of Finance find the provisions of the proposed Clause 59 to be acceptable as it is without any modifications.**
88.	**60.5**	**60**	**The Committee note that in Clause 60(3)(a), the reference to 32(i)(i) is erroneous and hence, recommend that the reference to 32(i)(i) be replaced with the appropriate reference and the Clause be accordingly redrafted. Apart from the above recommendation, the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modification.**

Sl. No	Para No	Clause No.	Observation/Recommendation
89.	61.6	61	The Committee, after thorough deliberation upon the proposals and the justification given by the Ministry of Finance find the provisions of the proposed Clause 61 to be acceptable as it is without any modifications.
90.	62.6	62	The Committee, upon examination, note that Clause 62(1)(c) just repeats the provision already mentioned in 62(4)(b) and thus, recommend that Clause 62(1)(c) be omitted. The Committee further recommend that in Clause 62(2)(d), the threshold stated as "two lakh and fifty thousand rupees" be replaced with "twenty-five lakh rupees", since the threshold limit for total sales, turnover, or gross receipts under Section 44AA(2) of the Income-Tax Act, 1961, is twenty-five lakh rupees. Making this correction will align the Bill with the 1961 Act. Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.
91.	63.6	63	The Committee, upon examination, note that there is a need for redrafting of Clause 63(1) Table Sl. No. 1 as Section 44AB of the Income-Tax Act, 1961, exempts a person whose turnover is less than Rs. 10 crores and whose cash receipts are less than 5% from the requirement of tax audit. However, the provisions proposed in the Bill do not exclude such persons from the ambit of tax audit. Therefore, the Committee feel that redrafting is necessary to align the Bill with the 1961 Act and to remove any ambiguity. The Committee further recommend modification in Clause 63(2)(b) as non-residents under presumptive scheme are excluded from maintaining books and tax audit compliance as such non-residents are not allowed to claim lower profits than provided in Cl. 61(2) (Table:Sl. No. 6) corresponding to s. 44BBD in IT Act, 1961 and thus there is no requirement of maintaining books of account or getting them audited. The Committee thus recommend that the provision in Cl. 63(2)(b) which mandates audit for such non-residents be accordingly corrected and

Sl. No	Para No	Clause No.	Observation/Recommendation
			modified. **Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.**
92.	**64.6**	**64**	**The Committee, upon examination, recommend that Clause 64 be omitted, as it duplicates the provisions of Clause 187, which provides for acceptance of payment through prescribed electronic modes. The Committee believe that omitting Clause 64 and retaining Clause 187 will ensure a more appropriate and coherent flow of content in the Bill.**
93.	**65.4**	**65**	**The Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it is.**
94.	**66.6**	**66**	**The Committee upon examination recommend the following with regard to various sub-clauses of Clause 66:** **i) 66(4): may be omitted as there is no mention of word "commodity derivative" in the Bill except for in the clause 66 which is related to interpretation, thus making the term redundant. Hence, the definition as provided in clause 66 be omitted.** **ii) 66(15): may be omitted as the reference of National Housing Bank which was in existing section 43D clause (b) of 1961 Act was omitted by the Finance (No. 2), Act, 2024.** **iii) 66(28): may be omitted as the term "rent" is not relevant since now the term "any sum payable" is used in section 35(b)(i) of Income-tax Bill, 2025.** **iv) 66(35): may be modified to incorporate for the fact that the definition of speculative transaction in the Bill misses the condition wherein eligible transaction is not a speculative transaction where STT and CTT is paid i.e. Section 43(5) of the Income-tax Act, 1961 provided that an eligible transaction in respect of trading in**

Sl. No	Para No	Clause No.	Observation/Recommendation
			derivatives and commodity derivatives carried out in a recognized stock exchange are not speculative transactions, if STT and CTT have been paid and these exclusions have to be incorporated in the definition of speculative transaction in section 66(35) of the Income-tax Bill, 2025 to align it with the 1961 Act and retain the intent of the same. v) 66(45): may be omitted as the term "work" is no longer relevant, with the phrase *"any sum payable"* used in Section 35(b)(i) of the Income-Tax Bill, 2025, rendering this definition redundant. vi) 66(12) and 66(34): may be redrafted to align the definitions of *"micro"* and *"small"* enterprises respectively with the definitions notified in the Micro, Small and Medium Enterprises Development Act, 2006, rather than referring to *"as assigned to it in section 2(m)"* of that Act. This will bring uniformity in defining "Micro" and "Small" enterprises across both the MSMED Act and the Income-Tax Act, aiding MSMEs in matters related to delayed payments. Apart from the above recommendation(s), the Committee find the Clause to be adequate and in line with regard to corresponding Section(s) of the 1961 Act and hence accept the Clause as it stands subject to the above proposed modifications.
95.	67.6	67	The Committee note that Clause 67 of the Income-tax Bill, 2025 pertains to capital gains and seeks to provide for the chargeability of Income tax under the head "Capital gains" for various kinds of transfer of capital assets. The Committee also note that Clause 67 of the Bill corresponds to Section 45 of the Income-tax Act, 1961. Further, on examination of the views/suggestions given by various stakeholders and also the justification provided by the Ministry of Finance, the Committee feel that with respect to provisions mentioned in sub-clause (9), the income arising to a partner on transfer of capital asset to a firm etc. may be specifically mentioned to be charged under the head 'capital gains'. The Committee, therefore, recommend that the said sub-clause may

Sl. No	Para No	Clause No.	Observation/Recommendation
			be suitably drafted to address any ambiguity in the provisions thereof. **Further, with respect to the remaining provisions under Clause 67, the Committee observe that they have been textually simplified while retaining the original intent of the corresponding Section of the Act. However, in sub-clause (18), the Committee find a cross reference to old Act of 1961 with respect to the mention of "any amount invested by the assessee in the units referred to in section 80CCB(2) of the Income-tax Act, 1961". The Committee feel that such cross referencing is a deviation from the clean break intended through this Bill. Therefore, the Committee recommend the Ministry to remove the reference to the old Act of 1961 by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 67, without any further change.**
96.	**68.4**	**68**	**The Committee note that Clause 68 of the Income-tax Bill 2025 provides for taxation of capital gains arising from the distribution of assets by companies in liquidation and corresponds to Section 46 of the Income-tax Act, 1961. While recognizing the objective of addressing the taxation and value of consideration of money or assets received by an individual in the event of liquidation of a company, the Committee concur with the retention of the original intent and the textual simplification of the provisions under this clause. Therefore, after careful consideration of the proposal and the justifications provided by the Ministry of Finance, the Committee accept the clause as proposed.**
97.	**69.6**	**69**	**The Committee note that Clause 69 of the Income-tax Bill, 2025 provides for taxation on Capital gains on purchase by company of its own shares or other specified securities and corresponds to Section 46A of the Income-tax Act, 1961. After careful consideration of the provisions under this Clause, the Committee are of the opinion that provisions mentioned in sub-clause (1) are not in line with those of the corresponding Section of the Act such that the phrase 'of other specified securities' has not been expressly mentioned in respect of the holder**

Sl. No	Para No	Clause No.	Observation/Recommendation
			acquiring the capital gains. Therefore, in order to ensure alignment of this Clause with the relevant provisions of the corresponding Section in the existing Act, the Committee recommend the insertion of the said phrase in sub-clause (1) and the same may be redrafted to read as : **"69(1) - ….deemed to be "Capital gains" arising to such shareholder or the holder 'of other specified securities' in the year…"** **The Committee accept the remaining content of Clause 69 as proposed.**
98.	**70.6**	**70**	**The Committee note that Clause 70 of the Income-tax Bill, 2025 corresponds to Section 47 of the Income-tax Act, 1961 and seeks to delineate transactions that shall not be regarded as transfers for the purposes of capital gains taxation under Clause 67. The Committee also note that the intent and substance of the existing law have been retained in the proposed clause, with textual simplification and inclusion of a tabular format for definitions in sub-clause (2) for improved comprehension. After careful examination of the provisions in Clause 70 of the Bill – including the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee find the proposed provisions to be broadly acceptable.** **However, on observing that certain drafting refinements are desirable for improved clarity, consistency, and alignment with legislative intent, the Committee, therefore, recommend the following modifications:** **1. In Clause 70(1)(a), the phrase "by way of" be inserted before the expression "of distribution of capital assets" to enhance clarity in expression.** **2. In Clause 70(1)(l) and Clause 70(1)(m), appropriate redrafting be carried out to clarify that certain provisions of the Companies Act shall not apply in the context of demergers referred to in the said clauses.** **3. In Clause 70(1)(zd), (ze), and (zf), the phrase "remain the same" be replaced with "remain as such" to ensure consistency with the terminology used elsewhere in the Act.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			4. In the tabular portion under Clause 70(2), the Committee recommend removal of the redundant phrase from the opening portion in Column C corresponding to Sl. No. 1 in Column A, as accepted by the Ministry. 5. The Committee also note that the definition of "relocation" needs to be modified to reflect the amended cut-off date of 31st March, 2030, as per the Finance Act, 2025, in place of 31st March, 2025. Subject to the above modifications, the Committee find the provisions under Clause 70 to be acceptable.
99.	71.6	71	The Committee note that Clause 71 of the Income-tax Bill 2025, corresponding to Section 47A of the Income-tax Act of 1961, provides for withdrawal of exemption in certain cases involving capital gains from transfer of capital assets and defines tax implications concerning situations wherein specified conditions are not met after such transfers. Thorough deliberation of the proposals made with regard to the clause, including the views/suggestions of the stakeholders and the justification provided by the Ministry of Finance point to certain relevant facts. The Committee find that the proposal regarding changing the phrase containing the year of claw back in respect of violations of conditions as mentioned in clause 536(2)(q) from 'the year in which such conditions are satisfied or not complied with' to 'the year in which such transfer took place' holds good considering that transfers deemed as income chargeable under the head 'Capital Gains' must be taxed in the year in which such transfers took place. Therefore, the Committee recommend that clause 536(2)(q) (Repeal and Savings) may be suitably amended in respect of provisions pertaining to Clause 71 and accordingly, changes, if any, may be made in Clause 71 wherever necessary in order to avoid any inconsistency. Further, for the sake of clarity and to eliminate any scope of misinterpretation, the Committee also desire that the phrase 'parent company' featuring in clause 71(1)(b) may be examined and clearly defined by the Ministry of Finance. The Committee approve the rest of the provisions under clause 71 as

Sl. No	Para No	Clause No.	Observation/Recommendation
			proposed.
100.	**72.5**	**72**	**The Committee note that Clause 72 of the Income-tax Bill, 2025 provides for the mode of computation of capital gains and corresponds to Section 48 of the Income-tax Act, 1961. After thoughtful deliberation of the provisions proposed under sub-clause (4)(b), the Committee recommend that for the sake of congruity with the corresponding provision in the parent Act, the phrase "the amount" be changed to "such amount" and the modified provision be read as :** **"72(4)(b) – if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, 'such amount' received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition."** **Further, with respect to sub-clause (8), the Committee feel that in order to obtain clarity on the rate of conversion of currencies, the provision as contained in Explanation (ii) of Section 48 of the parent Act, needs to be included within the said sub-clause. Therefore, the Committee recommend that the said provision be included in sub-clause (8) as part (d) and the modified provision be read as :** **"72(8)(d) - the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;".** **Subject to the above modifications, the Committee find the provisions under Clause 72 to be acceptable.**
101.	**73.6**	**73**	**The Committee note that Clause 73 of the Income-tax Bill, 2025 provides for the cost of acquisition of the asset with reference to certain modes of acquisition and is synonymous with Section 49 of the Income-tax Act, 1961. On careful examination, the Committee find that within the provision regarding description of the capital asset as contained in Table serial number 4 of sub-clause (1), an erroneous reference has been made to Section 17(2) instead of Section 17(1)(d) which is of relevance in this case as it provides for the value of any specified security or sweat equity shares as mentioned in Table serial number 4. Therefore, the Committee recommend that the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			reference be changed from Section 17(2) to Section 17(1)(d) and the modified provision be read as : **"73(1) Table serial number 4 – Capital asset, being specified security or sweat equity shares, referred to in 'Section 17(1)(d)'".** **Further, regarding provisions relating to the cost of acquisition as contained in column C of Table serial number 15 under sub-clause (1), the Committee find that the absence of a specific mention from which the amount arrived in serial number 14 would be deducted makes the provision incomplete. The Committee feel that insertion of the phrase "the cost of acquisition of such original shares" at the beginning of the provision would accord better clarity and therefore, the Committee recommend that the phrase be suitably inserted and the modified provision be read as :** **"73(1) Table serial number 15 column C – 'the cost of acquisition of such original shares' as reduced by the amount so arrived at serial number 14".** **Furthermore, the Committee take cognizance of the fact that a cross references has been made to the Income-tax Act of 1961 with regard to specified capital asset mentioned in this clause. The Committee are of the view that such cross referencing to the IT Act, 1961 in the current Bill will necessitate the reference to a repealed Act in future and will make the exercise cumbersome and unsuitable. Thus, the Committee recommend the Ministry to remove any reference to the IT Act, 1961 from the text of specific clauses and instead create relevant provisions in the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961. Subject to the specified modifications, the Committee find the provisions proposed under Clause 73 to be acceptable.**
102.	**74.6**	**74**	**The Committee note that Clause 74 of the Income-tax Bill, 2025 defines a specific provision for computation of capital gains in case of depreciable assets and corresponds to Section 50 of the Income-tax Act, 1961. Upon careful deliberation of the provisions under sub-clause (1), the Committee note a typographical error in the form of "sub-section (4)" within this sub-clause. Considering the response of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Ministry of Finance in this regard, the Committee recommend that this phrase may be deleted from sub-clause (1) in order to reflect the factually correct position and the said sub-clause may, therefore, be redrafted to read as : **"74(1) - … the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (2), (3)".** **Further, the Committee observe that while "capital gains" in sub-clause (2) of Clause 74 have been specified to be "arising from the transfer of short-term capital assets", no such specification has been provided for "capital gains" mentioned under sub-clause (3)(b). Taking into consideration the response of the Ministry in this regard, the Committee feel that consistency in drafting must be ensured within the Clause. Therefore, for the sake of uniformity, the Committee recommend the addition of the phrase "arising from the transfer of short-term capital assets" in sub-clause (3)(b) and the same may be redrafted to read as :** **"74(3)(b) - the income received or accruing as a result of such transfer or transfers shall be deemed to be short-term capital gains 'arising from the transfer of short-term capital assets'."** **Furthermore, the Committee note that with respect to depreciation allowed on capital asset forming part of a block of assets, the provision mentioned under sub-clause (1) has a cross reference to the Income-tax Act, 1961 and also to the Indian Income-tax Act, 1922. The Committee are of the view that such cross referencing to the IT Act of 1961 or 1922 in the current Bill could result in a cumbersome exercise of repeatedly referring to repealed Acts for referencing in future. Thus, to avoid any scope for complications in future, the Committee recommend that any reference to the IT Act, 1961 or 1922 be removed from the text of specific clauses and instead relevant provisions be created within the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961 or 1922. The Committee accept the remaining provisions under Clause 74 as proposed.**
103.	**75.6**	**75**	**The Committee, after reviewing the provisions proposed under Clause 75, note that this clause**

Sl. No	Para No	Clause No.	Observation/Recommendation
			relates to a special provision for calculating the capital gains to be taxed in respect of depreciable assets by adjusting the cost of acquisition to account for the depreciated value of the asset. The Committee also observe that while this clause corresponds with Section 50A of the Income-tax Act, 1961, the provisions proposed therein stay true to the content and intent as envisaged under the parent Act. Further, after careful deliberation of the replies and justifications furnished by the Ministry of Finance, the Committee, while expressing satisfaction with the submissions of the Ministry, accept the proposed the clause in entirety.
104.	**76.6**	**76**	**The Committee note that Clause 76 of the Income-tax Bill, 2025 corresponds to Section 50AA of the Income-tax Act, 1961 and seeks to provide for a special provision for computation of capital gains in case of Market Linked Debenture by way of a defined formula/equation. After careful examination of the provisions contained in this clause, along with the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee find the proposed provisions to be broadly acceptable. Further, while taking note of the textual simplification, the Committee also observe that the intent and substance of the existing law have been retained in the proposed clause.** **The Committee, however, observe that certain drafting refinements are desirable for improved clarity, consistency, and alignment with legislative intent. The Committee, therefore, recommend the following modifications :** **1. For the purpose of enhanced clarity, within the formula for computation of short term capital gains contained in Clause 76(3), the phrase "in connection with" be inserted within the provision contained under variable 'C' and the modified provision be read as :** **"C= the expenditure incurred wholly and exclusively 'in connection with' such transfer for redemption or maturity".** **2. For making the provision contained in sub-clause (4) clearly discernible, the phrase "In**

Sl. No	Para No	Clause No.	Observation/Recommendation
			computing the income chargeable under the head "Capital gains"," be inserted and the modified provision be read as : "76(4) – 'In computing the income chargeable under the head "Capital gains"', no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004." Subject to the above modifications, the Committee find the proposed provisions under Clause 76 to be acceptable.
105.	77.6	77	The Committee, after a detailed examination of the provisions proposed under Clause 77 of the Bill, including the representations received from stakeholders and the rationale provided by the Ministry of Finance, observe that the proposed Clause seeks to govern the computation of capital gains in the event of a slump sale. The Committee note that the provisions under Clause 77 largely corresponding to those contained in Section 50B of the Income-Tax Act, 1961, and that the terminology and language have been simplified in the Bill for ease of reference without altering the legislative intent. The Committee observe that the concept of net worth, its computation methodology, and exclusions (such as ignoring revaluation of assets) have also been retained with appropriate clarification. Accordingly, the Committee find that the provisions proposed under Clause 77 are aligned with the objective of providing clarity, consistency, and continuity with the existing legal framework. The Committee, therefore, accept the provisions under Clause 77 as proposed.
106.	78.6	78	The Committee, after thorough deliberation upon the proposal made in Clause 78 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions align with the policy objective of simplifying and clarifying the legal framework. The Committee observe that Clause 78 retains the essential features of the corresponding provisions under Section 50C of the Income-Tax Act, 1961. The Committee further note that while the structure and drafting of the provision have been simplified, the substantive content and intent remain

Sl. No	Para No	Clause No.	Observation/Recommendation
			unchanged from the existing law. Accordingly, the Committee find that the Clause promotes legal clarity without altering the underlying principles. The Committee, therefore, accept the provisions under Clause 78 as proposed.
107.	**79.6**	**79**	**The Committee observe that Clause 79 of the Income-tax Bill, 2025 relates to a special provision for full value of consideration for transfer of share other than quoted share and is synonymous with Section 50CA of the Income-tax Act, 1961. After careful examination of the provisions contained in this clause, along with the justification provided by the Ministry of Finance and the suggestions received from stakeholders, the Committee note that though the provision under sub-clause (1) has been textually simplified, no reference to Clause 72 is found in the said provision, thereby relinquishing the original legislative intent and giving way to ambiguity and possible litigation. Therefore, the Committee recommend that the language of sub-clause (1) be modified to retain the reference to Clause 72 and the provision under Clause 79(1) be suitably amended to stay true to its original intent.** **Subject to the above modification, the Committee find the provisions under Clause 79 to be acceptable.**
108.	**80.6**	**80**	**The Committee note that Clause 80 of the Income-tax Bill, 2025 corresponds with Section 50D of the Income-tax Act, 1961 and prescribes that fair market value of the transferred capital asset be deemed to be the full value of consideration for taxation in cases where the same is not ascertainable. After careful consideration of the views/suggestions made by the stakeholders and the justification provided by the Ministry of Finance, the Committee, however, observe that the phrase "cannot be determined" is better suited compared to the revised phrase "unable to be determined" when referring to the gains accruing from the transfer of a capital asset. Therefore, with a view to avoid any scope for ambiguity or future litigations, the Committee recommend that the said phrase be replaced and accordingly, the modified clause be read as :** **"80 - If the consideration received or accruing from**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the transfer of a capital asset is not ascertainable or 'cannot be determined', its fair market value on the date of transfer shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains"."
109.	**81.6**	**81**	**The Committee note that Clause 81 of the Income-tax Bill, 2025 provides for advance money received regarding the transfer of a capital asset and corresponds to Section 51 of the Income-tax Act, 1961. After a detailed examination of the provisions proposed under Clause 81 of the Bill, including the representations received from stakeholders and the rationale provided by the Ministry of Finance, the Committee observe that the proposed Clause seeks to define the structure for dealing with advance payments received during negotiations for transfer of a capital asset. The Committee also note that in the provisions contained under this Clause, the terminology and language have been simplified for ease of reference without altering the legislative intent. Further, the Committee observe that the provisions proposed under this Clause seek to prevent tax avoidance by providing an unambiguous framework for the treatment of advance money received as capital gains during transfer of capital asset and have also been retained with appropriate clarification. Accordingly, the Committee find that the provisions proposed under Clause 81 are aligned with the objective of providing clarity, consistency, and continuity with the existing legal framework. The Committee, therefore, accept the provisions under Clause 81 as proposed.**
110.	**82.6**	**82**	**The Committee, after careful consideration of the proposal contained in Clause 82 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be appropriate. The Committee, noting the Ministry's justification, observe that Clause 82 corresponds to Section 54 of the Income-Tax Act, 1961, and that the drafting has been simplified without altering the substantive scope or legislative intent of the existing**

Sl. No	Para No	Clause No.	Observation/Recommendation
			provision. Accordingly, the Committee accept the Clause as proposed.
111.	**83.6**	**83**	**The Committee note that Clause 83 of the Income-tax Bill, 2025 corresponds to Section 54B of the Income-tax Act, 1961 and provides for exemption of capital gains from being taxed in certain cases regarding transfer of land used for agricultural purposes. The Committee also understand that this clause introduces a structure where capital gains accrued from the transfer of agricultural land are not immediately taxed if these are reinvested in new agricultural land within a specified period of time. Further, after careful deliberation of the views/suggestions give by stakeholders and the justification provided by the Ministry of Finance, the Committee concur with the retention of the original intent and the textual simplification of the provisions and therefore, accept the clause as proposed.**
112.	**84.6**	**84**	**The Committee, after careful consideration of the provisions contained in Clause 84 of the Income-tax Bill, 2025 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be appropriate. While noting the justifications provided by the Ministry of Finance, the Committee also observe that Clause 84 corresponds to Section 54D of the Income-Tax Act, 1961, and that the drafting of the provisions under this Clause has been simplified without altering the substantive scope or legislative intent of the existing provision. Accordingly, the Committee accept the provisions under Clause 84 as proposed.**
113.	**85.6**	**85**	**While noting that Clause 85 of the Income-tax Bill, 2025 pertains to non-chargeable capital gains accrued from investment in certain specific bonds, the Committee also recognize that exemptions offered under this clause are aimed at encouraging investments in specified financial instruments and intended for providing financial stability. Further, the Committee observe that the provisions proposed under this clause are synonymous with Section 54EC of the Income-tax Act, 1961. Furthermore, after**

Sl. No	Para No	Clause No.	Observation/Recommendation
			thoughtful deliberation of the views / suggestions made by the stakeholders, the Committee express satisfaction with the response and justifications provided by the Ministry of Finance and therefore, accept the clause as proposed in its entirety.
114.	**86.6**	**86**	**The Committee note that Clause 86 of the Income-tax Bill, 2025 relates to non-chargeability of capital gains in specific scenarios of investment in residential house and is synonymous with Section 54F of the Income-tax Act, 1961. After carefully examining the suggestions made by stakeholders and the justification and the response of the Ministry of Finance, the Committee note that the content and intent of the proposed clause do not deviate from the core as envisioned under Section 54F of the parent Act and therefore accept the said clause as proposed.**
115.	**87.5**	**87**	**While noting that Clause 87 of the Income-tax Bill, 2025 provides for exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area, the Committee also recognize that this clause is aimed at encouraging decongestion of urban areas through tax exemptions and corresponds to Section 54G of the Income-tax Act, 1961. After thoughtful deliberation of the proposal and justifications provided by the Ministry of Finance, the Committee concur with the retention of the original intent in this clause along with the textual simplification of its provisions in this Bill and therefore, accept the clause as proposed.**
116.	**88.5**	**88**	**The Committee, after thorough scrutiny of proposed Clause 88 pertaining to exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone, find that it is aimed at encouraging relocations of industrial undertakings for fostering economic growth in Special Economic Zones and is synonymous with Section 54GA of the Income-tax Act, 1961. The Committee also note that the content of the clause does not deviate from its core and retains the spirit envisaged under Section 54GA of the IT Act. After careful consideration of the proposal and justifications provided by the Ministry of Finance,**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Committee express satisfaction with the response of the Ministry in this regard and therefore, accept the clause as proposed.
117.	**89.4**	**89**	**The Committee, after reviewing the provisions proposed under Clause 89 understand that this clause seeks to extend the time available to taxpayers for reinvesting capital gains in cases where the original asset is compulsorily acquired and compensation to the assessee is delayed. The Committee also find that the proposed clause does not alter the content and intent introduced vide Section 54H of the Income-tax Act, 1961. Further, after careful deliberations of the replies and justifications furnished by the Ministry of Finance, the Committee, while expressing satisfaction with the submissions of the Ministry, accept the proposed clause in entirety.**
118.	**90.6**	**90**	**The Committee note that Clause 90 of the Income-tax Bill, 2025 provides for meaning of the terms "adjusted", "cost of improvement" and "cost of acquisition" with respect to calculation of capital gains and corresponds to Section 55 of the Income-tax Act, 1961. The Committee also note that while Section 55(2)(ab) of the parent Act specifically provides for transfers to be considered as cost of acquisition or full value of consideration for the purpose of taxation, the clause lacks in such specifications, thereby intensifying the possibilities of ambiguity or litigation. Therefore, after careful deliberation of relevant views/suggestions given by the stakeholders and the response of the Ministry of Finance, the Committee recommend that for the purpose of providing clarity in the computation of capital gains, provisions similar to Section 55(2)(ab) of the parent Act may be inserted in Clause 90 and the clause may be suitably amended to include the provision for cost of acquisition.** **The Committee further note that in sub-clause (4)(b), with respect to deduction on account of depreciation of a capital asset, a reference has been made to the Income-tax Act, 1961. The Committee are of the view that such cross referencing to the IT Act of 1961 in the current Bill could result in a**

Sl. No	Para No	Clause No.	Observation/Recommendation
			cumbersome exercise of repeatedly referring to repealed Act for referencing in future. Thus, to avoid any scope for complications in future, the Committee recommend that any reference to the IT Act, 1961 be removed from the text of specific clauses and instead relevant provisions be created within the Savings Clause 536 of the Bill in order to cover all such clauses requiring reference to the IT Act, 1961. **Expressing satisfaction with the response and justifications of the Ministry of Finance, the Committee accept the remaining provisions under this clause as proposed.**
119.	**91.4**	**91**	**The Committee, after thorough scrutiny of the proposed Clause 91 pertaining to the reference of capital asset to Valuation Officer for assessment of fair market value of the said asset, find that it is synonymous with Section 55A of the Income-tax Act that was invented with the objective of conferring powers on the Assessing Officer to revaluate the capital asset and bring it to fair valuation. Noting that the content and intent of the proposed clause do not deviate from the core as envisioned under Section 55A of the Income-tax Act, the Committee express satisfaction with the justification and response of the Ministry of Finance and therefore accept the clause as proposed.**
120.	**92.6**	**92**	**The Committee note that Clause 92 of the Income-tax Bill, 2025 pertains to taxation of income accrued from other sources and corresponds to Section 56 of the Income-tax Act, 1961. Upon thoughtful deliberation of the provisions under this clause, the Committee observe that in sub-clause (3)(f) an incorrect reference to Clause 355(i) - "relative", in relation to an individual, has been made instead of a reference to Clause 355(h) – "related persons" in relation to non-profit organizations. The Committee, therefore recommend that in sub-clause (3)(f) the reference to Clause 355(i) be changed to Clause 355(h) and accordingly, the modified provision be read as :** **"92(3)(f) - from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section**

Sl. No	Para No	Clause No.	Observation/Recommendation
			355(h);". **Further, with regard to the provisions contained in sub-clause (5)(g) sub-point (E), the Committee note that the phrase "maternal as well as paternal" not being expressly mentioned in respect of "lineal ascendant" makes this provision open to ambiguity, thus making way for litigations. Therefore, for the sake of clarity, the Committee recommend that suitable changes be made in sub-clause(5)(g) and the modified provision be read as :** **"92(5)(g)(E) - any lineal ascendant "(maternal as well as paternal)" or descendant (maternal as well as paternal);".** **Further, after careful consideration of the views/suggestions of the stakeholders, the Committee express satisfaction with the justification and response of the Ministry of Finance thereto, and therefore, accept the remaining provisions under Clause 92 as proposed.**
121.	**93.6**	**93**	**The Committee note that Clause 93 of the Income-tax Bill, 2025 provides for deductions for eligible expenses for computing the taxable income under the head "Income from other sources" and corresponds to Section 57 of the Income-tax Act, 1961. After careful deliberation of the provisions under the clause, the Committee find an erratum in the provision contained in sub-clause (1)(a) wherein the square bracket enclosing the phrase "excluding those referred to in section 2(*40*)(*f*)" has not been closed. Therefore, the Committee recommend that the typographical error be corrected and the provision be modified to read as :** **"93(1)(a) – for dividends '[excluding those referred to in section 2(40)(f)]'…".** **Further, after careful examination of the justification provided by the Ministry of Finance, the Committee express satisfaction with the response of the Ministry and accept the remaining provisions as proposed.**
122.	**94.4**	**94**	**The Committee note that Clause 94 of the Income-tax Bill, 2025 provides for enumeration of deductions that are not allowable to be set off against incomes obtained from other sources, as referred to in clause**

Sl. No	Para No	Clause No.	Observation/Recommendation
			92. The Committee also understand that this clause is synonymous with Section 58 of the Income-tax Act, 1961 and aims at correct computation and charging of taxable income, thereby improving tax compliance by the assessee. After careful deliberation of the proposal and justifications provided by the Ministry of Finance, the Committee express satisfaction with the response of the Ministry and accept the clause as proposed.
123.	**95.4**	**95**	**After reviewing the provisions proposed under Clause 95, the Committee understand that this clause, while being synonymous with Section 59 of the Income-tax Act, 1961, seeks to propose that any benefit in cash or otherwise obtained on account of remission or cessation of any liability, for which a deduction has been allowed in an earlier year, shall be taxable in the year in which the benefit has been obtained. While recognizing the objective of making any profitable income of an assessee chargeable to tax, the Committee concur with the retention of the original intent and the textual simplification of the provisions under this clause. Therefore, after careful consideration of the proposal and justifications provided by the Ministry of Finance, the Committee accept the clause as proposed.**
124.	**96.6**	**96**	**The Committee find that the proposed clause corresponds to section 60 of the Act. The Ministry has stated that redundant provisions have been removed; however, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
125.	**97.6**	**97**	**The Committee, after examining the clause, recommend that the word 'and' in the beginning of the Clause 97(2)(b) be omitted as use of words 'or' and 'and' together leads to ambiguity and makes the language incoherent. The Committee note that the proposed clause corresponds to Sections 61 and 62 of the existing Act. The provisions of these existing sections have been textually simplified while retaining the same intent in this clause. The Committee, therefore, accept the provisions of the clause, subject to the aforementioned drafting**

Sl. No	Para No	Clause No.	Observation/Recommendation
			correction.
126.	**98.5**	**98**	**The Committee note that the proposed clause corresponds to section 63 of the existing Act and is a textual simplification of those in the existing Act, retaining the same intent. The Committee, therefore, accept the clause as proposed.**
127.	**99.6**	**99**	**The Committee note that Clause 99 corresponds to Section 64 of the existing Act. A formula has been introduced in sub-clause (2), aligning with Explanation 3 of Section 64, to enhance clarity and ensure certainty in computation. The substance of the existing provisions has been retained, while the language has been simplified to preserve the original intent and facilitate ease of understanding. The Committee, however, observe that in doing so, certain drafting errors have crept in, which require rectification to avoid ambiguity. Therefore, the Committee recommend the following drafting corrections in provisions of clause:** **(i) 99(1)(a)(i): the word 'not exclude' shall be replaced by 'not include' as it has converse meaning.** ***(ii)*** **99(2): in place of 'as on the day for which A is being computed' it shall be changed to 'as on the first day of the tax year' to make it same as given in part 'C'.** ***(iii)*** **99(5)(a): shall begin with the following reference: "(a) for sub-section (1)(a)(i),— " instead of "(a) for sub-section (1)(a)" to make it specific and to avoid any ambiguity.** **(iv) 99(5)(b): the reference to sub-section (1)(d) shall be changed to sub-section (1)(c) as there is no (1)d in the proposed clause.** **The Committee, with the above-mentioned drafting corrections, accept the clause as proposed.**
128.	**100.4**	**100**	**The Committee note that the proposed clause corresponds to section 65 of the existing Act. The**

Sl. No	Para No	Clause No.	Observation/Recommendation
			provisions of the existing sections have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.
129.	**101.4**	**101**	**After examining the clause, the Committee find that it corresponds to Section 66 of the Act, incorporating textual simplification of the provisions in the existing Act while retaining the same intent, and therefore accept the clause as proposed.**
130.	**102.6**	**102**	**The Committee note that the proposed clause corresponds to Section 68 of the existing Act. In Clause 102 of the Bill, the substance of the provision remains unchanged, except that the heading has been revised from Cash Credits to Unexplained Credits. The language of the existing section has been simplified for clarity, while retaining its original intent. The Committee, therefore, accept the clause as proposed.**
131.	**103.6**	**103**	**The Committee note the clause 103 corresponds to section 69 and 69B of the Act. Section 69B has been split into two parts and the relevant part has been merged with sec 69 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
132.	**104.6**	**104**	**The Committee, after examining the provisions of the clause, recommend that in Clause 104(1), the phrase 'where the asset is found recorded' be deleted, as its removal would eliminate redundancy and improve clarity. Apart from this change, the Committee accept the clause as proposed as the provisions of the existing sections have been textually simplified and retained with their original intent.**
133.	**105.6**	**105**	**After examining and deliberation upon the proposed clause, the Committee find that it corresponds to Section 69C of the Act, and that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**

Sl. No	Para No	Clause No.	Observation/Recommendation
134.	**106.6**	**106**	**After examining the clause and considering the views of the stakeholders, the Committee recommend to delete the bracketed phrase '(including interest thereof)' as it does not convey the intended meaning, and recommend redrafting the provision accordingly for clarity.** **The Committee also note that Clause 106 of the Bill corresponds to Section 69D of the existing Act and seeks to provide for the taxability of any amount borrowed or repaid through instruments such as *hundis*. To rationalize the provision, the scope has been expanded beyond *hundis* to include other negotiable instruments. While the substantive intent remains unchanged, the language has been simplified. The Committee, therefore, accept the clause as proposed, subject to their suggested drafting correction.**
135.	**107.6**	**107**	**The Committee note that Clause 107 of the Bill seeks to provide that income referred to in clauses 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of clause 195. They further note that Clause 107 of the Bill has no corresponding section in the Act. The Committee have been apprised that in order to reduce disputes on rate of taxation and to provide certainty, the reference of the section specifying the rates of taxation has been provided in this Chapter itself. Also, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
136.	**108.6**	**108**	**The Committee find that the clause 108 corresponds to section 70 of the Act. The Committee have been apprised that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
137.	**109.6**	**109**	**The Committee find that Clause 109 of the Bill provides for set off of losses under any other head of income in the manner provided therein. The clause corresponds to section 71 of the Act. Further, redundant provision has been removed. The**

Sl. No	Para No	Clause No.	Observation/Recommendation
			provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.
138.	**110.6**	**110**	**After examining the clause and considering the suggestions of the stakeholder, the Committee recommend that the reference to clause 107 in clause 110(3) to be rectified to clause 109 as clause 107 does not deal with set off and carry forward of losses. Apart from this drafting correction, the Committee accepts the clause as proposed, as it constitutes a textual simplification of the provisions in the existing Act while retaining the same intent.**
139.	**111.6**	**111**	**The Committee note that the clause corresponds to section 74 of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
140.	**112.6**	**112**	**The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that the phrase "(other than loss from speculation business)" in clause 112(1) shall be deleted, as clause 112(4) already excludes speculation losses from the definition of 'unabsorbed business loss'. Apart from this drafting correction, the Committee accept the proposed clause, as it is a textual simplification of the existing provisions with the same intent.**
141.	**113.6**	**113**	**The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend to replace the phrase "computed from" with "computed in respect of" in clause 113(1) for greater precision and consistency. This aligns the language with sub-clause (5)(b), which already uses the phrase "computed in respect of" to define unabsorbed speculation business loss, thereby ensuring uniformity and avoiding interpretational ambiguity. Apart from this drafting correction, the Committee accept the clause as proposed, as it is a textual simplification of the existing provisions with the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			same intent.
142.	114.6	114	The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that the phrase "computed from" in clause 114(1) be replaced with "computed in respect of". This change will ensure consistency with clause 114(3)(b), which already uses the phrase "computed in respect of" while defining "unabsorbed loss from the specified business." Apart from this drafting correction, the Committee accept the clause as proposed, as it is a textual simplification of the existing provisions with the same intent.
143.	115.6	115	The Committee note that Clause 115 of the Bill seeks to provide for set off and carry forward of losses from specified activity. Also, the clause defines 'Specified activity' as the activity of owning and maintaining race horses. The clause corresponds to section 74A of the Act. However, for better clarity, definition of 'race horse' has been provided in the clause. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.
144.	116.6	116	The Committee find that the clause corresponds to section 72A of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. The Committee have been apprised that this is a provision which was part of the Finance Act, 2025. Further, the provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the proposed clause.
145.	117.4	117	The Committee note that the clause 117 corresponds to section 72AA of the Act. The clause also clarifies that accumulated loss of the predecessor entity which is deemed to be the loss of the successor

Sl. No	Para No	Clause No.	Observation/Recommendation
			entity can be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity. It has been stated by the Ministry that this is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.
146.	**118.6**	**118**	**The Committee, after examining the clause and considering the views/suggestions of the experts/stakeholders, recommend that in Clause 118(4)(ii), the word 'to' following 'before' be deleted.** **The Committee also observe that the clause corresponds to section 72AB of the Act. The clause also clarifies that accumulated loss can be carried forward only up to eight tax years immediately succeeding the tax year in which such loss was first computed in the hands of the predecessor-in-business. This is a provision which was part of the Finance Act, 2025. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, except the above-mentioned drafting correction, accept the clause as proposed.**
147.	**119.6**	**119**	**The Committee after examining the clause and considering the views/ suggestions of the experts/ stakeholders, recommend the following:** **(i) The word "if" at the beginning of clause 119(3)(a), shall be deleted as it is syntactically redundant in light of the conditional structure already established in the main clause.** **(ii) The provision shall be suitably amended to allow carry forward and set-off of losses where the shareholding pattern, though altered temporarily, is restored in subsequent years and the 51% continuity requirement is met thereafter. This would preserve the legislative intent of preventing misuse while ensuring fair treatment for companies whose**

Sl. No	Para No	Clause No.	Observation/Recommendation
			shareholders remain ultimately liable to tax. **(iii) The drafting of clause 119(3) shall be aligned with Section 79 of the Act to remove any ambiguity regarding the newly used term "beneficial owner" as the same is not defined in the clause.** **Apart from the above recommended drafting corrections, the Committee accept the clause as proposed, as it constitutes a textual simplification and merger of Sections 78 and 79 of the Act while retaining the same intent.**
148.	**120.4**	**120**	**The Committee, after examining the clause, find that clause 120 of the Bill seeks to provide that no set off of loss or unabsorbed depreciation shall be allowed against undisclosed income, consequent to search, requisition and survey. The clause corresponds to section 79A of the Act. The Committee have been given to understand that to remove ambiguity and ensure clarity with respect to the definition of undisclosed income, reference is now made to the meaning assigned to it in clause 301 of the Bill. The provisions of the existing section have been simplified and retained with the same intent in this clause. The Committee, therefore, accept the clause as proposed.**
149.	**121.4**	**121**	**The Committee find that Clause 121 corresponds to Section 80 of the existing Act. The provisions have been simplified for clarity while retaining their original intent. The Committee, therefore, accepts the clause as proposed.**
150.	**122.6**	**122**	**The thorough examination of the proposed Clause 122 of the IT Bill 2025, pertaining to the deductions to be made in computing total income vis-à-vis Section 80 A under Chapter VI A of IT Act, 1961 reveals that barring the typographical error in naming the corresponding Section in the proposed IT Bill, 2025 as Clause 121, instead of Clause 122, the soul and intent of the comparable sections are same without any deviation. The proposed Clause 122 of the IT Bill, 2025 sticks to the laid down Statement of Object and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Reasons of the Bill and provides more clarity and simplification to the language of the Bill. Thus, the Committee, while also considering the justification provided by the Ministry of Finance for the proposed Clause, accept the proposed Clause 122 in its entirety and recommend the Ministry to rectify the Sl. No. as 122 instead of 121.
151.	**123.6**	**123**	**The Committee note that Clause 123 of the Income-Tax Bill, 2025 provides for deduction for life insurance premia, deferred annuity, contributions to provident fund, etc and corresponds to Section 80C of the Income-Tax Act, 1961. It is the major repository of benefits to the taxpayers in terms of investment avenues. The provision not only encourages savings but also promotes financial security. It is also noteworthy to mention here that there is a seamless migration of the contents from the erstwhile Section 80C to the Clause 123 of IT Bill, 2025 in terms of scope and deduction limits. The major difference lies only in the aspect that the conditions for claiming deductions have been outlined in Schedule XV instead of the body of the Section, as earlier. The justification given by the Ministry is also found to be satisfactory. Therefore, keeping in view the preservation of the soul of the Section 80C in the proposed Clause 123, the Committee accept Clause 123 as proposed by the Ministry and recommend no change.**
152.	**124.6**	**124**	**The Committee scrutinized the proposed Clause 124, pertaining to deduction in respect of employer contribution to pension scheme of Central Government and find that there is a transportation of the contents from Section 80 CCD of the IT Act, 1961 to the present Bill without any obvious attempt to deviate from the intent of the Section, as also cited by the justification provided by the Ministry. However, the absence of the phrase "by such individual" in sub section (3) creates an ambiguity which could lead to interpretational issues at later stages. Hence, the Committee recommend for the addition of the phrase "by such individual" in the proposed Clause, sub section (3), which may now be read as under:-** **(3) An assessee referred to in sub-section (1), or any**

Sl. No	Para No	Clause No.	Observation/Recommendation
			other assessee, being an individual, shall be allowed a deduction in computation of his total income of the whole of the amount paid or deposited by such individual in the tax year in his account under a pension scheme notified or as notified by the Central Government, which shall not exceed fifty thousand rupees. **The Committee further recommend to modify the heading of the proposed Clause suitably to incorporate the employee contribution also in an appropriate manner as brought about by the amendment cited by the Committee to the proposed Clause. The Committee further accept the remaining provisions of the Clause 124 as proposed.**
153.	**125.5**	**125**	**The Committee, after going through the provision regarding Agnipath Scheme, note that the proposed Clause 125 does not alter the content and intent introduced vide Section 80 CCH of the Income-Tax Act, 1961 while carrying forward to the Income-Tax Bill, 2025. Further, the Committee also went through the replies of the Ministry and the justification provided by them for the proposed Clause. Having found the submissions of the Ministry satisfactory in nature, the Committee accept the proposed Clause 125 of the Income-Tax Bill, 2025 in entirety.**
154.	**126.4**	**126**	**The Committee examined the provisions proposed through Clause 126 of the Income-Tax Bill, 2025 regarding the deductions allowed for health insurance premia and found that the Ministry have not tinkered with the erstwhile Section 80D of the IT Act, 1961, but have brought forward the provisions with textual simplification. Hence, the Committee, keeping in view the justification provided by the Ministry accept the Clause as proposed.**
155.	**127.6**	**127**	**The Committee take into account the details of the Clause 127 pertaining to the deduction in respect of maintenance including medical treatment of a dependant who is a person with disability vis-à-vis Section 80DD of IT Act, 1961 and find no substantial change in the contents. The Committee are satisfied with rest of the contents and the justification provided by the Ministry for the proposed Clause and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			recommend no further change in the Clause 127 of the IT Bill, 2025.
156.	**128.6**	**128**	**The Committee examined the provisions pertaining to the deductions in respect of Medical treatment under the erstwhile Section 80DDB proposed through Clause 128 of the Income-Tax Bill, 2025 and find it to be parallel in nature without any change in the substance of the earlier Section. The Committee, therefore, keeping in view the justification provided by the Ministry, accept the provisions of the Clause as proposed in entirety without any amendment.**
157.	**129.6**	**129**	**The Committee, while examining the provision proposed under Clause 129 of the Income-Tax Bill, 2025 pertaining to the deduction in respect of interest on loan taken for higher education find that the contents of the said Clause are similar to Section 80E of the Income-Tax Act, 1961. The Committee also take cognizance of the apprehension raised by the Stakeholder, regarding the eligibility for deduction u/s 129 of the Income-Tax Bill, 2025 only for the balance tax years out of the seven assessment/tax years and note that the same has already been taken care of in view of the Savings Clause 536 of the IT Bill, 2025. However, the Committee find the mention of the "provisions of section 10(23C) of the Income-tax Act, 1961, or an institution referred to in section 80G(2)(a) of the said Act" in Clause 129(3) a deviation from the clean break aimed at, by making a cross reference of old Act, 1961 in the body of the new Bill. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 129 without any further change.**
158.	**130.5**	**130**	**The Committee note that the proposed Clause 130 of the Income-Tax Bill, 2025 pertaining to the deduction in respect of interest on loan taken for residential house property is similar to the Section 80 EE of the Income-Tax Act, 1961 in terms of the content and no deviation is to be noticed. Thus, the Committee, in view of the justification provided by the Ministry for bringing the proposed Clause, accept the Clause 130**

Sl. No	Para No	Clause No.	Observation/Recommendation
			as proposed and recommend no amendment.
159.	131.5	131	The Committee observe that the proposed Clause 131 of the Income-Tax Bill, 2025 provides for deduction in respect of interest on loan taken for certain house property in case of an individual to whom clause 130 is not applicable. The text of the Clause is similar to the Section 80 EEA of the Income-Tax Act, 1961 in terms of the content and there is no deviation from the soul of the Section. Thus, the Committee, in view of the justification provided by the Ministry, accept Clause 131 as proposed and recommend no amendment.
160.	132.6	132	The Committee note that the proposed Clause 132 corresponds to the Section 80 EEB of the Act, wherein deduction on interest payable on loan taken from any financial institution for the purpose of purchase of an electric vehicle has been provisioned. However, the loan needs to be sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2023. The Committee find that the provision under Section 80 EEB has been migrated to the proposed Bill without any alteration. Thus, the Committee, satisfied with the justification provide by the Ministry, accept the proposed Clause in entirety without amendment.
161.	133.6	133	During the examination of the proposed Clause 133 pertaining to the deduction in respect of donations to certain funds, charitable institutions, etc. the Committee observe that the text of the proposed clause was differently worded as compared to the parallel Section 80G of the IT Act, 1961. While the first reference in the Clause to adjusted gross total income is comprehendible, the subsequent contextual reference is to gross total income. The absence of the word can lead to higher deductions, belying the intent of the Clause. The Ministry, when queried upon, realized the inadvertent omission and were amenable to the correction. Thus, the Committee recommend the Ministry to rephrase the mention of gross total income to adjusted gross total income in 133(2) so as to rectify an omission causing

Sl. No	Para No	Clause No.	Observation/Recommendation
			an unintended higher tax liability. The Committee, further accept the remaining contents of the proposed Clause.
162.	134.5	134	On studying the details of the proposed clause 134 provisioning for deductions in respect of rent paid vis-à-vis the corresponding Section 80 GG of the IT Act, 1961, the Committee notice that there is only a transportation of the content from the present IT Act, 1961 to the proposed Bill, 2025 without any material change altering the sentiments of the Section. The Committee also went through the justification provided by the Ministry for the proposed Clause and found it satisfactory. Therefore, the Committee accept the proposed Clause 134 in entirety without any amendment.
163.	135.5	135	The Committee, after thorough scrutiny of the proposed Clause 135 pertaining to the deduction in respect of certain donations for scientific research or rural development find that it is synonymous to the Section 80 GGA of the IT Act, 1961. The content of the clause does not deviate from its core and retains its spirit as under Section 80 GGA of the IT Act, 1961. The Committee is also satisfied with the justification and response elicited from the Minstry in this regard. Therefore, the Committee accept the clause as proposed.
164.	136.5	136	The Committee note that the poposed Clause 136 that provides for deduction in respect of contributions given by companies to political parties is similar to Section 80 GGB of the IT Act, 1961 in terms of the content and intent elicited. No substantial change has been brought about, instead it is a carrying forward of the parallel provision to the IT Bill, 2025. In view of this situation and considering the satisfactory justification provided by the Ministry for the proposed Clause, the Committee accept the proposed Clause in its entirety.
165.	137.5	137	The Proposed Clause 137 of the Income-Tax Bill, 2025 that pertains to deduction in respect of contributions given by any person to political parties resonate with the Section 80 GGC of the Income-Tax Act, 1961. The

Sl. No	Para No	Clause No.	Observation/Recommendation
			Committee find a mere shifting of the content without any changes in terms of policy matters from the scrutiny of the parent Act and the IT Bill, 2025 under consideration. Thus, the Committee, keeping in view the objectives of the Bill to provide simplification in the language and the satisfactory justification provided by the Ministry, accept the proposed Clause in entirety.
166.	**138.6**	**138**	**The Committee note that Clause 138 of the Bill pertains to the provisions of deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.. While the Clause corresponds to Section 80-IA of the Act, it is noticeable that the provisions of this section have a sunset clause and a reference to the IT Act, 1961 is also made here. The Committee take cognizance of the fact that the benefit period of these provisions are nearing their end and no new assesses are being added as justification for the cross-reference to the IT Act, 1961. Still, the Committee are of the view that the cross referencing to the IT Act, 1961 in the current Bill will necessitate the reference to a repealed Act in future and will make the exercise cumbersome and not in the fitness of things. The Committee, further, are in consonance with the other aspects of the proposed Clause which does in no way alter the content of the Section 80-IA of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. Besides, the Committee agree with the remaining content of the proposed Clause.**
167.	**139.6**	**139**	**The Committee note that Clause 139 of the Bill provisions for deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone. The clause corresponds to Section 80-IAB of the Act. It is noticeable that the provisions of this section have a sunset clause and many changes have been made over the years. There is a limited period left for the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			claim of deductions under these sections. These are used by a few numbers of assessees. Further, no new assessee can claim these deductions. The Ministry have considered these factors for making a reference to the IT Act, 1961 in the Bill. The Committee take into account the fact that the benefit period of these provisions are nearing their end and no new assesses are being added as justification for the cross-reference to the IT Act, 1961. However, the Committee are still of the view that the cross referencing to the IT Act, 1961 in the current Bill will create a cumbersome exercise of looking back into a repealed Act for referencing in future also. The Committee, further, are in agreement with the other aspects of the proposed Clause which does in no way alter the content of the Section 80-IAB of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. Besides, the Committee agrees with the remaining content of the proposed Clause.
168.	**140.6**	**140**	**The Committee find that Clause 140 of the Bill provisions for deduction to eligible start up in respect of profits and gains of eligible businesses akin to the Section 80-IAC of the Income-Tax Act, 1961. Examination of the said Clause vis-à-vis Section 80-IAC reveals that the Section has been textually simplified and retained with the same intent in this clause without carrying out any substantive nature of modification in terms of policy change. Thus, the Committee, finding the justification provided by the Ministry satisfactory, accept the proposed Clause 140 in entirety.**
169.	**141.6**	**141**	**The Committee note that Clause 141 of the Bill stipulates for deduction in respect of profits and gains from certain industrial undertakings and provides for deduction for industrial undertakings in North-eastern region and also in respect of undertakings promoting housing projects. The clause is similar to Section 80-IB of the Act. From the replies of the Ministry, the Committee find that the provisions**

Sl. No	Para No	Clause No.	Observation/Recommendation
			of this section have a sunset clause and many changes have been made over the years. The concluding date is nearing and as such there is a limited period left for the claim of deductions under these sections. Further, no new assessee can claim these deductions. Considering these factors, a reference to the ITAct, 1961 is made for these provisions in the Bill. The Committee take into consideration the justifications provided by the Ministry for keeping the cross-reference to the IT Act, 1961. Still, the Committee observe that the cross referencing to the IT Act, 1961 in the current Bill does not suit to a neat reading, making it unappealing to refer back to a repealed Act for having a full grasp of the section in future. The Committee, however, find the other aspects of the proposed Clause not altering the content of the Section 80-IB of the IT Act, 1961. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. The Committee agrees with the remaining content of the proposed Clause and make no recommendation for any modification.
170.	**142.6**	**142**	**The Committee take into note the deductions in respect of profits and gains from housing projects provided to the assessee through the proposed Clause 142, erstwhile Section 80-IBA of the IT Act, 1961. Further, it has been observed that other than simplification of language to make the bill concise and easy to comprehend, no substantial alteration has been proposed in the Income-Tax Bill, 2025. As in few earlier cases too, here also, the Committee observe that the benefit period of these provisions are nearing their end and no new assesses are being added as justification given by the Ministry for the cross-reference to the IT Act, 1961. However, the Committee maintain their view that the cross referencing to the IT Act, 1961 in the current Bill is not called for and provision may be further simplified by doing away with the referencing to IT Act, 1961. Hence, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text**

Sl. No	Para No	Clause No.	Observation/Recommendation
			of the proposed Clause 142 also and instead create some provision in the Savings Clause 536 of the Bill which can cover all such clauses requiring reference to the IT Act, 1961. The Committee also take into consideration the suggestion of the stakeholder for providing the computation mechanism itself in the Clause, but find the justification provided by the Ministry being satisfactory in nature for not doing so. Thus, the Committee, does not recommend any further change and accept the remaining content of the proposed Clause.
171.	**143.5**	**143**	**The Committee examined the proposed Clause 143 in the Income-Tax Bill, 2025 and the corresponding Section 80-IE of the Income-Tax Act, 1961 and find that although there is no substantive change in the content of the proposed Clause 143 which provides for special provisions in respect of profits and gains of certain undertakings with respect to production of eligible article or things in North-Eastern States, there is usage of "ending with the 1st April, 2017" in 143 (2), which creates ambiguity over the end date, whether it includes 1st April, 2017 also. Being pointed out, the Ministry have admitted it as drafting correction and should be read as "ending before the 1st April, 2017" instead. The Committee also take note of the reference to IT Act, 1961 and, as earlier, recommend the Ministry to remove the reference to the IT Act, 1961 from the body of the Clause to Savings Clause of the Bill alongwith the correction of end date to "ending before the 1st April, 2017" in 143 (2). Further, in view of the foregoing that only simplification of remaining text is elicited in the Clause 143, and the satisfactory justification of the Ministry, the Committee accept the other content of the proposed Clause 143 in entirety.**
172.	**144.6**	**144**	**The Committee note that Clause144 of the Bill provides for deduction in respect of profits and gains of newly established units in Special Economic Zones and that the Clause corresponds to Section 10AA of the IT Act, 1961. The provisions of this section have a sunset clause. The Committee find that the Ministry contend that there is a limited period left for the claim of deductions under these sections. These are used by a few numbers of assesses and further, no new**

Sl. No	Para No	Clause No.	Observation/Recommendation
			assesse can claim these deductions. Considering these factors, a reference to the IT Act, 1961 is made for these provisions in the Bill. The Committee take into consideration, the justification for the cross-reference to the IT Act, 1961. Still, the Committee believe that the cross referencing to the IT Act, 1961 in the current Bill may be done away with, so that the reader of the new Act is not burdened to look back into a repealed Act for referencing. Thus, the Committee, recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clauses and keep it in the Savings Clause 536 of the Bill. The Committee, further, agree with the remaining content of the proposed Clause and does not recommend any change.
173.	**145.5**	**145**	**On the examination of the proposed Clause 145 of the Bill, the Committee note that the Clause seeks to provide for deduction for businesses engaged in collecting and processing of bio-degradable waste, which was provisioned in Section 80JJA of the Income-Tax Act, 1961. However, clause 145 mentions "biological agents", with the omission of the term "other" as had been used in the Section 80 JJA of IT Act, 1961. In this context, the Committee on seekng clarification from te Ministry on the need for narrowing the definition now, and if the word "other" encouraged innovation through the scientific creativity and its omission would have a discouraging effect on the R&D sector of Life Sciences, the Ministry accepted it as a drafting correction. Barring this, there has been no substantive change in the content of the Clause as compared to the earlier Section other than textual simplification and there is retention of the same intent in this clause, as evinced from the justification provided by the Ministry also. Thus, the Committee, while recommending the addition of the term "other" in 145 (1)(b) as previously used in the IT Act, 1961 accept the remaining proposed Clause.**
174.	**146.6**	**146**	**The examination of the proposed Clause 146 of the Bill reveals that it provides for deduction in respect of additional employee cost in certain cases for specified period and that the clause corresponds to**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Section 80JJAA of the Act. The Committee find that only the provision of the existing section has been textually simplified and has been retained with the same intent in this clause. However, the Committee note the response of the Ministry to the suggestion for enhancing the value of emoluments per employee to avail 80JJAA being satisfactory as it has been contended by the Ministry that the deduction itself has been made available to increase employment of low-wage persons and it is also a budget-related matter. In view of the foregoing, the Committee appreciate the rationale behind the approach of the Ministry as sound enough and hence accept the proposed Clause in its entirety without any alteration.
175.	**147.6**	**147**	**The Committee, while scrutinizing the proposed clause 147 of the IT Bill, 2025 pertaining to the deductions for income of Offshore Banking Units and Units of International Financial Services Centre, find it to be a parallel provision of Section 80 LA of the Income-Tax Act, 1961. There is no marked difference in the contents and is primarily an exercise of simplification of texts. However, an incorrect referencing to 147 (3) itself, instead of 147 (1) to ascertain the nature of income referred to in 147 (1) is revealed. On seeking the views of the Ministry, the inadvertent drafting error was accepted. Hence, the Committee recommend the Ministry to rectify the drafting error in 147(3) to 147(1). The Committee accept the remaining provisions of the proposed Clause147 without any amendment.**
176.	**148.6**	**148**	**The Committee observe that the proposed Clause 148 pertaining to the deduction in respect of certain inter-corporate dividends is similar to the Section 80M of the IT Act, 1961. The contents of the Section have been textually carried forward to the IT Bill, 2025. It was further noted that an integral omission of the reference to Clause 148 (Section 80M in the Act) is to be included in Clause 200(1)(a)(ii) to maintain the uniformity of the carrying forward of the contents and to synchronise with the stance of no policy change proposed in the Bill. The Ministry on being enquired upon ceded to the omission by attributing to drafting error. Therefore, the Committee while accepting the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			other contents of the Clause 148, recommend the Ministry to incorporate the reference to Clause 148 in Clause 200 (1)(a)(ii) so that the benefit of deduction for inter-corporate dividend under section 148 of the ITB (corresponding to section 80M of the Act) in respect of companies opting for CTR of 22% is reinstated.
177.	**149.4**	**149**	**The examination of the proposed Clause 149 of the Bill with regard to the deduction in respect of income of co-operative societies revealed the fact before the Committee that there was only textual simplification as compared to the corresponding Section 80 P of the IT Act, 1961. No changes are proposed in the content or the intent of the provision. Considering these aspects alongwith the satisfactory justification provided by the Ministry, the Committee accept the proposed Clause 149 of the Bill in its entirety. However, the Committee, find that there is a reference to IT Act, 1961 in 149(4) and as earlier, for a clean break, the Committee recommend the Ministry to remove the reference to the IT Act, 1961 from the text of specific Clause and instead create some provision in the Savings Clause 536 of the Bill.**
178.	**150.6**	**150**	**The Committee examined the proposed Clause 150 pertaining to the deduction in respect of certain income of Producer Companies and find that barring a typographical error in the last line of Clause 150 (3) wherein 3013 is written instead of 2013, no material changes can be observed while comparing the proposed clause to its repository, Section 80 PA of the IT Act, 1961. The Ministry have accepted this as a typographical error which is to be corrected. Keeping this in view, alongwith the satisfactory justification of the Ministry, the Committee accept the proposed Clause.**
179.	**151.5**	**151**	**The Committee find from the examination of Clause 151 of the Bill that it provides for deduction in respect of royalty income, etc., of authors of certain books other than text-books. The proposed clause corresponds to Section 80QQB of the IT Act, 1961. Having gone through the justification provided by the Ministry and the satisfactory response of the Ministry to the query associated with the change in the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			capping for claiming deduction against the royalty, the Committee are of the opinion that the provision of the existing section has been textually simplified and retained with the same intent in this clause. Hence, the Committee accept the proposed clause in its entirety.
180.	**152.6**	**152**	**The Committee note that Clause 152 of the Bill is parallel to the Section 80RRB of the IT Act, 1961 and provides for deduction in respect of royalty on patents. While the provision of the existing section has been textually simplified and retained with the same intent in this clause, the Committee, further note the absence of a limiting provision of deduction in respect of royalty on patents in terms of not to be claimed again once deduction already claimed for same income, under any provision in any tax year, as had been earlier provided for with the provisions of 80RRB (4) in the IT Act, 1961. The Ministry addressed this omission and are amenable to carry out the Drafting correction. Thus, the Committee recommend the Ministry to carry out suitable correction in the Clause 152 and incorporate the limiting provision of availing the deduction only once for the same income in a tax year. Besides, the Committee are satisfied with the other contents of the proposed Clause.**
181.	**153.5**	**153**	**The Committee after going through the contents of the Clause 153 and the parallel Section 80TTA and section 80TTB of the Act find that Clause 153 of the Bill provides for certain deduction for interest on savings account deposits (excluding time deposits) for individuals and Hindu undivided families. There is literal transportation without any substantial change and the provision of the existing section has only been textually simplified and retained with the same intent in this clause. Thus, the Committee, finding the justification of the Ministry for the proposed Clause satisfactory, accept the proposed Clause 153 in its entirety.**
182.	**154.6**	**154**	**The Committee note that the proposed Clause 154 of IT Bill, 2025 is similar to Section 80U of the 1961 Act provisioning for deduction in case of a person with**

Sl. No	Para No	Clause No.	Observation/Recommendation
			disability and to provide for deduction for an individual resident who is certified by a medical authority as a person with disability or severe disability. The Committee find uniformity between the proposed clause and Section 80U of the 1961 Act and is satisfied with the textual simplification. Therefore, the Committee, keeping in view, the justification provide by the Ministry accept the proposed Clause 154 in entirety.
183.	155.4	155	The Committee find that the proposed Clause 155 associated with the Rebate to be allowed in computing income-tax is similar in intent to the Section 87 of the IT Act, 1961. There is no substantial change barring the simplification of the text. Moreover, the Committee are also satisfied with the justification and reply of the Ministry regarding this Clause and, thus, accept the proposed Clause 155 in its entirety.
184.	156.6	156	The Committee, on thorough examination of the Clause 156 of the Bill find that it seeks to provide for rebate of income-tax in case of certain individuals as provided under Section 87A of the Act. Other than textual simplification of the existing section, there is retention of the same intent in this clause. However, a closer look has brought to fore, presumably a drafting error in 156 (2)(b) which is read as "(b) the income exceeds twelve lakh rupees, the income tax payable on the total income reduced by total income which is in excess of twelve lakh rupees". The Committee understand that it is a deviation from the intent which can give rise to various interpretations causing unintended anomalies. Therefore, the Committee, while agreeing with the other provisions of the Clause 156, recommend the Ministry to amend 156 (2) (b) of the Clause to be read as under:- "the total income exceeds twelve lakh rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of twelve lakh rupees, an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds twelve lakh rupees".
185.	157.6	157	The Committee find that Clause 157 of the Bill

Sl. No	Para No	Clause No.	Observation/Recommendation
			pertains to the provisions for claiming relief when salary, etc. is paid in arrears or in advance. This is parallel to the content and intent of the Section 89 of the Act. Textual simplification is visible here. Thus, the Committee, keeping under consideration the justification provided by the Ministry accept the proposed Clause 157 without any further changes.
186.	**158.6**	**158**	**The Committee note that the proposed Clause 158 of the Bill seeks to provide for relief from taxation in income from retirement benefit account maintained in a notified country. While, the clause corresponds to Section 89A of the Act and the provision of the existing section has been textually simplified and possibly retained with the same intent in this clause as justified by the Ministry, the Committee find a few key omissions which can lead to uncalled anomalies at interpretational stages. The omission of *in the manner* and *in a tax year* from the long line proposed in Clause 158 (1) brings in room for ambiguity. Being highlighted, the Ministry agreed to this drafting correction. So, the Committee recommend the long line of Clause 158 (1) to be read as under:-** **"The income accrued to a specified person in a specified account shall be taxed in the manner and in a tax year, as prescribed,"** **Further, the phrase *"the income from which"* instead of"which" may be added in Clause 158 (2), 3rd line to provide clarity and consistency with the Act.** **Barring these changes, the Committee find other provisions of the Clause 158 acceptable.**
187.	**159.6**	**159**	**The Committee scrutinized the proposed Clause 159 thoroughly and find that it provides for agreement with foreign countries or specified territories and adoption by the Central Government of agreement between specified associations for double taxation relief. It also seeks to provide for double taxation relief where the Central Government has entered into an agreement with other countries. The clause corresponds to section 90 and 90A of the Act. The two sections 90 and 90A of the Act have been merged. Although, the provisions of the existing sections have been textually simplified and retained**

Sl. No	Para No	Clause No.	Observation/Recommendation
			with the same intent in this clause, the Committee find an addition in the new proposed Clause which states that If any term is used in the agreement and is not defined in the agreement or in the Bill or in any notification, it will have the meaning given in any Act of the Central Government relating to taxes, *or in its absence, in any other law of the Central Government, and such meaning will be applicable from the date of the agreement.* The Committee take note of this addition and have also examined the replies of the Ministry in this regard. Subsequently, the Committee find that it is clarificatory in nature which further augments India's position in such agreements. It will also reduce litigation and provide certainty to how any term is interpreted in a tax treaty situation. Thus, the Committee, agree with the justification provided by the Ministry for such addition to the erstwhile Section of the IT Act, 1961 and appreciate the intent of this Clause in its simplification, while accepting the proposed Clause 159 in its entirety.
188.	**160.6**	**160**	**The Committee note that the proposed clause 160 is similar to the Section 91 of the IT Act, 1961 which provides for deduction from the Indian income-tax payable by a person who has paid tax outside India in a country with which no agreement exists in respect of his income which accrued or arose during that tax year outside India. The Committee further find that other than textual simplification, no material changes have been carried out in the proposed Clause vis-à-vis Section 91 of the IT Act, 1961. Therefore, the Committee, finding the justification provided by the Ministry for this Clause satisfactory in nature, accept the proposed Clause in entirety.**
189.	**161.6**	**161**	**The Committee observe that Clause 161 of the Bill provides for computation of income from international transaction and specified domestic transaction having regard to arm's length price. The clause corresponds to section 92 of the IT Act, 1961 and has an important role in the avoidance of tax. The Committee further find the justification and reply of the Ministry in assuaging the concern of the stakeholder pertaining to the computation for block period pricing being satisfactory in nature. Further,**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the provisions of the existing section have been textually simplified and retained with the same intent in this clause, so the Committee accept the proposed Clause 161 in its entirety.
190.	**162.6**	**162**	**On scrutinizing the proposed Clause 162 of the Bill which seeks to define the expression "associated enterprise" and corresponds to section 92A of the Act, the Committee find that the words "for the purposes of sub-section (1)" are replaced with the words "Without affecting the generality of the provisions of sub-section (1)"in sub-clause (2) of the proposed Clause 162 of the Bill. This alteration has attracted a number of suggestions raising concerns for future litigation. The Committee went through the merit of each argument closely and took into consideration the different point of views. The Committee examined the detailed reply of the Ministry in this regard wherein it has been contended that there is an ambiguity in interplay of sub-section (1) and (2) of section 92A in view of words "for the purposes of sub-section (1)" appearing in the beginning of sub- section (1) in the IT Act, 1961. In order to remove the ambiguity and give intended interpretation, the change is made to reflect the intent that clause 162(1) is general definition of associated enterprise and clause 162(2) provides for specific circumstances where two entities will be considered as associated enterprise. It can be seen that with the altered language proposed in the Clause 162, there is a possible interpretation that the condition for being an associated enterprise is fulfilled by meeting the conditions under 162 (2) or 162 (1) independently and that the two sub-sections have become mutually exclusive. The discussion with the Ministry on this aspect enlightened the Committee that the intent behind the change was to reduce litigation and bring in more clarity. However, the Committee are of the opinion that reinstating the earlier phrase "for the purposes of sub-section (1)" in sub-clause (2) of the proposed Clause 162 of the Bill in the place of "Without affecting the generality of the provisions of sub-section (1)", would serve the intent of defining Associated Enterprises in a better way, as earlier in the IT Act, 1961. Thus, the Committee, recommend**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Ministry to reinstate the position of the proposed Clause 162 in consonance with the Section 92A of the IT Act, 1961 vis-à-vis the reinstatement of the earlier phrase "for the purposes of sub-section (1)" in the opening line of sub-clause (2) of the proposed Clause 162 of the Bill in the place of proposed phrase "Without affecting the generality of the provisions of sub-section (1)".
191.	**163.6**	**163**	**The Committee, having examined the contents of proposed Clause 163 of the Bill pertaining to the meaning of international transaction, alongwith the corresponding Section 92B of the IT Act, 1961, find that there is content migration from the earlier section to the current Bill. Other than textual simplification, nothing more has been disturbed. The Committee also find the justification of the Ministry against the suggestions of the stakeholders cogent and sound enough, adding clarity to the text in defining the expression "international transaction". Therefore, the Committee, accept the proposed clause 163 without any changes.**
192.	**164.6**	**164**	**The Committee find that Clause 164 of the Bill seeks to define the expression "specified domestic transaction". The clause corresponds to section 92BA of the Act. However, the scrutiny of the text reveal that there is a incorrect reference in Clause 164 (e) to 205 (4). The actual reference should be to 205 (5) since section 205(5) refers to the transaction between the related enterprises that requires the amount of profits to be determined having regard to arm's length. On pointing to the Ministry, it has been identified to be a drafting error. Therefore, the Committee, other than recommending the Ministry to carry out the change of reference in clause 164 (e) from 205(4) to 205(5), find the provisions of the existing section to be a textual simplification and accept the proposed Clause.**
193.	**165.6**	**165**	**The Committee observe that Clause 165 of the Bill provides for determination of arm's length price and the methods for determining the arm's length price. The provisions and text of the clause corresponds to section 92C of the IT Act, 1961. During the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			examination, the Committee note that in Clause 165 (4) there is a reference to any information and document relating to an international transaction or specified domestic transaction that has not been kept and maintained by the assessee as per Clause 168(1). However, the Committee find that Clause 171(1) refers to the maintenance, and keeping of information and documents in respect of the transaction entered into. This appears to be an inadvertent error in referencing and needs correction. This anomaly was pointed to the Ministry and subsequently it has been identified as a drafting error which may be corrected by reference to 171(1) in clause 165(4). Thus, the Committee recommend the Ministry to rectify this drafting error and reflect the correct reference to Clause 171(1) in 165 (4) in place of 168 (1) and further accept the remaining portion of the proposed clause in the wake of textual simplification and retention of the same intent.
194.	**166.6**	**166**	**The Committee after going through the details of the proposed Clause 166 of the Bill find that it provides for reference of cases by the Assessing Officer to the Transfer Pricing Officer for determining the arm's length price. The clause corresponds to section 92CA of the IT Act, 1961. No substantial change has been noticed and the proposed clause elicits streamlining and simplification. The Committee, therefore, keeping the justification provided by the Ministry, being satisfactory in nature, accept the proposed clause in its entirety without further recommendation.**
195.	**167.6**	**167**	**The Committee while examining Clause 167 of the Bill note that it provides for power of Board to make safe harbour rules to simplify compliance and reduce litigation. The clause corresponds to section 92CB of the Act. The Committee note from the replies that the Ministry, taking into account the importance of safe harbour rules have suggested for consultation with the industries before the notification of the same. The Committee acknowledge the stance of the Ministry and opine that the justification of the Ministry is satisfactory regarding the proposed Clause and considering that no substantial changes have been brought about, concur with the simplification and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			accept the proposed clause in its entirety.
196.	**168.6**	**168**	**The Committee note that Clause 168 of the Bill provides for advance pricing agreement (APA) between the taxpayer and the tax authorities to pre-determine the arm's length price for specified transactions. While the Clause corresponds to section 92CC of the Act, the Committee find that the provision for closure of proceedings as per prescribed rules have clearly been specified in the Bill to provide for certainty for the APA procedure. The Committee agree with the minor alteration brought about to simplify the comprehension of the text and provision. Hence, the Committee accept the proposed clause without any further changes.**
197.	**169.5**	**169**	**The Committee find Clause 169 of the Bill providing for giving effect to advance pricing agreement entered into by an assessee and consequential procedures. Other than the textual simplification in the body of text and migration of existing modalities in Section 92CD of the IT Act, 1961 to the proposed clause, there is no finding of any substantial changes to the existing Act. Thus, considering the satisfactory justification provided by the Ministry, the Committee accept the proposed Clause in its entirety.**
198.	**170.6**	**170**	**The Committee note the importance of Clause 170 of the Bill which provides for secondary adjustment in certain cases to ensure that the actual allocation of profits between the associated enterprises aligns with the arm's length price. The Committee find that the clause corresponds to section 92CE of the Act and the contents of the proposed Clause is a textually simplified version of the corresponding Section 92CE of IT Act, 1961 without any policy change. Considering the sound justification provided by the Ministry to be satisfactory in nature, the Committee, accept the proposed Clause in its entirety without any further changes.**
199.	**171.4**	**171**	**Clause 171 of the Bill provides for maintenance, keeping and furnishing of information and document by certain persons and documents by entities involved in international or specified domestic**

Sl. No	Para No	Clause No.	Observation/Recommendation
			transactions. The Committee on examining this clause find that it corresponds to section 92D of the IT Act, 1961 and that no changes have been caused to the intent of the Section. The Committee find the justification and reply of the Ministry pertaining to this Clause satisfactory and accept the proposed Clause in its entirety without any change.
200.	**172.6**	**172**	**The Committee note that the proposed Clause 172 of the Bill provides for report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction and that the clause corresponds to section 92E of the IT Act, 1961. The Committee find the underlying objective of the Section being untouched and the rationale provided by the Ministry regarding the suggestions, also satisfactory in nature, in terms of no policy change being effected here. Keeping this in view the Committee accept the proposed Clause with the textual simplification.**
201.	**173.6**	**173**	**Proposed Clause 173 of the Bill provides for definitions of certain terms relevant to determination of arm's length price. The committee, while examining this important Clause did not find any material changes/alteration in the text of this Clause corresponding to section 92F of the IT Act, 1961. Finding the reply and justification provided by the Ministry cogent for carrying no policy changes and only simplification of text had been carried out, the Committee accept the proposed Clause in its entirety.**
202.	**174.5**	**174**	**The Committee find during examination that the proposed Clause 174 of the Bill provides for *avoidance* of income-tax by transactions resulting in transfer of income to non-residents. This clause corresponds to section 93 of the IT Act, 1961 both in terms of content and intent. Moreover, the justification provided by the Ministry is also found to be satisfactory in nature. Keeping this in mind and appreciating the textual simplification carried out, the Committee accept the proposed Clause in its entirety.**
203.	**175.6**	**175**	**The Committee, while examining the Clause 175 of the Bill which provides for avoidance of tax by certain**

Sl. No	Para No	Clause No.	Observation/Recommendation
			transactions in securities find that it corresponds to section 94 of the IT Act, 1961 and that the term 'mutual fund or Administrator of the specified undertaking or the specified company' has been stated to be as referred to in Explanation to section 10(35) of the Income-Tax Act, 1961. The Committee opine that the definition could have been produced in the text itself without any reference to the IT Act, 1961. The Ministry, in this regard have treated this as a drafting error which shall be referenced as "note 6(a) and (g) below Schedule XV". In view of the indicated change, the Committee recommend the Ministry to rectify the drafting error and make a correct referencing as indicated. The content of rest of the proposed Clause 175 is accepted.
204.	**176.5**	**176**	**The Committee scrutinised the proposed Clause 176 of the Bill which provisions for special measures in respect of transactions with persons located in notified jurisdictional area. Noting the importance of this clause in terms of establishing accountability, the Committee went through the justification provided by the Ministry and found that the clause corresponds to section 94A of the Income-Tax Act, 1961. Observing that the provisions of the existing section have been textually simplified and retained with the same intent in this proposed Clause, the Committee accept the Clause as proposed.**
205.	**177.6**	**177**	**The Committee note that Clause 177 of the Bill seeks to provide for limitation on interest deduction in certain cases and is synonymous to Section 94B of the IT Act, 1961. The Committee find the justification for proposing the text in this Clause satisfactory and are also convinced with the response of the Ministry vis-à-vis the suggestions from the stakeholders. Other than textual simplification in the body of text, the intent of the original source, Section 94B of IT Act, 1961 has not been tinkered with. Thus, the Committee accept the proposed Clause in its entirety without any changes.**
206.	**178.5**	**178**	**After careful consideration of the proposal and the justifications provided by the Ministry of Finance, the Committee concur with the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			retention and textual simplification of Section 95 of the Income-Tax Act, 1961, as proposed under Clause 178 of the Income-Tax Bill, 2025.Accordingly, the Committee accept the clause as proposed.
207.	**179.5**	**179**	**The Committee, after thorough deliberation upon the proposal made in Clause 179 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions effectively simplify and retain the principle of "impermissible avoidance arrangement" in the Income-Tax Bill, 2025. The Clause specifies that an arrangement may be treated as impermissible if its main purpose is to obtain a tax benefit and it (a) creates rights or obligations not ordinarily created in transactions at arm's length; (b) results in the misuse or abuse of the provisions of the Act; (c) lacks commercial substance; or (d) is entered into by means not ordinarily employed for bona fide purposes. Furthermore, a presumption is provided that the main purpose of an arrangement or a part of it is to obtain a tax benefit, unless proved otherwise by the assessee. The Committee find these provisions appropriate for addressing aggressive tax avoidance while preserving fairness and equity in the application of the income tax law. Therefore, the Committee acceptthe provisions as proposed.**
208.	**180.5**	**180**	**The Committee, after careful consideration of the proposal contained in Clause 180, along with the justification provided by the Ministry of Finance, find the proposed provision to be appropriate. The Committee observe that Clause 180 corresponds to the provisions relating to impermissible avoidance arrangements under the General Anti-Avoidance Rule in the Income-Tax Act, 1961, and that the language has been refined to provide greater clarity without altering the substantive intent. Accordingly, the Committee**

Sl. No	Para No	Clause No.	Observation/Recommendation
			acceptthe provisions of clause 180 as proposed.
209.	**181.6**	**181**	**The Committee examined Clause 181 of the Bill, which seeks to provide for the consequences of an impermissible avoidance arrangement under the General Anti-Avoidance Rules. The Committee note that this largely corresponds to Section 98 of the Income-Tax Act, 1961, and that the provisions have been simplified in the Bill while retaining their original intent.** **The Committee also considered submissions from several stakeholders who expressed reservations about removing the phrase "in the circumstances of the case," which had served as a safeguard to ensure that the application of GAAR remained reasonable and sensitive to the specific context. Recognizing the merit of this concern, the Committee are of the view that while deterrence against tax avoidance must remain robust, it must also be tempered with procedural fairness and contextual sensitivity. The Committee, therefore, accept the provisions under Clause 181 with the modification that the words "in the circumstances of the case" shall be expressly reinstated to clarify that the consequences of impermissible avoidance arrangements will be determined having regard to the specific facts and context of each case. This addition will ensure that the determination of consequences under GAAR will continue to be guided by the specific facts and context of each case, thereby preserving the balance between effective enforcement and taxpayer protection.**
210.	**182.4**	**182**	**The Committee, after careful consideration of the provisions contained in Clause 182, along with the justification provided by the Ministry of Finance, find the proposed provision to be appropriate. The Committee observe that Clause 182 corresponds to Section 99 of the Income-Tax Act, 1961, and that the language**

Sl. No	Para No	Clause No.	Observation/Recommendation
			has been simplified without altering the substantive intent. Accordingly, the Committee accept the provisions under clause 182 as proposed.
211.	**183.6**	**183**	**The Committee, after thorough deliberation upon the provisions made in the Clause under examination, including the views/suggestions of the stakeholders and the justification given by the Ministry and note that Clause 183 seeks to provide for the applicability of General Anti-Avoidance Rule. The clause corresponds to Section 100 and Section 101 of the Income-Tax Act, 1961. The Ministry explained in its justification that these two sections have been merged and the provisions of the existing sections have been textually simplified while retaining the same intent in this clause.** **The Committee are of the view that the proposed modifications to be acceptable; however, the Committee observe that the phrase "shall apply" is missing in the first line of the clause 183, which may clarity of its application. To provide ease of reading and to convey its intended meaning more accurately, the Committee recommend that the first line of the sentence be amended to "The provisions of this Chapter shall apply — (a) in addition to, or in lieu of, any other basis for determination of tax liability; (b) as per such guidelines and subject to such conditions, as prescribed."** **Therefore, the Committee accept the proposed provisions under Clause 183 subject to the above modification.**
212.	**184.5**	**184**	**The Committee, after thorough deliberation upon the proposal made in Clause 184 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions align with the policy objective of simplifying and clarifying the legal framework.The Committee note that the provisions proposed under Clause 184 of the Bill provide for definitions of various terms used in this Chapter. The Committee note that**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Clause defines terms such as "accommodating party", "arrangement", "asset", "benefit", "connected person", "fund", "party", "relative", "step", "tax benefit" and "tax treaty". The Committee further observe that these definitions largely correspond to Section 102 of the Income-Tax Act, 1961, and that the provisions have been simplified in the Bill while retaining their original intent.The Committee therefore accept the provisions under Clause 184 as it is.
213.	**185.6**	**185**	**The Committee, after thorough deliberation upon the proposal made in Clause 185 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find that the proposed provisions are acceptable. The Committee note that Clause 185 seeks to provide for the mode of taking or accepting certain loans, deposits, and specified sums. The clause corresponds to Section 269SS of the Income-Tax Act, 1961. The Ministry clarified in its justification that there is no policy change and the provisions of the existing section have been textually simplified while retaining the same intent in this clause. The Committee accept the provisions under Clause 185 with the modification that the word 'of' be deleted in Clause 185(1) (iii) to align the drafting with legislative norms.** **Therefore, the Committee recommend that the clause be written as follows:** ***"185(1)*(iii) the aggregate of the amounts referred to in clauses (i) and (ii),is twenty thousand rupees or more."**
214.	**186.5**	**186**	**The Committee, after thorough deliberation upon the proposal made in Clause 186 under examination, including justification given by the Ministry of Finance, find that the proposed provisions are acceptable. The Committee note that Clause 186 corresponds to Section 269ST of the Income-Tax Act, 1961, and the provisions have been textually simplified while retaining their original intent.Accordingly, the Committee accept the clause as it stands.**

Sl. No	Para No	Clause No.	Observation/Recommendation
215.	187.6	187	The Committee, after thorough deliberation upon the proposal made in Clause 187 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be acceptable; however, the Committee are of the opinion that the word "profession" should be added after "business" in clause (a) to provide greater clarity in its application. Furthermore, this change will provide professionals with total receipts exceeding ₹50 crore in a year the facility of prescribed electronic modes of payment. Therefore, the Committee accept the provisions under Clause 187 subject to the following modification: The clause be written as: "Every person shall provide facility for accepting payment, through electronic modes as prescribed, in addition to other electronic modes, if any, being provided by him, where — (a) such person is carrying on business or profession; and.
216.	188.6	188	The Committee, after thorough deliberation upon the proposal made in Clause 188 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable; however, the Committee observe that certain modifications are desirable for greater clarity and precision in its application. The Committee recommend to replace the <u>word "paid" with "repaid" in clause (4) (a)</u> in view of the context that the clause pertains to the repayment of a deposit or a loan. Furthermore, the Committee is of the view that adding the words <u>"specified advances" in the section heading</u> will help clarify its coverage. Therefore, the Committee accept the proposed provisions under Clause 188 subject to the following modifications: The section be amended to replace 'paid' with 'repaid' in clause (4) (a) . The section heading of the Section be amended to read: "Mode of repayment of certain loans, deposits and

Sl. No	Para No	Clause No.	Observation/Recommendation
			specified advances".
217.	**189.6**	**189**	**The Committee, after thorough deliberation upon the proposal made in Clause 189 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable; however, the Committee observes that the term "co-operative bank" is used in clauses 185(2) , 186(2) , and 188(1) /(2) of the Bill, but it has not been defined in Clause 189. To bring greater clarity and consistency to the provisions of this Chapter and to align them with related provisions, the Committee consider it appropriate to insert a definition of "co-operative bank" in Clause 189. This will help avoid ambiguity, facilitate uniform and effective application of the provisions, and provide greater legal certainty and guidance to all stakeholders concerned. Therefore, the Committee accept the proposal under Clause 189 subject to the following modification:** **The following sub-clause shall be added in Clause 189:** **"(e) '"Cooperative bank", "primary agricultural credit society", and "primary cooperative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 149(6) .**
218.	**190.4**	**190**	**The Committee, having examined the provisions under clause 190, agree with the Ministry's view and find the simplified text to be clear, appropriate, and consistent with the policy objective of granting a deduction from income tax where total income includes income on which no tax is payable.Accordingly, the Committee accept the clause as proposed.**
219.	**191.4**	**191**	**The Committee considered the view of the Ministry of Finance that Clause 191 textually simplifies Section 111 while retaining its original intent and application. The Committee, having examined the provisions, agree with the Ministry's view and find the simplified text to be clear, appropriate, and consistent with the policy objective of taxing the accumulated balance of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			a recognised provident fund in cases where exemption conditions are not met.Accordingly, the Committee accept the provisions under clause 191 as proposed.
220.	**192.4**	**192**	**The Committee, after thorough examination, accept Clause 192 as effectively retaining the policy intent of Section 113 while simplifying its language. Accordingly, the Committee accept the clause as proposed.**
221.	**193.6**	**193**	**The Committee, after careful examination of the proposed Clause 193 — along with stakeholder inputs and submissions from the Ministry of Finance — recognize that the clause aims to retain and simplify the existing tax provisions concerning income from Global Depository Receipts (GDRs) purchased in foreign currency or capital gains arising from their transfer. The Committee welcome the improved clarity brought by the tabular presentation of tax rates.Accordingly, the Committee accept the clause as proposed.**
222.	**194.6**	**194**	**The Committee, after thorough deliberation on the provisions contained in Clause 194, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, noted that Clause 194 primarily consolidates and rationalises existing provisions previously scattered across Sections 115B, 115BB, 115BBF, 115BBG, 115BBH, and 115BBJ of the Income-Tax Act, 1961, into a single, simplified clause. The Ministry explained that while the provisions have been textually simplified, their underlying policy intent has been preserved. Additionally, definitions that were earlier dispersed across multiple sections have now been incorporated into sub-clause (2) of Clause 194 to improve clarity and facilitate easier application. Further, the Committee identified an inadvertent drafting error in Clause 194(2)(d), which presently defines "horse race" by reference to Section 115. To avoid ambiguity, the Committee recommend amending Clause 194(2)(d) to instead**

Sl. No	Para No	Clause No.	Observation/Recommendation
			refer to the definition provided in Section 94(6) of the Bill. This modification will clarify the intended meaning of "horse race" within the context of this Clause and help prevent any confusion during its application. Accordingly the Committee accept the clause as proposed, subject to the above-mentioned modifications.
223.	**195.4**	**195**	**The Committee, after thorough deliberation upon the proposal made in Clause 195, including the views and suggestions of stakeholders and the submission made by the Ministry of Finance, took note that this clause largely consolidates and rationalises existing provisions — previously contained in Section 115BBE of the Income-Tax Act, 1961 — into a single, simplified framework.The Committee note that the main objective of this consolidation is to provide greater clarity and ease of application while retaining the policy intent of deterring transactions routed through undisclosed sources of income. Accordingly, the Committee accept the provisions under Clause 195 as proposed.**
224.	**196.4**	**196**	**After careful consideration of the proposed provision under Clause 196 and the justifications provided by the Ministry of Finance, the Committee concur with the retention and textual simplification of Section 111A of the Income-Tax Act, 1961, as proposed under Clause 196 of the Income-Tax Bill, 2025. The Committee acknowledge that the proposed amendment preserves the taxation of short-term capital gains in case of a transfer of short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust subject to certain conditions.Accordingly, the Committee accept the provisions under clause 196 as proposed.**
225.	**197.6**	**197**	**The Committee, after thorough deliberation on the proposal set out in Clause 197 — including the views and suggestions of stakeholders and submissions from the Ministry of Finance — observes that this clause largely consolidates and rationalises the existing provisions previously contained in Section 112 of the Income-Tax Act, 1961, into a single,**

Sl. No	Para No	Clause No.	Observation/Recommendation
			simplified framework. **However, the Committee note a specific concern regarding the availability of the foreign exchange fluctuation benefit to non-residents (other than FIIs and specified funds) when computing long-term capital gains (LTCG) on the transfer of unlisted securities and shares of closely held companies (CHCs). The Committee believe this practice contradicts the policy intent of rationalisation introduced by the Finance (No. 2) Act, 2024. To ensure consistency with the earlier provision under Section 112(1)(c)(iii) of the Income-Tax Act, 1961, and to maintain equity among different classes of taxpayers, the Committee recommend amending Clause 197 to explicitly deny the foreign exchange fluctuation benefit to such non-residents in relation to these transfers.** **Additionally, some stakeholders expressed concern that Clause 197 does not explicitly distinguish between LTCG arising from transfers made before and after 23 July 2024, potentially causing interpretational uncertainty. However, the Committee note— as clarified by the Ministry of Finance — that this issue is already addressed within the legislative framework. Since the Income-Tax Bill, 2025 is proposed to come into effect from April 1, 2026 (i.e., Assessment Year 2026–27), a separate reference to transfers occurring prior to 23 July 2024 is unnecessary. The Repeal and Savings clause, specifically Clause 536(2)(b), adequately governs the treatment of transactions undertaken under the existing law. Accordingly, the Committee consider this concern as already addressed through transitional provisions in the Bill.** **Accordingly, the Committee recommend retaining Clause 197 in its present form, subject to the above modification, as it effectively streamlines and consolidates the provisions governing the taxation of long-term capital gains.**
226.	**198.6**	**198**	**The Committee, after a thorough examination of the proposal under Clause 198—including consideration of stakeholder inputs and the rationale provided by the Ministry of Finance—find the proposed provisions to be broadly acceptable. However, the Committee**

Sl. No	Para No	Clause No.	Observation/Recommendation
			note that the phrase "on long-term capital gains" in Clause 198(2)(a) is repeated unnecessarily, which may cause ambiguity in interpretation. To enhance clarity and ensure precision without altering the policy intent, the Committee recommend the following modification: **Modification to Clause 198:** **In sub-section (2)(a), the expression "on long-term capital gains" shall be deleted to streamline the language and avoid potential confusion.**
227.	**199.5**	**199**	**The Committee, after thorough deliberation upon the proposal made in Clause 199 under examination, including the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for a beneficial tax rate of 25% for certain domestic manufacturing companies set up and registered on or after 1st March 2016, subject to conditions such as having their business limited to manufacture or production and forgoing certain deductions and carry forward of losses.** **The Committee identified a drafting error in Clause 199(4), where the word "section" is unnecessarily repeated in line 30. The Committee therefore recommend that the error be rectified and the provisions under Clause 199 be accepted, subject to this correction.**
228.	**200.6**	**200**	**The Committee, after thorough deliberation upon the proposal made in Clause 200 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for a beneficial rate of 22% for certain domestic companies subject to conditions, and prescribes the manner of computing total income and the implications for companies having Units in the International Financial Services Centre.** **The Committee, however, note that while the existing provisions under Section 115BAA allowed a deduction in respect of inter-corporate dividends, the corresponding clause in the Bill inadvertently omits this benefit. The Ministry of Finance has explained that this is a drafting oversight and has accepted the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			suggestion to add a reference to clause 148 (section 80M) under Clause 200(1) (a) (ii). The Committee consider this change appropriate, as it will align the new provisions with the policy intent of the existing Section 115BAA. **Therefore, the Committee accept the provisions under Clause 200 subject to the following modification:** **To insert a reference to Clause 148 (section 80M) under Clause 200(1) (a) (ii) .** **This modification will enable domestic companies opting for the 22% concessional rate to deduct income by way of certain inter-corporate dividends, thereby removing an unintended inconsistency and aligning the new provisions with the policy of the existing Act.**
229.	**201.4**	**201**	**The Committee, after thorough deliberation upon the proposal made in Clause 201 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provisions to be broadly acceptable. The Committee note that the policy objective of providing a temporary stimulus to the manufacturing sector is adequately addressed through the current formulation of the clause.Accordingly, the Committee accept the clause as proposed.**
230.	**202.6**	**202**	**Upon careful consideration of the proposal under Clause 202, along with the views and suggestions of stakeholders and the rationale provided by the Ministry of Finance, the Committee is of the view that the proposed provisions are, in principle, acceptable.** **The Committee, however, note that while the Income-Tax Bill, 2025 broadly corresponds to Section 115BAC of the Income-Tax Act, 1961, there is a drafting oversight in the Bill. Specifically, Clause 202(1) omits a reference to Part A, B, C, D, and E of Chapter XIII, which prescribes special regimes for certain income. The Ministry of Finance has explained that this is a drafting correction and has accepted the suggestion to insert a reference to "Part A, B, C, D, and E of Chapter XIII" under Clause 202(1) .**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Therefore, the Committee accept the proposed Clause 202 subject to the following modification: **To insert a reference to "Part A, B, C, D, and E of Chapter XIII" under Clause 202(1) .** **This modification will clarify that the new regimes under Clause 202 are subject to the special regimes under Part A, B, C, D, and E of Chapter XIII, thereby aligning the provisions with the policy intent of the existing Section 115BAC.**
231.	**203.4**	**203**	**The Committee, after thorough deliberation upon the proposal made in Clause 203 under examination and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable.The Committee recommend retaining Clause 203 as it stands, noting that it corresponds to Section 115BAD of the Income-Tax Act, 1961, and simplifies the text without changing its policy intent or benefits for co-operative societies.**
232.	**204.4**	**204**	**The Committee, after thorough deliberation upon the proposal made in Clause 204, including the views/suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. Therefore, the Committee recommend retaining Clause 204 in its present form, noting that it corresponds to Section 115BAE of the Income-Tax Act, 1961, and simply simplifies the text while retaining its policy intent to provide an incentivised 15% tax rate for new manufacturing co-operative societies.**
233.	**205.4**	**205**	**The Committee, after thorough deliberation upon the proposal made in Clause 205 under examination, including the justification given by the Ministry of Finance, find the proposed provisions appropriate and reasonable.The Committee recommend to accept Clause 205 as proposed. The Clause consolidates and streamlines conditions previously contained in sections 115BA, 115BAA, 115BAB, 115BAD, and 115BAE of the Income-Tax Act, 1961, thereby providing greater clarity and ease of application. Further, the Committee note that there are references to the IT Act, 1961 in the proposed clause, which**

Sl. No	Para No	Clause No.	Observation/Recommendation
			deviates from the intention of the Committee for a clean break of the Income-Tax Bill, 2025 from the IT Act, 1961. The committee are of the view that the clause referencing to 1961 will make the reading unwieldy and therefore the Committee recommend that the Ministry remove this reference from the proposed provisions under clause 205 of the Income-tax Bill, 2025, and instead incorporate it under the Repeal and Saving provisions under Clause 536.
234.	**206.6**	**206**	**In view of the deliberations with various stakeholders and experts, and taking into account the detailed submissions and justification given by the Ministry of Finance, the Committee concur with the broad intent and direction of Clause 206 of the Income-tax Bill, 2025 (ITB 2025), particularly in relation to the consolidation and simplification of provisions concerning Minimum Alternate Tax (MAT) and Alternate Minimum Tax (AMT). However, the Committee also note the substantive concerns raised by multiple stakeholders regarding the potential unintended consequences arising from the omission of safeguards and exemptions earlier available under Section 115JEE of the ITA, 1961, as well as the absence of express provision for adjustment of notional gains in the computation of MAT under Clause 206(4), and the drafting anomalies concerning surcharge treatment, pre-1997 reserves, and the liability of successor LLPs under AMT. While many of these issues are categorised by the Ministry as drafting corrections, the Committee are of the view that incorporation of these clarifications within the Bill text would strengthen legal certainty and reduce avoidable litigation.** **Accordingly, to remove any ambiguity and ensure legal continuity with the legislative intent of the Income-tax Act, 1961 (ITA), the Committee recommend the redrafting of Clause 206 of the Income-tax Bill, 2025 (ITB) as follows:** **<u>Clause 206(1): Clarification on Scope of AMT for Non-Corporates</u>** **A new sub-clause may be inserted to clarify that AMT shall not apply to individuals, HUFs, AOPs, BOIs, or AJPs if:**

Sl. No	Para No	Clause No.	Observation/Recommendation
			(a) They have not claimed deductions under Section 10AA, Section 35AD, or Chapter VI-A (Part C), and **(b) Their adjusted total income does not exceed ₹20 lakhs.** **A provision similar to Section 115JEE(3) of the ITA, allowing the carry-forward and set-off of AMT credit even in years where AMT is not applicable, may also be included.** **<u>Clause 206(2): Exclusion for Pre-1997 Reserves & Table Refinements</u>** **A proviso may be added to exempt reserves created before 1 April 1997 (by debit to profit and loss) from MAT adjustments, as MAT was not applicable during that time.** **Further technical edits to the adjustment Table are recommended:** • **Remove redundant text regarding debit/credit to profit and loss.** • **Delete Column A (serial number), remove point (k), and restate point (f) as a footnote to avoid duplication.** **<u>Clause 206(3): Inclusion of Surcharge in MAT Credit</u>** **An Explanation may be inserted clarifying that "tax" includes surcharge and cess, both for determining MAT credit and its set-off—consistent with judicial precedent (*CIT v. K. Srinivasan*, 83 ITR 346).** **<u>206(4): Downward Adjustment for Notional Gains & Minor Corrections</u>** • **Allow a downward adjustment for notional gains on transfer of SPV shares to a business trust in exchange for units, as per Explanation (iie) to Section 115JB.** • **Correct minor drafting errors in the Table (e.g., remove redundant "the", fix clause references in Note 1, and update language to refer to "other comprehensive income").** **<u>Clause 206(17): AMT Applicability for Successor LLPs</u>** **Clarify that AMT liability shall apply to the successor LLP post-conversion, but**

Sl. No	Para No	Clause No.	Observation/Recommendation
			MAT credit of the predecessor company shall not be carried forward—thereby restoring the position under the ITA, 1961. **These modifications are essential to ensure that ITB 2025 remains consistent with established tax policy under the ITA, 1961, removes drafting ambiguities, and safeguards against unintended consequences. The revised provisions strike a balanced approach between simplification, legal clarity, and fairness, while reducing scope for disputes.**
235.	**207.4**	**207**	**The Committee, after thorough deliberation upon the proposal made in Clause 207 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions appropriate and reasonable. The Committee accept Clause 207 as proposed. The Clause corresponds to Section 115A of the Income-Tax Act, 1961, and has been simplified and presented in a tabular format for ease of understanding. Accordingly, the Committee accept the proposed provision.**
236.	**208.4**	**208**	**The Committee has examined the provisions of Clause 208 and recommend to accept the clause as proposed. The clause is a simplification and retention of the existing Section 115AB of the Income-Tax Act, 1961, with some provisions presented in a tabular format for ease of comprehension. The intent and policy of the original Section 115AB have been maintained in this clause.**
237.	**209.6**	**209**	**The Committee, having carefully considered the proposed provisions under Clause 209, including stakeholder inputs and the rationale provided by the Ministry of Finance, is of the opinion that the provisions are broadly acceptable. The clause prescribed concessional tax rates for non-residents on income from bonds and Global Depository Receipts (GDRs) purchased in foreign currency and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			on capital gains arising from their transfer. The Committee, however, note that while the Income-Tax Bill, 2025 broadly corresponds to Section 115AC of the Income-Tax Act, 1961, there are certain drafting oversights in the Bill. The word "From" in column B of Serial 1 and 2 of the table under Clause 209(1) is redundant and may affect clarity. Furthermore, in Clause 209(2) (a) (i) , the expression "sub-section (1) ; or" is unnecessary and should be removed. **Therefore, the Committee accept the provisions under Clause 209 subject to the following modifications:** **Remove the word "From" in column B of Serial 1 and 2 of the table under Clause 209(1) .** **Remove the expression "sub-section (1) ; or" in Clause 209(2) (a) (i) .** **Therefore, the Committee accept the provisions under Clause 209 as proposed subject to the above modifications.**
238.	**210.4**	**210**	**The Committee, after thorough deliberation upon the proposal made in Clause 210 under examination, including the views/suggestions of stakeholders and the justification given by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause provides for special rates of income tax on income of Foreign Institutional Investors and specified funds from transfer of securities and capital gains arising therefrom. It prescribes concessional tax rates for different categories of income — ranging from 10% to 30% — depending on whether the income is from securities, short-term capital gains, or long-term capital gains.** **The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115AD of the Income-Tax Act, 1961, and the provisions have been simplified and presented in a tabular format for ease of comprehension. The Ministry of Finance has explained that this is a consolidation and reorganization of existing provisions without affecting their policy intent.Therefore, the Committee accept the provision under Clause 210 as proposed.**
239.	**211.4**	**211**	**The Committee, after a detailed examination of Clause 211, including the suggestions of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			stakeholders and the rationale provided by the Ministry of Finance, is of the view that the provisions under Clause 211are broadly acceptable. The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115BBA of the Income-Tax Act, 1961, and the provisions have been simplified and presented in a tabular format for ease of understanding. Therefore, the Committee accept the proposal under Clause 211 as it stands.
240.	**212.4**	**212**	**The Committee, after thorough deliberation upon the proposal made in Clause 212 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The Committee note that the Income-Tax Bill, 2025 broadly corresponds to Section 115C of the Income-Tax Act, 1961, and the definition of "convertible foreign exchange" has been removed here and placed under Clause 2(30) of the Bill for simplification and ease of reference. The Ministry of Finance has explained that this change is meant to streamline the structure of the Act without affecting the policy intent or application of these provisions. Furthermore, the existing provisions have been simplified and presented more clearly in this clause while retaining their original intent.Therefore, the Committee accept the proposed provisions under Clause 212 as it stands.**
241.	**213.4**	**213**	**The Committee, after careful consideration of the proposal under Clause 213, including the justification provided by the Ministry of Finance, find the proposed provisions appropriate and consistent with the existing legal framework. The Committee note that Clause aims to rationalize the computation of total income for non-resident Indians by consolidating and clarifying provisions previously contained in Section 115D of the Income-Tax Act, 1961.Accordingly, the Committee accept Clause 213 as proposed, recognizing that it provides greater clarity and ease of application in line with the policy intent.**
242.	**214.6**	**214**	**The Committee, after thorough deliberation upon the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			proposal made in Clause 214 under examination, including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance, find the proposed provisions to be broadly acceptable. The clause prescribes the special rate of income tax payable by non-resident Indians on their investment income and long-term capital gains. **The Committee note that the said clause of Income-Tax Bill, 2025 broadly corresponds to Section 115E of the Income-Tax Act, 1961. The provisions have been simplified and presented more clearly while retaining their original intent.** **The Committee observe that the reference to "income from long-term capital gains of an asset other than a specified asset" under Serial No. 1 of the table is a drafting oversight and should be removed. Therefore, the Committee accept the proposed Clause 214 with the following modifications:** **To delete the words "income from long-term capital gains of an asset other than a specified asset" under Serial No. 1 of the table.**
243.	**215.6**	**215**	**The Committee, after thorough deliberation upon the proposal made in Clause 215 under examination, including the justification provided by the Ministry of Finance, find the proposed provisions broadly acceptable. The Committee note that this clause corresponds to Section 115F of the Income-Tax Act, 1961, and the Ministry has simplified the text while retaining its original intent. The formula for computing exemption when the cost of the new asset is less than the net consideration of the original asset has been explicitly incorporated in the Bill for ease of application and clarity. However, the Committee identified a drafting error in sub-section (2), where the phrase 'For the' are unnecessary and should be omitted to avoid redundancy.** **Therefore, the Committee accept the proposed Clause 215 with the following modifications:** **To omit the words "For the" in sub-section (2) for greater clarity.**

Sl. No	Para No	Clause No.	Observation/Recommendation
244.	216.4	216	The Committee, after consideration of Clause 216 of the Bill, find the proposal reasonable and in keeping with the intent of the existing Section 115G of the Income-Tax Act, 1961.The clause provides that a non-resident Indian is not required to furnish a return of income if their total income consists only of investment income or long-term capital gains or both, and the applicable tax has already been deducted at source under Chapter XIX-B.The Ministry's justification—that this simply textually streamlines the existing exemption without making any substantial change—is appropriate and desirable.Therefore, the Committee recommend retaining Clause 216 as it stands in the Bill.
245.	217.6	217	The Committee, after thorough deliberation upon the proposal made in Clause 217 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find that this clause aims to provide a benefit to a non-resident Indian who subsequently becomes a resident in India. It allows such a person to continue to be governed by the provisions of this Chapter in relation to income from certain specified assets, provided a declaration is furnished to the Assessing Officer along with their return of income. The Ministry has explained that this change simply streamlines the text of the existing Section 115H of the Income-Tax Act, 1961, while retaining its main intent. The Committee feel that the option of furnishing a separate declaration to the Assessing Officer could be incorporated directly into the return of income form instead. However, the Committee find this to be a procedural matter, which can be addressed at the time of framing Rules and designing the income tax return form. Therefore, the Committee consider it appropriate to retain the clause in its present form, subject to this consideration.
246.	218.5	218	The Committee, after careful consideration of the proposal made in Clause 218 under examination — including the justification provided by the Ministry of Finance — find that this clause simply streamlines and retains the intent of Section 115-I of the Income-

Sl. No	Para No	Clause No.	Observation/Recommendation
			Tax Act, 1961. It provides a non-resident Indian with the option to opt out of the special provisions of this Chapter by making a declaration in their return of income under Section 263.Once such a declaration is made, the provisions of this Chapter will not apply for that tax year, and the total income of the non-resident Indian will be computed and taxed in the normal manner under the other provisions of the Act. The Committee consider this a reasonable and flexible approach, allowing non-resident Indians to choose the regimen most beneficial to them in a given year.The Committee, therefore, accept the provisions under clause 218 as proposed.
247.	**219.5**	**219**	**The Committee, after careful consideration of the proposal made in Clause 219 under examination — including the justification provided by the Ministry of Finance — find that this clause largely retains the intent and benefits previously available under Section 115JG of the Income-Tax Act, 1961.** **The main objective of this clause is to facilitate the conversion of a branch of a foreign bank in India into a subsidiary company, without causing a capital gains event and while preserving certain benefits, such as carry forward of losses and depreciation and tax credit on previously deemed income.The conditions for this exemption and the procedure to withdraw these benefits if conditions are subsequently contravened have been adequately specified. The Ministry has simplified the wording while retaining the substance of the existing provisions.The Committee, therefore, consider it appropriate to retain Clause 219 of the Bill as it stands.**
248.	**220.4**	**220**	**The Committee, after consideration of Clause 220 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115JH of the Income-Tax Act, 1961.The Committee notethe justification furnished by the Ministry that this simply streamlines the text and retains the main intent of the existing provision. Therefore, the Committee accept the proposed clause.**

Sl. No	Para No	Clause No.	Observation/Recommendation
249.	221.4	221	The Committee, after careful consideration of Clause 221 of the Bill, find the proposal reasonable and in consonance with the intent and policy objective of Section 115TCA of the Income-Tax Act, 1961.The Committee notethe Ministry's submission that the proposed clause does not introduce any substantial change in policy but rather streamlines and clarifies the existing provisions to align them more closely with their original legislative intent. The Committee find this approach appropriate and desirable. Therefore, the Committee accept the proposal as contained in Clause 221 of the Bill.
250.	222.4	222	The Committee, having carefully considered Clause 222 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative intent of Section 115U of the Income-Tax Act, 1961.The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective and procedural safeguards. Importantly, the mechanisms for attribution of income, filing of statements by the venture capital company or fund, and disclosure to the income-tax authorities remain adequately robust to facilitate proper oversight and compliance.In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the principle of pass-through taxation. Therefore, the Committee accept Clause 222 of the Bill in its present form.
251.	223.6	223	The Committee, after thorough deliberation upon the proposal made in Clause 223 — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable and in consonance with the policy intent of Section 115UA of the Income-Tax Act, 1961. However, the Committee observe a minor drafting inconsistency in sub-section (2) of Clause 223. The proposal, as currently worded, omits a specific reference to Section 112A and Section 198, which

Sl. No	Para No	Clause No.	Observation/Recommendation
			was incorporated into Section 115UA(2) by the Finance Act, 2025. This oversight may affect the application of the 12.5% tax rate to income covered under Section 112A and the proper treatment of capital gains on transfer of long-term capital assets. **The Committee, therefore, consider it appropriate to recommend that Clause 223(2) be amended to expressly refer to Section 112A and Section 198. Such a modification would align the provision with its legislative intent and policy framework, thereby ensuring fairness, consistency, and clarity in application.** **The Committee, therefore, accept the provisions of Clause 223 of the Bill subject to the above modification.**
252.	**224.6**	**224**	**The Committee, after thorough deliberation upon the proposal made in Clause 224 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable and in consonance with the policy objective of pass-through taxation for investment funds and their unit holders.** **However, the Committee observes a discrepancy arising from the current definition of "investment fund" in Clause 224(10). As presently drafted, the definition could inadvertently encompass Categories of funds (such as Category III AIF) that were not intended to benefit from pass-through treatment. Specifically, the use of the broad expression "regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022" may lead to the unintended inclusion of funds that do not fall under Categories I or II AIF.** **The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that Clause 224(10) be amended to expressly provide that only "Category I or II Alternative Investment Funds, as defined under the International Financial Services Centres Authority (Fund Management) Regulations, 2022" shall be eligible for pass-through treatment.**

Sl. No	Para No	Clause No.	Observation/Recommendation
253.	225.4	225	The Committee, having carefully considered Clause 225 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative intent of Section 115VA of the Income-Tax Act, 1961.The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to simplify and bring predictability to the tax treatment of income from the operations of qualifying ships. Importantly, this approach aligns with international practices and policy incentives designed to foster growth in the country's merchant navy and Shipping industry.In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy intent of tonnage-based taxation. Therefore, the Committee accept the provisions under Clause 225 of the Bill in its present form.
254.	226.4	226	The Committee, having carefully examined Clause 226 of the Bill, find the proposal to be reasonable, well-structured, and in harmony with the legislative intent of Sections 115VB, 115VE, and 115VF of the Income-Tax Act, 1961. The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to facilitate ease of computation, provide stability in tax treatment, and foster growth in the merchant navy sector. Importantly, the conditions for applicability of the scheme, the procedure for exercising the option, and the treatment of related income remain adequately clear and robust under the new framework. In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy of tonnage-based taxation. Therefore, the Committee acceptClause 226 of the Bill in its present form.
255.	227.4	227	The Committee, having carefully considered Clause 227 of the Bill, find the proposal to be reasonable, well-crafted, and in consonance with the legislative

Sl. No	Para No	Clause No.	Observation/Recommendation
			intent of Sections 115VG, 115VH, and 115VX of the Income-Tax Act, 1961. **The Committee note that the Ministry has explained these modifications as a textual streamlining of the existing provisions, while retaining their essential policy objective — namely, to simplify and bring predictability to the computation of tonnage income for companies engaged in the business of operating qualifying ships. Importantly, this approach aligns with international practices and policy incentives designed to foster growth in the country's merchant navy and Shipping industry.** **In view of the above, the Committee find the proposal appropriate, desirable, and in keeping with the policy intent of tonnage-based taxation. Therefore, the Committee accept Clause 227 of the Bill in its present form.**
256.	**228.4**	**228**	**The Committee, after careful consideration of Clause 228 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115V-I, 115VJ, and 115V-O of the Income-Tax Act, 1961.The Committee note the justification furnished by the Ministry that this change simply merges existing provisions into a unified framework while retaining their main intent. The Committee find this approach appropriate and desirable for simplifying the legislation and improving clarity in its application. Therefore, the Committee accept the Clause 228 as it stands in the Bill.**
257.	**229.4**	**229**	**The Committee, after considering Clause 229 of the Bill, find the proposal reasonable and in keeping with the main intent of Section 115VK and Section 115VN of the Income-Tax Act, 1961. The Ministry's explanation that this simply clarifies and reorganises the text, without making substantial policy changes, is appropriate and desirable.Therefore, the Committee accept the provisions under Clause 229 as proposed in the Bill.**
258.	**230.5**	**230**	**The Committee, after careful consideration of Clause 230 of the Bill, find the proposal reasonable and in keeping with the intent of sections 115VL and 115VM**

Sl. No	Para No	Clause No.	Observation/Recommendation
			of the Income-Tax Act, 1961.The Committee note Ministry's justification that Clause 230 simply merges and streamlines the text of the existing provisions of Income-Tax Act, 1961while retaining their main intent is appropriate and desirable.Therefore, the Committee recommend retaining Clause 230 as it stands in the Bill.
259.	**231.4**	**231**	**The Committee, after consideration of Clause 231 of the Bill, find the proposal reasonable and in keeping with the intent of Section 115VP, 115VQ, 115VR, and 115VS of the Income-Tax Act, 1961.The clause sets out the procedure for a qualifying company to opt for the tonnage tax scheme, the period of its validity, renewal conditions, and the circumstances under which the option may cease or be withdrawn. The justification furnished by the Ministry — that the provisions have been simplified and redundancy removed while retaining their main intent — is appropriate and desirable.Therefore, the Committee recommend retaining Clause 231 as it stands in the Bill.**
260.	**232.6**	**232**	**The Committee, after thorough deliberation upon the proposal made in Clause 232 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable.** **However, the Committee observe a discrepancy arising from the use of the prefix "new" for inland vessels but not for ships. This may inadvertently allow more second-hand vessels to be chartered in, exceeding the intended 49% limit.** **The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that the terminology be amended to apply the 49% limit uniformly to all chartered-in vessels — whether new or second-hand — in order to maintain fairness and policy consistency. The Committee, therefore, suggest that the Ministry consider this modification while finalizing the provisions of Clause 232 of the Bill.**

Sl. No	Para No	Clause No.	Observation/Recommendation
261.	233.6	233	The Committee, after thorough deliberation upon the proposal made in Clause 233 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable. However, the Committee observe a discrepancy arising from the use of the term "new inland vessel" in this context. The use of "new" may inadvertently create confusion and inconsistency in application, particularly when the policy intent applies uniformly to all inland vessels, regardless of whether they are new or second-hand. The Committee feel that this inconsistency should be addressed to reflect the true policy intent and to avoid confusion in application. It, therefore, consider it appropriate to recommend that the terminology be amended to refer simply to "inland vessel" — thereby applying the provisions uniformly to all such vessels — in order to maintain fairness and policy consistency. The Committee, therefore, suggest that the Ministry consider this modification while finalizing the provisions of Clause 233 of the Bill.
262.	234.5	234	The Committee, after thorough deliberation upon the proposal made in Clause 234 under examination — including the views and suggestions of stakeholders and the justification provided by the Ministry of Finance — find the proposed provision broadly acceptable. The Committee note that this clause aims to curb abuse of the tonnage tax scheme and to empower the Assessing Officer to exclude companies from the scheme where transactions or arrangements are entered into with the main purpose of avoiding tax. The provisions largely retain the intent of the existing sections 115VZB and 115VZC of the Income-Tax Act, 1961, while simplifying their language. The Committee believe that this measure is reasonable and necessary to safeguard revenue and to maintain fairness in the application of the tonnage tax scheme. However, the Committee underscores the importance of proper safeguards — including a

Sl. No	Para No	Clause No.	Observation/Recommendation
			show-cause notice and the approval of the Principal Chief Commissioner or Chief Commissioner — to avoid arbitrary decisions and to provide companies with an opportunity to explain their transactions. **Therefore, the Committee find the proposal appropriate and broadly endorse its retention in the Bill.However, the Committee suggest that the Ministry and the Assessing Officer should apply these provisions judiciously, to deal with cases of abuse while not affecting bona fide transactions.The Committee, therefore, recommend that the Ministry consider this observation while finalizing the provisions of Clause 234 of the Bill.**
263.	**235.6**	**235**	**The Committee has carefully examined Clause 235 of the Income-Tax Bill, 2025, which sets out definitions for key terms used in the tonnage tax scheme. The Committee find these definitions broadly align with the existing provisions under Section 115V of the Income-Tax Act, 1961, and help streamline and consolidate all related definitions into a single clause for better readability and clarity. The Committee has taken note of a drafting inconsistency in Clause 235(a) , where the word "new" has inadvertently been placed before "inland vessel"—a terminology not present in the principal Act and not required in this context. The use of "new" may confuse stakeholders and lead to interpretational issues. Therefore, in view of this oversight, the Committee recommend the deletion of the word "new" from Clause 235(a) to align it with the terminology used for "bareboat charter" under the principal Act. The rest of the definitions in this clause may be retained as originally drafted, given their clarity and utility in simplifying the tonnage tax framework. The Committee, therefore, endorses Clause 235 with this minor modification.**
264.	**236.4**	**236**	**The Committee, upon examination and the justification provided by the Ministry, note that the provisions proposed in the clause are in line with corresponding section of the 1961 Act. The Committee find the provisions to be a textual simplification and therefore accept the Clause as**

Sl. No	Para No	Clause No.	Observation/Recommendation
			proposed.
265.	237.4	237	The Committee, upon examination and the justification provided by the Ministry, note that the provisions proposed in the clause are mere textual simplification of the existing provision of the 1961 Act. The Committee, therefore, accept the Clause as it stands.
266.	238.4	238	The Committee note the justification provided by the Ministry and find the provisions of the Clause 238 in line with the existing provisions of the 1961 Act. Being a textual simplification, the Committee accept the Clause as proposed.
267.	239.6.1	239	The Committee, upon detailed deliberations on various provisions of the Clause, find a missing reference to Clauses 288 and 408 in Clause 239(3)(a) and therefore recommend for insertion thereof for better clarity and to align it with the provisions of the Act.
268.	240.4	240	The Committee note the justification provided by the Ministry and find the provisions of the Clause 240 in line with the existing provisions and a textual simplification and therefore accept the Clause as proposed.
269.	241.4	241	The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 241, as a textual simplification of the existing provisions of the 1961 Act and therefore accept the Clause as it stands.
270.	242.6.1 242.6.2	242	(i)The Committee, upon deliberations on the Clause, note that there is a drafting error in sub-clause (6) which needed to be re-drafted for better clarity and the same is acceptable to the Ministry. The Committee, therefore, recommend that the phrase 'if any,' at Line No. 28 may be removed and be placed at Line no. 27 after 'income' so as to clearly explain the intent of the sub-clause. (ii) The Committee further note a cross reference in sub-clause 4(c) to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently and accept the remaining portion of the proposed Clause 242 without

Sl. No	Para No	Clause No.	Observation/Recommendation
			any further change.
271.	243.4	243	The Committee note the justification provided by the Ministry and find the provisions of the Clause 243 in line with the existing provisions and a textual simplification and therefore accept the Clause as proposed.
272.	244.4	244	The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 244 in line with the corresponding provisions of the 1961 Act. Therefore, the Committee accept the Clause as proposed.
273.	245.4	245	The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 245 to be in line with the existing provisions of 1961 Act and being a textual simplification, the Committee accept the Clause as proposed.
274.	246.6.1	246	The Committee, upon examination of the Clause, note that sub-clause (2)(b) requires an amendment to incorporate the concept of jurisdiction for the exercise of powers related to discovery and production of evidence. Accordingly, the Committee recommend that sub-clause (2)(b) be amended to retain the original language and intent of Section 131(1A) of the existing Income-Tax Act, while specifically including the jurisdictional concept, ensuring such powers are exercised by an officer within whose jurisdiction the assessee is situated.
275.	247.6.1	247	The Committee note certain drafting corrections needed to be carried out in some sub-clauses as under: (i) In sub-clause(5)(b), the word "with" (Line No.46) needs to be removed from phrase “or the Director General, as per with such procedure, as prescribed. “ (ii) In sub-clause 247(9) the word "value" needs to be replaced by "valuer" (Line No.42). (iii) Further, in sub-clause(9), the word "enforce” (Line No.43) needs to be replaced by "in force" and the phrase “as may be approved by the Principal Chief

Sl. No	Para No	Clause No.	Observation/Recommendation
			Commissioner or the Chief Commissioner or the Principal Director General or the Director General" need to be added for better clarity.
276.	248.6	248	The Committee note the justification provided by the Ministry and find the provisions of the Clause 248 in line with the existing provisions and mere textual simplification and therefore accept the Clause as proposed.
277.	249.6	249	The Committee, upon deliberation on the Clause and the justification provided by the Ministry, find the provisions of the Clause 249 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.
278.	250.6	250	(i) The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 250 to be a textual simplification with no change in intent and in line with the existing provisions of the 1961 Act. The Ministry, under the Clause, has provided a formula to calculate the amount on which the central government shall pay the simple interest at the rate of 0.5% for every month, so as to eliminate the scope of any ambiguity. The Committee, therefore, accept the Clause as proposed. (ii)The Committee further note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.
279.	251.3	251	The Committee note the justification provided by the Ministry and find the provisions of the Clause 251 to be mere textual simplification and in line with the corresponding provisions of 1961 Act and therefore accept the Clause as it stands.
280.	252.6	252	The Committee note that there is a need to amend Clause 252(1)(e) to clarify the application of the financial threshold for calling for information. The Committee observe that currently Clause 252(1)(e) empowers the income tax authority to require an assessee to furnish details of payments made for

Sl. No	Para No	Clause No.	Observation/Recommendation
			"rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head 'Salaries' amounting to more than ten thousand rupees''. The phrase "amounting to more than ten thousand rupees" appears to qualify only "any annuity, not being any annuity taxable under the head 'Salaries'". The Committee observe that this may create an ambiguity, suggesting that for other payments like rent, interest, commission, royalty, or brokerage, there might not be a specified minimum limit for which information can be sought. Therefore, the Committee recommend that the sub-clause (1)(e) may be amended to ensure that the limit of 'ten thousand rupees', clearly applies to all the preceding categories of payments '"rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head 'Salaries'".
281.	**253.6**	**253**	**The Committee, upon examination and justification provided by the Ministry, find the provisions of the Clause 253 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.**
282.	**254.5**	**254**	**The Committee, upon examination and justification provided by the Ministry, find the provisions of the Clause 254 in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.**
283.	**255.4**	**255**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 255 to be textual simplification of the corresponding provisions of the existing Act and therefore accept the Clause as proposed.**
284.	**256.4**	**256**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 256 to be a textual simplification of the corresponding provisions of the existing Act and therefore accept the Clause as proposed.**
285.	**257.4**	**257**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 257 to be textual simplification of the existing provisions with the same intent in this clause. The Committee, therefore, accept the Clause as it stands.**
286.	**258.4**	**258**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 258 to**

Sl. No	Para No	Clause No.	Observation/Recommendation
			be textual simplification and in line with the existing provisions of the 1961 Act and therefore accept the Clause as proposed.
287.	259.4	259	The Committee note the justification provided by the Ministry and find the provisions of the Clause 259 to be a textual simplification of the existing provisions of the 1961 Act and therefore accept the Clause as proposed.
288.	260.4	260	The Committee, upon examination of the justification provided by the Ministry, find the provisions of the Clause 260 to be mere textual simplification of the existing provisions and therefore accept the Clause as proposed.
289.	261.4.1 261.4.2	261	(i)The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently. (ii) The Committee, upon examination of the provisions of the Clause and the justification provided by the Ministry find that this is a new clause which consolidates various definitions in the corresponding sections of the 1961 Act. For simplification, certain interpretations like approving authority, competent authority have also been provided. Apart from the above recommendation, the Committee find the clause to be adequate and in line with the corresponding section of the 1961 Act and accept the same as it stands.
290.	262.6	262	The Committee, upon examination of the provisions along with justification provided by the Ministry, find the provisions of the Clause 262 to be corresponding and in line with the provisions of the existing Act. The Committee, therefore, accept the Clause in entirety.
291.	263.6.1	263	(i) The Committee observe that Clause 263(1) of the Bill states that for persons other than companies or firms, the ITR filing obligation is there if their total income exceeds the basic exemption limit without giving effect to deductions allowable under "Chapter IV-E (Capital Gains)." However, the Committee note that referring to the entire "Chapter IV-E" is too broad as this Chapter covers not only specific exemptions

Sl. No	Para No	Clause No.	Observation/Recommendation
			but also fundamental elements of capital gains computation such as the cost of acquisition, indexed cost, and exempt transfers. Also, the broad phrasing might be misinterpreted to mean that all these computational elements (cost, exempt transfers, etc.) are to be ignored when calculating total income for the ITR filing threshold. Therefore, the Committee recommend that in order to prevent potential litigation, avoid ambiguity and ensure clarity, the provisions of the Bill may be amended to align with the existing Act by explicitly specifying only those particular deductions within Chapter IV-E that are to be disregarded when determining the ITR filing threshold, rather than the entire chapter. **(ii)** **The Committee observe that the current mandatory requirement to file a return solely for the purpose of claiming a refund could inadvertently lead to prosecution, particularly for small taxpayers whose income falls below the taxable threshold but from whom tax has been deducted at source. In such scenarios, the law should not compel a return merely to avoid penal provisions for non-filing. The Committee, therefore, recommend to remove sub-clause (1)(ix) to Clause 263 to provide flexibility for allowing refund claims in cases where the return is not filed in due time.** **(iii) The Committee further note that there is an error in cross-referencing in sub-clause 8(a). Therefore, the Committee recommend to remove '(4)' from referred Section '239(4)(3)(b)' in sub-clause (8)(a) to Clause 263.** **(iv)The Committee recommend that to provide better clarity regarding due date of filing returns, in the Table in Clause 263 for company with Transfer Pricing transactions, the due date 30th November may be added.**
292.	**264.6**	**264**	**The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 264 in line with the existing provisions with retention of the same intent and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			therefore accept the Clause as proposed.
293.	**265.4**	**265**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 265 to be textual simplification of the existing provisions of the 1961 Act with no change in policy and intent and therefore the Committee accept the Clause as it stands.**
294.	**266.4**	**266**	**The Committee, upon examination and the justification provided by the Ministry and find the provisions of the Clause 266 corresponding to the existing provisions and therefore accept the Clause as proposed.**
295.	**267.6**	**267**	**The Committee, upon examination of the provisions of the Clause, note a drafting error in sub-clause 267(12) and therefore recommend to re-draft the said sub-clause so as to improve its clarity and precision, aligning it with the overall scheme of updated returns, especially when it is the first return filed. The Committee, other than recommending the Ministry to carry out the necessary change, find the provisions to be a textual simplification and accept the Clause as proposed.**
296.	**268.6.1**	**268**	**The Committee, upon examination of the Clause, note a drafting correction and therfore recommend to replace the phrase 'in the such form' with 'in the prescribed form' in sub-clause (5)(i) so as to bring more clarity in meaning and intent.**
297.	**269.6**	**269**	**The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 269 in line with the existing provisions therefore accept the Clause as proposed.**
298.	**270.6.1**	**270**	**The Committee observe that the proposed Clause 270(1)(a)(v) stipulates a broad disallowance of deduction under Chapter VIII if the return is furnished beyond the due date. However, the existing Income-Tax Act, 1961, does not have such a blanket disallowance for the entire Chapter VIII instead such a restriction was limited to deductions claimed under under Heading C – "Deductions in respect of certain incomes" within Chapter VIII. Therefore, to align the provision with the current law, the Committee recommend that Clause 270(1)(a)(v) be modified to restrict the disallowance only to deductions under**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Heading C of Chapter VIII.
299.	**271.4**	**271**	**The Committee, upon examination of the justification provided by the Ministry, find the provisions of the Clause 271 to be in line with the existing provisions of the 1961 Act. The Committee note that the Clause is mere textual simplification with retention of the same intent and therefore accept the Clause as it stands.**
300.	**272.6**	**272**	**The Committee, upon detailed deliberations of the provisions of the Clause along with justifications provided by the Ministry, find the provisions of the Clause 272 to be mere textual simplification and corresponding to the existing provisions of the 1961 Act. The Committee, therefore, accept the Clause in entirety.**
301.	**273.6**	**273**	**The Committee, upon detailed deliberaton on the various provisions of the Clause along with justification provided by the Ministry, find the provisions of the Clause 273 to be corresponding and in line with the existing provisions of the 1961 Act. The Committee, therefore, accept the Clause as proposed.**
302.	**274.6**	**274**	**The Committee, upon examination and the justification provided by the Ministry, find the provisions of the Clause 274 to be textual simplification, retaining the intent of the existing provisions of the 1961 Act and therefore accept the Clause as proposed.**
303.	**275.6**	**275**	**The Committee, upon examination and the justification given by the Ministry, find the provisions of the Clause 276 in line with the existing provisions therefore accept the Clause as proposed.**
304.	**276.6**	**276**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 276 to be mere textual simplification of the corresponding provisions of the existing Act with no change in intent and therefore accept the Clause as proposed.**
305.	**277.6**	**277**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 277 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
306.	**278.4**	**278**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 278 in**

Sl. No	Para No	Clause No.	Observation/Recommendation
			line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.
307.	279.6.1 279.6.2	279	(i) The Committee note a drafting correction in sub-clause(1) at Line No.11 and recommend to put a missing bracket in clause 279(1). (ii) The Committee recommend for the merging of income escaping assessment clause 279(2)(a) and 279(2)(b) of the Bill.
308.	280.6	280	The Committee note the justification provided by the Ministry and find the provisions of the Clause 280 to be corresponding to the existing provisions with textual simplification and therefore accept the Clause as proposed.
309.	281.6.1	281	The Committee observe that in sub-clause (1) to Clause 281, the purpose for issuing show-cause notice is not provided. That was there in the earlier wording in the Act of 1961 which said 'Serving upon him a notice to show cause as to why a notice under Section 148 should not be issued'. Therefore, the Committee recommend to align Clauses 281(1) & 281(2) with the IT Act, 1961.
310.	282.6.1	282	The Committee note that adding the words 'in his possession' in sub-clause (1)(b) before 'books of accounts' at Line No.03 can bring the provision in alignment with the Act. The Committee, therefore, recommend the Ministry to align it with the existing Act.
311.	283.6	283	The Committee note the justification provided by the Ministry and find the provisions of the Clause 283 in line with the existing provisions with mere textual simplification and no change in intent and therefore accept the Clause as proposed.
312.	284.6	284	The Committee note the justification provided by the Ministry and find the provisions of the Clause 284 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.
313.	285.6.1	285	(i)

Sl. No	Para No	Clause No.	Observation/Recommendation
	285.6.2		**The Committee recommend to replace 'may' with the word 'shall' in sub-clause (2) to align the proposed provision with the existing Act.** **(ii)** **The Committee further recommend that in Clause 285(2)(b) at Line No.46, reference may be amended to "original assessment order for the relevant tax year" not for "relevant year" for more clarity.**
314.	**286.6.1** **286.6.2**	**286**	**The Committee note a drafting error in sub-clause (7) in its reference to sub-section (3)(k) at Line No.11 instead of (3)(j). Therefore, the Committee recommend to replace the usage '(3)(k)' with '(3)(j)' in sub-clause (7) to provide for correct referencing as per the intent of the provision.** **The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.**
315.	**287.6.1** **287.6.2**	**287**	**(i)** **The Committee observe that Clause 287(1) provides for amending any order and intimation within its context. However, in Clause 287(2), while referring to the above said sub-clause (1), the Bill refers to 'order' only. Therefore, to bring in more clarity, the Committee recommend that in sub-clause (2), the word 'intimation' may suitably be mentioned at Line No.33 after 'order'. The Committee also recommend that similar reference to 'intimation' may also be suitably mentioned in sub-clause (8).** **(ii)** **The Committee also recommend that the reference to Clause 271(1) dealing with best judgment assessment in Clause 287(1)(b) may be suitably replaced by " Clause 270(1)" which actually deals with assessment.**
316.	**288.6.1**	**288**	**(i)** **The Committee note that the reference to Clause 271 dealing with best judgment assessment at sub-clause**

Sl. No	Para No	Clause No.	Observation/Recommendation
			(12) of Clause 288 at Column B needs to be corrected. Therefore, the Committee therefore recommend that the correct reference may be amended to Clause 270 which deals with assessment. **(ii)** **The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.**
317.	**289.6**	**289**	**The Committee, upon detailed deliberation on the Clause along with the justification provided by the Ministry, note that the provisions of the Clause 289 are in line with the existing provisions of 1961 Act with textual simplification and therefore accept the Clause as proposed.**
318.	**290.4**	**290**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 290 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
319.	**291.5**	**291**	**The Committee, upon examination along with justification provided by the Ministry, find the provisions of the Clause 291 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
320.	**292.6.1** **292.6.2**	**292**	**(i)** **The Committee recommend that amendments made by Finance Act, 2025 with respect to assessment of total undisclosed income pertaining to the block period may be incorporated in Clause 292.** **(ii)** **The Committee observe that the Clause 292, which addresses the assessment of income for a block period, currently refers to "other than this chapter" at sub-clause (2). Given that Chapter XVI comprises Part A (procedure for assessment) and Part B (special procedure for assessment of search cases), this phrasing "other than this chapter" excludes both parts. The Committee observe that here the intent, however, is to exclude only Part B. Therefore, the Committee recommend to change the phrase "other**

Sl. No	Para No	Clause No.	Observation/Recommendation
			than this Chapter" at sub-clause (2) to "Part B of this Chapter" in Clause 292 to accurately reflect the exclusion.
321.	**293.6.1**	**293**	**(i)** **The Committee recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 293.** **(ii)** **The Committee note in the Clause a cross reference to the 1961 Act, which is proposed to be repealed. Therefore, the Committee recommend the Ministry to remove the reference to the old Act, 1961 from the body of the Bill itself by clubbing it in the Savings clause coherently.**
322.	**294.6.1** **294.6.2** **294.6.3**	**294**	**(i)** **The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 294. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 294.** **(ii)** **The Committee note that the reference of 'Section 259' dealing with power to call for information by prescribed income-tax authority mentioned at Clause 294(1)(a)(ii), LineNo.12 is incorrect. The Committee observe that in the context of provisions in Clause 294 the correct reference should be to 'Section 263'. The Committee recommend to replace the reference 'Section 259' at sub-clause(1)(a)(ii) with 'Section 263'.** **(iii)** **The Committee also note that the sub-clause (b) empowers the Assessing Officer to determine the total income including the undisclosed income of the block period in the manner laid down in the Act. Therefore, in this context, the references to sections '287 and 288' are incorrect and need to be substituted with 'sections 277 and 278', relating to 'method of accounting in certain cases' and 'taxability of certain respectively. The Committee therefore recommend to replace references to sections '287 and 288' with**

Sl. No	Para No	Clause No.	Observation/Recommendation
			'sections 277 and 278' in sub-clause (b).
323.	**295.6.1**	**295**	**The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 295. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 295.**
324.	**296.6.1**	**296**	**The Committee observe that the amendments made by Finance Act, 2025 are not incorporated in Clause 296. The Committee, therefore, recommend that amendments made by Finance Act, 2025 may be suitably incorporated in Clause 296.**
325.	**297.4**	**297**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 297 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
326.	**298.6.1** **298.6.2** **298.6.3**	**298**	**(i)** **The Committee note that in the short tile, instead of 'in certain cases', it is read as 'incertain cases'. The Committee, therefore, recommend to replace 'incertain cases' with 'in certain cases' at the short title.** **(ii)** **The Committee further observe that in sub-clause (3) instead of referring to corresponding provision Clause 453, Clause 452 is mentioned and the Committee recommend to replace the reference to Clause 452 with Clause 453.** **(iii)The Committee recommend that Financial Act, 2025 amendments may be incorporated in Clause 298 suitably.**
327.	**299.4**	**299**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 299 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
328.	**300.4**	**300**	**The Committee note the justification provided by the Ministry and find the provisions of the Clause 300 in line with the existing provisions with mere textual simplification and therefore accept the Clause as proposed.**
329.	**301.4**	**301**	**The Committee note the justification provided by the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Ministry and find the provisions of the Clause 301 in line with the existing provisions with textual simplification and therefore accept the Clause as proposed.
330.	**302.6**	**302**	**The Committee observe Clause 302 of the Bill (mirroring Section 159 of the extant Act) regarding legal representatives in death cases. The Committee find a drafting error in sub-clause (5) where "sum" should be replaced with "tax," which the Department accepts. The suggestion to add "for less than adequate consideration" in sub-clause (5) is deemed untenable as it is an anti-abuse provision. The Committee, therefore, concur with the views of the Department of Revenue and recommend to amend the sub-clause (5) as accepted. Apart from this drafting correction, the Committee approve the clause as proposed.**
331.	**303.5**	**303**	**The Committee note that Clause 303 provides for representative assessee, aligns with the provisions of Section 160 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 303 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.**
332.	**304.6**	**304**	**The Committee observe Clause 304 of the Bill, aking to Section 161 of the extant Act, provides for liability of representative assessee. The Committee find a drafting error in sub-clause (1) (a) of Clasue 304 where the phrase “"and any other proceedings' shall be deleted in order to align the provision of the Bill with the Act which the Department has accepted. The suggestion to add a proviso regarding recovery against the representative or tax payer is impractical as it is not possible for both parties to be taxed separately on the same income. The Committee, therefore, concur with the views of the Department of Revenue and recommend only the above-mentioned drafting correction in Clause 304(1)(a); and accept the clause as proposed.**
333.	**305.5**	**305**	**The Committee note that Clause 305 is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Department.
334.	**306.6**	**306**	**Clause 306 defines who may be regarded as an agent. The Committee note that this Clause is simplified textual version of existing Section 163 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 306 as proposed.**
335.	**307.5**	**307**	**The Committee note that Clause 307, a textual simplification of Section 164 of the Income-Tax Act, 1961, provides for change of tax where share of beneficiaries unknown. As no policy changes are incorporated, the Committee accept Clause 307 as proposed by the Department of Revenue.**
336.	**308.5**	**308**	**The Committee note that Clause 308 of the Bill sets forth the special tax provision for oral trusts, akin to Section 164A of the Income-Tax Act, 1961. The Committee further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.**
337.	**309.6**	**309**	**Clause 309 of the Income-Tax Bill 2025 outlines the method for computing a member's share in income of association of persons or body of individuals, corresponding to Section 67A of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 309 as proposed.**
338.	**310.5**	**310**	**The Committee observe that Clause 310 of the Bill provides for share of member of an association of persons or body of individuals in income of association or body which corresponds to Section 86 of the extant Act. The Committee note that, apart from textual simplification, no policy change has been**

Sl. No	Para No	Clause No.	Observation/Recommendation
			introduced in this Clause. The Committee, therefore, accept Clause 310 as proposed by the Department of Revenue.
339.	**311.5**	**311**	**The Committee note that Clause 311 of the Bill provides for charge of tax where shares of members in association of persons or body of individuals unknown etc. is similar to the provisions of existing Section 167B of the Income-Tax Act, 1961 with no policy change. The Committee, therefore, approve the Clause 311 as proposed by the Department of Revenue.**
340.	**312.5**	**312**	**The Committee note that Clause 312 of the Income-Tax Bill, 2025, which corresponds to Sections 168 and 169 of the Income-Tax Act, 1961, provides for Executor, in whose hands income of the estate of a deceased person shall be chargeable to tax. Given that this Clause is similar to the existing Sections 168 and 169 with no policy change, the Committee recommend its inclusion as is in the proposed legislation.**
341.	**313.6**	**313**	**The Committee note that Clause 313, which addresses succession in business or profession (excluding succession by death), mirrors Section 170 of the Income-Tax Act, 1961. In the course of examination of the Bill, the Committee deliberated upon the suggestions received from the stakeholders and the responses from the Department of Revenue. The Committee also note the Department's agreement to reinstate the word "whatsoever" in the clause, replacing "in any manner." This change aligns with the Committee's suggestion and the existing Income-Tax Act, 1961. After considering the viewpoints of both the stakeholders and the Department, the Committee recommend that sub-clause (6) (a) of Clause 313 be amended to incorporate the word "whatsoever," as agreed by the Department. Beyond this specific drafting correction, the Committee accept Clause 313 as proposed by the Department.**
342.	**314.6**	**314**	**The Committee note that Clause 314 of the Bill, which addresses how tribunal or court orders affect**

Sl. No	Para No	Clause No.	Observation/Recommendation
			business reorganization, streamlines the existing Section 170A of the Act while preserving its core intent. Following receipt and deliberation on suggestions from stakeholders and experts, the Committee observe that the Department of Revenue has agreed to specific textual revisions within sub-clauses (2)(a) and (2)(b). These involve replacing "in accordance with such order" with "in accordance with such order in respect of business reorganisation" in Clause 314(2)(a), and substituting "order of the business reorganisation" with "order in respect of business reorganisation" in Clause 314(2)(b). The Department deems these as drafting corrections that do not alter the Bill's provisions relative to the Act. Therefore, sub-clauses (2)(a) and (2)(b) of Clause 314 may be redrafted as follows: **2) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—** **(a) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order in respect of business reorganisation and taking into account the modified return so furnished;** **(b) are pending on the date of furnishing of the modified return as per sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order in respect of the business reorganisation and taking into account the modified return so furnished."** **After a thorough review of the perspectives shared by stakeholders and the Department, the Committee approve Clause 314, contingent upon the aforementioned drafting corrections.**
343.	**315.6**	**315**	**The Committee note that Clause 315 of the Bill, which provides for the assessment process following the partition of a Hindu Undivided Family (HUF), mirrors**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Section 171 of the existing Income-Tax Act. The Committee also note that the provisions of the current section have been textually simplified and carried forward into this new clause with no intended policy changes. After carefully considering the views presented by various stakeholders and the responses from the Department, the Committee approve Clause 315, as proposed.
344.	**316.5**	**316**	**The Committee note that Clause 316 of the Bill provides for shipping business of non-residents, aligns with Section 172 of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.**
345.	**317.5**	**317**	**The Committee note that Clause 317 of the Income-Tax Bill, 2025, mapped to Section 174 of the Income-Tax Act, 1961, provides for assessment of persons leaving India. The Committee approve Clause 317 as proposed, noting its simplified approach to existing provisions.**
346.	**318.5**	**318**	**The Committee note that Clause 318 of the Bill, dealing assessment of association of persons or body of individuals or artificial judicial person formed for a particular event or purpose, aims to simplify the existing provisions of Section 174A. The Committee concur with the Department's justification for this simplification and, therefore, accept Clause 318 as proposed.**
347.	**319.6**	**319**	**The Committee observe that Clause 319 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 175 of the Income-Tax Act, 1961 regarding assessment of persons likely to transfer property to avoid tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 319 as proposed.**
348.	**320.6**	**320**	**The Committee note that Clause 320 of the Bill**

Sl. No	Para No	Clause No.	Observation/Recommendation
			addresses the provisions for discontinued businesses, directly corresponding to Section 176 of the existing Income-Tax Act. The Committee observe that while there is no intended policy change, the provisions of the original section have been textually simplified and carried forward with the same core intent into this new clause. After extensive deliberation on the views of the stakeholders as well as the response of the Department, the Committee accept Clause 319 as proposed.
349.	321.5	321	The Committee note that Clause 321, a simplified text of the existing Section 177, relating to association dissolved or business discontinued and involves no policy shift. The Committee, therefore, accept Clause 321 as proposed by the Department of Revenue.
350.	322.6	322	Clause 322 of the Bill specifies provisions concerning a company in liquidation. The Committee note that this Clause is simplified textual version of existing Section 178 of the Income-Tax Act, 1961 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 322 as proposed.
351.	323.6	323	The Committee note that Clause 323 deals with liability of directors of private company, aligns with the provisions of Section 179 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 323 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.
352.	324.5	324	The Committee note that Clause 324 of the Bill pertains to charge of tax in case of a firm, aligns with existing Section 167A of the Income-Tax Act, 1961; but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 324 as it is.
353.	325.6	325	The Committee observe Clause 325 of the Bill (mirroring Section 184 of the 1961 Income-Tax Act) on partnership firm assessments. They note a

Sl. No	Para No	Clause No.	Observation/Recommendation
			discrepancy in Clause 325(6)(b), which incorrectly references "section 26(2)(f)" instead of the correct "section 26(2)(g)," as per the corresponding Section 184(5) of the 1961 Act. The Ministry of Finance has accepted this correction. The Committee, thus, advise amending Clause 325(6)(b) to rectify this, while accepting the rest of the clause.
354.	**326.5**	**326**	**Noting that Clause 326 of the Bill, dealing with consequences in the assessment of a partnership firm in case of non-compliance to the conditions made by rules, is a textual simplification of Section 185 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.**
355.	**327.5**	**327**	**The Committee note that Clause 327 of the Bill addresses assessment of a partnership firm in cases where there is a change in constitution of the firm, aligns with the existing Section 187 and involves no policy shift. The Committee, therefore, accept Clause 327 as proposed by the Department of Revenue.**
356.	**328.5**	**328**	**The Committee note that Clause 328 of the Bill prescribing provisions for taxation in the hands of the predecessor and successor in the case of succession of one firm by another firm, aligns with existing Section 188 of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 328 as it is.**
357.	**329.5**	**329**	**Noting that Clause 329 of the Bill, dealing joint and several liability of partners for tax payable by firm, is a textual simplification of Section 188A of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.**
358.	**330.5**	**330**	**The Committee note that Clause 330 outlines the framework for assessment and liability in the hands of the firm even after its dissolution or discontinuance of the business, aligns with the existing Section 189 of the extant Act and involves no policy shift. The Committee, therefore, accept Clause 330 as proposed by the Department of Revenue.**

Sl. No	Para No	Clause No.	Observation/Recommendation
359.	331.6	331	Clause 331 of the Bill governs the conditions of liability of partners of limited partnership in liquidation. The Committee note that this Clause is simplified textual version of existing Section 167C of the Income-Tax Act, 1961 maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 331 as proposed.
360.	332.6.1 332.6.2	332	The Committee notes that Clause 332 of the Bill, intended to simplify the registration of non-profit organizations by using consistent terminology, aligns with Sections 12A and 12AB of the existing Act. However, a significant concern has emerged among Non-Profit Organizations (NPOs), particularly those with mixed charitable and religious objectives, regarding the interpretation of "wholly for charitable or religious purposes" in Clause 332. Despite Ministry assurances that mixed-object trusts are intended to be included, the current wording creates confusion. This ambiguity could lead to uncertainty for existing trusts seeking renewal, issues for those established after 1961, and a heightened risk of litigation. Concerns also exist about the inadvertent exclusion of legitimate trusts with minor related activities, and a lack of clarity on how "wholly" will be defined and applied, especially for trusts with evolving activities. The Committee acknowledge the Ministry of Finance's recognition of this confusion and its commitment to redraft Clause 332 to remove ambiguity, viewing this as a positive and necessary step. In view of this, the Committee recommend to redraft the Clause 332 suitably.
361.	333.5	333	Clause 333 of the Income-Tax Bill 2025, which provides for switching over of regimes by a registered non-profit organization, corresponding to Section 11(7) of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, having been assured that no policy change has been

Sl. No	Para No	Clause No.	Observation/Recommendation
			incorporated in this Clause, the Committee approve Clause 333 as it is.
362.	**334.5**	**334**	**The Committee note that Clause 334 of the Bill consolidates provisions of the Income-Tax Act 1961 which provides for taxability of income of a registered non-profit organization. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.**
363.	**335.6.1**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 11(1) of the Act regarding the taxable regular income of a registered non-profit organization. After considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 336 as proposed.
365.	**337.6.1** **337.6.2** **337.6.3**	**337**	**The Committee's examination of Clause 337 of the Bill, which pertains to the "specified income" of registered non-profit organizations (NPOs) and mirrors Section 115BBI of the existing Income-Tax Act, 1961, reveals a significant divergence in the treatment of anonymous donations. While the Bill's stated aim is textual simplification, the Committee observe a critical omission concerning religious-cum-charitable trusts, which could have substantial adverse impacts on a large segment of India's NPO sector.** **Under the proposed Clause 337 (read with its "Table of Specified Income"), a flat 30% tax is imposed on anonymous donations received by *all* registered non-profit organizations, with a narrow exemption extended *only* to those established wholly for religious purposes. This marks a stark departure from the current Section 115BBC of the Income-tax Act, 1961. The existing law provided a more comprehensive exemption: anonymous donations were not taxed if received by any trust or institution created or established wholly for religious and charitable purposes, *unless* such a donation was specifically directed towards a university, educational institution, hospital, or medical institution run by that same trust or institution.** **The Committee emphasize that the classification within the erstwhile Section 115BBC was highly pertinent to the Indian context, acknowledging the prevalent hybrid nature of numerous trusts that seamlessly blend religious and charitable activities. This previous provision legitimately recognized these "religious-cum-charitable" entities as a distinct and valid class eligible for concessions on anonymous donations, understanding that such organizations**

Sl. No	Para No	Clause No.	Observation/Recommendation
	337.6.4		often receive contributions through traditional means (like donation boxes) where donor identification is practically impossible. Therefore, to maintain consistency with the historical understanding of NPO operations in India, prevent unintended taxation burdens on genuine organizations, and uphold the intent of supporting both religious and charitable endeavors, the Committee strongly urge the reintroduction of a provision analogous to the explanation found in Section 115BBC of the 1961 Act. This reintroduction would explicitly recognize religious-cum-charitable trusts as a legitimate category eligible for concessions on anonymous donations. Subject to this recommendation, the Committee approve Clause 337 as proposed.
366.	338.6	338	The Committee note that Clause 338 of the Bill addresses the income categories that are specifically excluded from the "regular income" of a registered non-profit organization. This clause corresponds directly to Section 11(1)(c) of the existing Income-Tax Act, 1961. The Committee also note that the Bill has textually simplified the provisions of the corresponding existing section while retaining its original intent. After thoroughly considering the viewpoints presented by both stakeholders and the Department, the Committee accept Clause 338 as proposed.
367.	339.6	339	The Committee note that Clause 339 of the Bill defines "corpus donation" for registered non-profit organizations, directly aligning with Section 11(1)(d) of the existing Income-Tax Act, 1961. The Committee also note that the Bill simplifies the language of the corresponding section while preserving its original intent. Having thoroughly reviewed the perspectives of both stakeholders and the Department, the Committee accept Clause 339 as proposed.
368.	340.5	340	The Committee note that Clause 340 of the Bill provides for deemed corpus donation of a registered non profit organisation, corresponding to directly aligning with section 11(1) Explanation 3A of the existing Income-Tax Act, 1961. The Committee also

Sl. No	Para No	Clause No.	Observation/Recommendation
			note that the Bill simplifies the language of the corresponding section while preserving its original intent. After examining the perspectives of both stakeholders and the Department, the Committee accept Clause 340 as proposed.
369.	341.6.1 341.6.2 341.6.3	341	The Committee note that Clause 341 of the Bill, which deals with the application of income for a registered non-profit organization, corresponds to Explanations 4 and 5 of Section 11(1) of the existing Income-Tax Act, 1961. The Committee acknowledge that the Bill has textually simplified these provisions while intending to retain their original meaning. During deliberations, the Committee considered various suggestions from stakeholders and experts, as well as the Department's responses. A significant concern raised by a stakeholder was that the new clause on the application of income does not provide for "deemed application" as was present under Explanation 2 of Section 11 of the Income-Tax Act, 1961. The stakeholder emphasized the critical need to include this deemed application provision, as it addressed situations where NPOs could not receive amounts (e.g., due to disputes) or received them very late in the financial year, making it impossible to "apply" such income within the prescribed timeframe. The absence of this clause, it was argued, would create significant practical difficulties for NPOs. In response, the Department stated that the stakeholder's suggestion implies allowing registered NPOs to treat donations made to other registered NPOs out of accumulated income as applied, at least for the first year of accumulation. The Department highlighted that consolidating the income-accumulation regime into a single mode aims to reduce administrative burdens and simplify compliance. They further explained that the previous framework's distinct one-year and five-year accumulation procedures often led to denials due to erroneous entries. However, the Department has noted the stakeholder's suggestion for further consideration. The Committee, therefore, recommend to retain the existing provision of Explanation 2 of Section 11 of the Income-Tax Act, 1961 related to

Sl. No	Para No	Clause No.	Observation/Recommendation
			deemed application in Clause 341.
370.	342.6	342	The Committee note that Clause 342 of the Bill, which pertains to the accumulated income of a registered non-profit organization, aligns with Section 11(2) and Section 11(3A) of the existing Income-Tax Act, 1961. The Bill aims to simplify these provisions while retaining their original intent. Given the views of stakeholders and response of the the Ministry of Finance (Department of Revenue), the Committee accept the clause as proposed.
371.	343.6	343	The Committee note that Clause 343 of the Bill addresses "deemed accumulated income" for registered non-profit organizations. While not directly corresponding to a single section of the existing Income-Tax Act, 1961, this clause consolidates provisions previously found in Section 11(1)(a), 11(1)(b), and Section 13(1)(d), which allowed the setting aside or accumulation of up to 15% of income from property held under trust. The Bill aims to simplify this by retaining the original intent through textual simplification. After reviewing stakeholder and Department viewpoints, the Committee accept Clause 343 as proposed.
372.	344.6	344	The Committee note that Clause 344 of the Bill provides for business undertaking held as property of a registered non-profit organisation. The clause corresponds to section 11(4) of the Act. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 344 as proposed.
373.	345.6.1	345	The Committee observe that Clause 345 of the Bill addresses restrictions on commercial activities for registered non-profit organizations, directly aligning with Section 11(4A) of the existing Income-Tax Act, 1961. The Bill aims to simplify the text of the existing section while maintaining its original intent.

Sl. No	Para No	Clause No.	Observation/Recommendation
	345.6.2 345.6.3		In the course of examination of the Bill, the Committee considered stakeholders suggestions and the Department's response. One stakeholder proposed rewording the clause to state: "No registered non-profit organisation, other than a registered non-profit Organization carrying out advancement of any other object of general public utility, shall carryout any commercial activity unless—(a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and (b) separate books of account are maintained for such activities." The Department has acknowledged this drafting error in the original Bill, agreeing to remove the comma after "other than a registered non-profit organisation" to rectify it. The Committee, therefore, recommend implementing this specific drafting correction. Aside from this amendment, the Committee approve Clause 345 as proposed.
374.	346.5	346	The Committee note that Clause 346 of the Income-Tax Bill, 2025, mapped to Section 13(8) of the Income-Tax Act, 1961, provides for restriction on commercial activities of a registered non-profit organisation which has advancement of any other object of general public utility as any of its objects. The Committee approve Clause 346 as proposed, noting its simplified approach to existing provisions.
375.	347.6	347	The Committee note that Clause 347 of the Bill simplifies and maintains the intent of Section 12A(1)(b) of the Act, which governs the books of account for registered non-profit organizations. Stakeholders have raised concerns about the stringent requirement to record the name and address for every credit or payment, even for petty expenses below a suggested threshold of Rs. 10,000 (e.g., auto fares, water, small pooja items, vegetables from street vendors, milk for Annadhan). They argue that this is practically unfeasible. The Department clarifies that this suggestion pertains to Rule 17AA, a

Sl. No	Para No	Clause No.	Observation/Recommendation
			matter of delegated legislation and thus outside the Bill's purview. The Committee, therefore, accept the Clause 347 as proposed.
376.	**348.6**	**348**	**The Committee note that Clause 348 of the Bill provides for audit of a registered non-profit organisation. The clause corresponds to Section 12A(1)(b) of the Income-Tax Act, 1961. The provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 348 as proposed.**
377.	**349.6**	**349**	**The Committee note that Clause 349 of the Bill, which pertains to the return of income for registered non-profit organizations, aims to simplify the text of the existing Section 12A(1)(ba) of the Income-Tax Act, 1961 while maintaining its original intent. However, a stakeholder pointed out an omission: when a non-profit's income (prior to applying certain provisions) exceeds the tax-exempt threshold, its return should be furnished not only as per Section 263(1)(a)(iii) and within the timeline of Section 263(1)(b), but also in the manner prescribed by Section 263(2) to enable online filing. The the Ministry of Fiannce (Department of Revenue) has acknowledged this as a drafting error, confirming that Clause 263(2) specifies the form and manner of return submission, a detail missing in the current corresponding section for NPOs (formerly Section 139(4A) of the IT Act). Consequently, the Committee approve Clause 349 as proposed, with a specific recommendation to incorporate this necessary drafting correction.**
378.	**350.6**	**350**	**The Committee note that Clause 350 of the Bill provides for permitted modes of investment. The clause corresponds to section 11(5) of the Act. The modes of investing or depositing the money has been specified in Schedule XVI of the Bill. This Schedule consolidates modes of investing or depositing**

Sl. No	Para No	Clause No.	Observation/Recommendation
			appearing in section 11(5), rule 17C, section 13(1)(d) and section 10(23C) of the Act. Further, the provisions of the existing section have been textually simplified and retained with the same intent in this clause. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 350 as proposed.
379.	**351.6**	**351**	**The Committee note that Clause 351 of the Bill addresses specific violations by registered non-profit organizations. It simplifies and retains the original intent of sections 12AB(4), the Explanation to section 12AB(4), and section 12AB(5) of the Income-Tax Act, 1961. After reviewing stakeholders inputs and the Department's response, the Committee approve Clause 351 as proposed.**
380.	**352.6**	**352**	**The Committee note that Clause 352 of the Bill addresses the tax on "accreted income" of registered non-profit organizations, consolidating and simplifying the provisions of Sections 115TD, 115TE, and 115TF of the existing Income-Tax Act, 1961. The Bill retains the original intent while rationalizing provisions to clearly specify chargeability, due dates for payment, and applicability of collection/recovery proceedings for such income. After considering stakeholders' and Department's viewpoints, the Committee accept Clause 352 as proposed.**
381.	**353.6**	**353**	**The Committee note that Clause 353 of the Bill provides for other violations of a registered non-profit organizations, aligns with Section 13(10) and Section 13(11) of the Income-Tax Act, 1961. Stakeholders have suggested incorrect referencing in Clause (28) and a limited scope in Clause (30, leading to recommendations for modifications to refer to Clauses (26) and (27) and Clauses (1) to (29) respectively. The Ministry has accepted this, clarifying the correct clause in the Bill is 350 and not 353. Furthermore, the stakeholder suggested either deleting the 14-day period reference or adding "whichever is later" to remove the ambiguity created by multiple due dates. The Ministry has also accepted this for clarity, noting the correct clause in question**

Sl. No	Para No	Clause No.	Observation/Recommendation
			is Section 352(5). The Committee, therefore, recommend implementing these amendments and approve Clause 353 subject to these changes.
382.	**354.6**	**354**	**The Committee observe that Clause 354, which pertains to exemption for donations and largely retains the intent of Section 80G(5) of the existing Act with textual simplification, has a drafting error in sub-clause (1) where Schedule III is incorrectly referenced instead of Schedule VII, an error the Department has acknowledged. Therefore, the Committee approve the Clause 354 subject to the aforesaid drafting correction.**
383.	**355.6**	**355**	**The Committee acknowledge that Clause 355, which defines various terms within Chapter XVII-B, does not have corresponding section in the Income-Tax Act, 1961. This new clause serves to centralize and streamline definitions pertinent to registered non-profit organizations. After careful deliberation of both stakeholder and Departmental perspectives**
384.	**356.6**	**356**	**The Committee note that Clause 356 of the Bill seeks to provide for appeals to Joint Commissioner (Appeals) against certain orders, aligns with the provisions of Section 246 of the Act, 1961. The Committee also note that the textual simplification of Clause 356 is as per the objectives of the Bill and retaining the same intent of existing Section. The Committee, after consideration of views of stakeholders and the Department's responses, accept the Clause as proposed.**
385.	**357.6**	**357**	**The Committee note that Clause 357 of the Bill seeks to provide for appeals to Commissioner (Appeals) against certain orders, corresponding to Section 246A of the Act, 1961. The Clause has been textually simplified while retaining the intent. Some important suggestions on the Clause 357 have been received viz. option for physical CIT appeal rather than faceless appeal for faster disposal of appeal; facility for video hearings and a study for evaluating the faceless system of CIT (Appeal). The Ministry has noted these suggestions. The Committee also note that the Department of Revenue has accepted the suggestion to define the term "status" in Clause 357 as well in the line of Clause 356. The Committee find**

Sl. No	Para No	Clause No.	Observation/Recommendation
			merit in the suggestion that term "status" should be defined in Clause 357 for appeal before CIT(A). Therefore, the Committee recommend to amend the Clause as accepted by the Department. Apart from the above drafting correction, the Committee accept the Clause as proposed.
386.	**358.6**	**358**	**The Committee note that Clause 358 of the Bill prescribes form of appeal and limitation, aligns with Section 249 of the existing Act. The Department justifies this as textual simplification, not a policy change. However, the drafting error i.e. omission of the word "rupees" after the words "five hundred" in Clause 358(2)(b), as pointed out by the Committee, has been accepted by the Department of Revenue. They, therefore, recommend the Department to carry out the aforesaid drafting correction. Apart from the above drafting correction, the Committee accept the Clause as proposed.**
387.	**359.6**	**359**	**The Committee observe that Clause 468 of the Income-Tax Bill, 2025, which outlines the procedure for appeals, largely mirrors Section 250 of the Income-Tax Act, 1961, with no substantive policy changes introduced beyond textual simplification. After extensive and in-depth deliberations, the Committee have considered various perspectives and proposals from stakeholders and experts, alongside justifications and clarifications provided by the Department of Revenue regarding Clause 359 of the Bill. Accordingly, the Committee accept Clause 359 as originally proposed.**
388.	**360.6**	**360**	**The Committee note that Clause 360 of the Income-Tax Bill, 2025, a textual simplification of Section 251 of the Income-Tax Act, 1961, deal with the powers of Joint Commissioner (Appeals) or Commissioner (Appeals). They also note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 360 as proposed by the Department of Revenue.**
389.	**361.6**	**361**	**The Committee note that Clause 361, a textual simplification of Section 252 of the Income-Tax Act, 1961, seeks to provide for constitution of Income-Tax Appellate Tribunal. After thorough deliberations, and**

Sl. No	Para No	Clause No.	Observation/Recommendation
			having considered various suggestions from stakeholders and experts, as well as the rationales and clarifications submitted by the Department of Revenue, the Committee recommend accepting the Clause in its entirety without any changes.
390.	362.6	362	The Committee note that Clause 362 of the Income-Tax Bill, 2025 seeks to provide for appeals to the Income-Tax Appellate Tribunal, akin to Section 253 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.
391.	363.6	363	The Committee note that Clause 363 of the Income-Tax Bill, 2025 seeks to provide for the orders passed by the Income-Tax Appellate Tribunal which corresponds to Section 254 of the extant Act. The Committee also note that, apart from textual simplification, no policy change has been introduced in this Clause. Having held comprehensive deliberations on this Clause, and taking into account all suggestions and comments received from stakeholders and experts, along with the Department of Revenue's justifications, the Committee accept Clause 363 as proposed by the Department.
392.	364.6	364	The Committee note that Clause 364 of the Income-Tax Bill 2025, mirroring Section 255 of the extant Income-Tax Act, 1961, defines the powers and functions of the Income-Tax Appellate Tribunal (ITAT). Currently, it allows the ITAT to dispose of cases where the Assessing Officer's computed total income does not exceed fifty lakh rupees. The Committee, note that there is no policy change in this regard and after considering the views of the stakeholders as well as the response of the Department, accept Clause 364 as originally proposed.
393.	365.6	365	The Committee observe that Clause 365 of the Bill, 2025 textually simplifies and retains the intent of Section 260A of the Act, 1961 regarding provision for appeals to the High Court. Noting that there is no policy change in this regard and having after

Sl. No	Para No	Clause No.	Observation/Recommendation
			considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 365 as proposed.
394.	366.6	366	The Committee note that Clause 366 of the Bill, a textual simplification of Section 260B of the existing Act, stipulates that appeals to the High Court to be heard by not less than two judges, with no change in underlying policy. The Committee have considered stakeholder suggestions for this clause but ultimately found them unfeasible, aligning with the Department's rationale. As a result, the Committee accept the Clause in its current format.
395.	367.6	367	The Committee observe that Clause 367 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 261 of the Act regarding appeals to Supreme Court. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 367 as proposed.
396.	368.5	368	The Committee observe that Clause 368 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 262 of the Act regarding hearing before the Supreme Court. They also note that no policy change has been effected by the Department; and only a textual simplification of the current Act. The Committee, therefore, accept Clause 368 as proposed.
397.	369.5	369	The Committee note that Clause 369 of the Income-Tax Bill, 2025 seeks to provide that tax to be paid irrespective of filing of appeal before High Court or Supreme Court, aligns with Section 265 of the Income-Tax Act, 1961. The Department confirms this is a rephrasing, not a policy change. The Committee, therefore, accept Clause 369 as proposed.
398.	370.5	370	The Committee note that Clause 370 of the Income-Tax Bill, 2025, which seeks to provide for execution for costs awarded by Supreme Court, is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Department.
399.	**371.5**	**371**	**The Committee note that Clause 371 of the Income-Tax Bill, 2025 provides for amendment of assessment on account of appeal in certain cases, akin to Section 267 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.**
400.	**372.5**	**372**	**The Committee observe that Clause 372 of the Income-Tax Bill, 2025 seeks to provide for exclusion of time taken to obtain copy of the order by the assessee which corresponds to Section 268 of the current Act. The Committee further note that, apart from textual simplification, no policy change has been introduced in this Clause. The Committee, therefore, accept Clause 372 as proposed.**
401.	**373.6**	**373**	**The Committee note that Clause 373 of the Income-Tax Bill, 2025 seeks to provide for filing of appeals by Income-Tax authority and empowers the Central Board of Direct Taxes to issue instructions from time to time. This Clause is similar to the provisions of existing Section 268A of the Income-Tax Act, 1961 with no policy change. After considering all viewpoints, the Committee accept Clause 373 as proposed by the Department.**
402.	**374.5**	**374**	**The Committee note that Clause 374 of the Income-Tax Bill, 2025 provides for the definition of "High Court" for the purpose of filing of appeal under Chapter XVIII of the Bill, akin to Section 269 of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.**
403.	**375.5**	**375**	**The Committee observe that Clause 375 of the Income-Tax Bill 2025, mirroring Section 158A of the current Act, provides for procedure when assessee claims identical question of law is pending before High Court or Supreme Court. The Committee further note that, apart from textual simplification, no policy**

Sl. No	Para No	Clause No.	Observation/Recommendation
			change has been introduced in this Clause. The Committee, therefore, accept Clause 375 as proposed by the Department of Revenue.
404.	**376.5**	**376**	**The Committee note that Clause 376 of the Income-Tax Bill 2025, akin to Section 158AB of the current Act, seeks to prescribe procedure when an identical question of law is pending before High Court or Supreme Court. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.**
405.	**377.6**	**377**	**The Committee note that Clause 377 of the Income-Tax Bill, 2025, which corresponds to Section 263 of the Income-Tax Act, 1961, provides for revision of orders prejudicial to Revenue by Principal Commissioner or Commissioner. After considering all viewpoints; and given that this Clause is similar to the existing Section 263 with no policy change, the Committee recommend to accept the Clause as proposed by the Department in the proposed Act.**
406.	**378.6**	**378**	**The Committee observe that Clause 378 of the Bill, 2025 textually simplifies and maintains the intent of Section 264 of the current Act which allows for revision of orders not prejudicial to revenue. Currently the time limit for filing revision application is one year. While the current time limit for filing a revision application is one year, a stakeholder suggested extending this to two years for uniformity with Clause 377. The Department have, however, stated this constitutes a policy change beyond the Bill's scope. The Committee further note the inclusion of sub-clause (9) of Clause 378 in this Bill, which is absent in the current Act. The Department have clarified that this sub-section ensures a minimum of 60 days for passing an order after receiving a court order. After considered the views of the stakeholder as well as the response of the Department, the Committee accept Clause 378 as proposed.**
407.	**379.6**	**379**	**The Committee notes that Clause 379 of the Income-Tax Bill, 2025, textually simplifies Section 245MA of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Income-Tax Act, 1961, provides for constitution of Dispute Resolution Committee (DRC) to resolve disputes in certain cases, with no policy change. The Committee, after considering the views of the stakeholder as well as the response of the Department, accept Clause 379 as originally proposed.
408.	**380.5**	**380**	**Clause 380 of the Income-Tax Bill 2025, which seeks to define certain expressions used in the context of Advance Rulings, corresponding to Section 245N of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 380 as it is.**
409.	**381.6**	**381**	**Clause 381 provides for constitution of Board for Advance Rulings. The Committee note that this Clause is simplified textual version of existing Section 245-OB maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 381 as proposed.**
410.	**382.5**	**382**	**The Committee note that Clause 382 of the Bill dealing with proceeding in case of vacancies in the Board for Advance Rulings, aligns with existing Section 245P but features simplified textual construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 382 as it is.**
411.	**383.6**	**383**	**The Committee observe that Clause 383, textually simplifies Section 245Q of the Income-Tax Act, 1961, outlining procedures for filing of application before the Board for Advance Rulings. The Committee also note that while Rule 44E(4) currently prescribes fees, a suggestion to remove the archaic term 'quadruplicate' from sub-clause 2 of Clause 383 (already removed from Rule 44E with effect from 5 May, 2022) has been accepted by the Department. Furthermore, the Committee have identified an ambiguity between sub-clause (2) of Clause 383,**

Sl. No	Para No	Clause No.	Observation/Recommendation
			which stated 'a fee of ten thousand rupees or such fee, as prescribed,' and the corresponding Section 245Q(2) of the Act, which specified 'ten thousand rupees or such fee as may be prescribed... whichever is higher.' Upon the Committee's insistence to clarify this ambiguity, which posed risks of revenue loss and misinterpretation, the Department has agreed to remove the phrase 'ten thousand' from Clause 383(2), ensuring fees are prescribed by Rule only. Accordingly, the Committee recommend to carry out the drafting correction and amend the sub-clause (2) of Clause 383 as under:- **"(2) The application shall be made accompanied by such fee, as prescribed".** **Apart from the above drafting correction, the Committee accept Clause 383 as proposed by the Department.**
412.	**384.6**	**384**	**The Committee note that Clause 384 of the Income-Tax Bill, 2025, mapped to Section 245R of the Income-Tax Act, 1961, seeks to provide for procedure to process the application made for advance rulings. The Committee approve Clause 384 as proposed, noting its simplified approach to existing provisions.**
413.	**385.6**	**385**	**The Committee note that Clause 385 of the Bill, which seeks to provide that certain authorities not to proceed to decide in certain cases where application for advance ruling has been made, aims to simplify the existing provisions of Section 245RR. The Committee concur with the Department's justification for this simplification and, therefore, accept Clause 385 as proposed.**
414.	**386.5**	**386**	**Noting that Clause 386 of the Income-Tax Bill, 2025, which governs when an advance ruling becomes void, is a textual simplification of Section 245T of the Income-Tax Act, 1961, retaining its original intent. The Committee, therefore, accept the Clause in its present form.**
415.	**387.5**	**387**	**The Committee note that Clause 387, which defines the powers of the Board for Advance Rulings, aligns with the existing Section 245U and involves no policy shift. The Committee, therefore, accept Clause 387 as**

Sl. No	Para No	Clause No.	Observation/Recommendation
			proposed by the Department of Revenue.
416.	388.5	388	The Committee note that Clause 388 of the Income-Tax Bill 2025 empowers the Board for Advance Rulings to regulate its own procedure, corresponds to Section 245V of the Income-Tax Act, 1961, and introduces no policy change beyond textual simplification. The Committee, therefore, approve Clause 388 as it is.
417.	389.6	389	The Committee note that Clause 389 of the Income-Tax Bill, 2025, a simplified textual version of existing Section 245W, provides for appeals to the High Court against rulings by the Board for Advance Rulings, maintaining the Government's original policy. After considering the viewpoints of both stakeholder and the Department, the Committee accept Clause 389 as proposed.
418.	390.6.1	390(2)	The Committee note that Clause 390 of the Bill pertains to the deduction or collection of tax at source and advance payment. A stakeholder has suggested rephrasing sub-clause (2) of Clause 390, as its current wording in sub-sections (1) and (2) could create ambiguity when income paid spans multiple years. The concern is that the provision might be interpreted as limiting tax deductions or payments to a single tax year, despite income often covering several tax periods. The Department has agreed to redraft the clause and align with the existing provisions of the Act. Therefore, the Committee desire that the Clause 390(2) be rephrased to make the language lucid and unambiguous, clarifying that tax provisions apply to multi-year income and can be assessed in the corresponding tax years.
419.	390.6.2	390(4)	390.6.2 The Committee note a stakeholder's suggestion to replace "collection" with "recovery" in Clause 390(4) of the Bill. The rationale is that "recovery" more accurately conveys the mandatory nature of tax payments, encompassing both voluntary and involuntary payments due post-assessment. The Department of Revenue has acknowledged this as a drafting issue. Given that "recovery" is already used in Section 226 of the

Sl. No	Para No	Clause No.	Observation/Recommendation
			Income-tax Act, 1961, and Clause 416 of the Income-tax Bill, 2025, the Committee recommend the Department to implement this change to ensure uniformity in language and to emphasize the mandatory aspect of tax payments. Apart from the above mentioned drafting corrections, the Committee accept Clause 390 as proposed by the Department.
420.	391.6	391	The Committee note that Clause 391 of the Bill provides for direct tax payment by assessees when no deduction provision exists or tax hasn't been deducted under Chapter XIX, mirroring Section 191 of the current Act with simplified, yet retained, intent. A stakeholder suggested incorporating a provision in this Clause to offer relief to persons responsible for tax deduction when the assessee has already directly paid the un-deducted tax. However, the Department clarified that Clause 398(2) of the Bill already addresses this situation. Satisfied with the Department's contention, the Committee proposeno change to Clause 391(3). The Committee, therefore, approve Clause 391 as proposed.
421.	392.6.1	392	The Committee, having examined Clause 392 of the Bill (corresponding to Sections 192 and 192A of the Act concerning TDS on salary and accumulated provident fund balances), and considering stakeholder input on sub-clause 7(a), has identified a critical omission. While simplifying the text, the Department has inadvertently excluded a crucial 'Non obstante' clause. The Committee believe this oversight could lead to unnecessary speculation and ambiguity regarding the applicable TDS rate on accumulated balances from a recognized Provident Fund. Noting the Department's acceptance of this suggestion, the Committee recommend the Department to insert appropriate wording into the Clause 392(7)(a) to eliminate any such ambiguity.
422.	392.6.2	392	The Committee note numerous stakeholder suggestions highlighting the Department's omission of the crucial Section 192(6) of the existing Act from the current Clause of the Income-Tax Bill, 2025, which creates ambiguity regarding the valuation of salary

Sl. No	Para No	Clause No.	Observation/Recommendation
			paid in foreign currency. Section 192(6) of the Act clarifies that for residents receiving salary in foreign currency, the taxable amount for TDS is determined by converting the currency at prescribed rates. The Committee believe this lack of clarity on conversion rates will cause unnecessary confusion and ambiguity, potentially leading to litigation. Therefore, the Committee recommend incorporating this vital provision into the Clause of the Bill to explicitly define applicable forex conversion rates for salary income. **Apart from the above mentioned amendment, the Committee accept Clause392 as proposed by the Department.**
423.	**393.6**	**393**	**The Committee note that numerous suggestions have been received from various stakeholders concerning Clause 393 of the Bill, which provides for tax deduction at source on various payments. All sections in the Income-Tax Act, 1961 specifying various sums liable to TDS have been merged into a single section in the Bill providing 3 tables based on three broad categories of Payees: (i) Residents, (ii) Non-residents, and (iii) any person. The Committee observe that the clause primarily exhibits certain inconsistencies attributable to drafting oversights. After detailed, in-depth deliberation, and having considered both the views of stakeholders and the response of the Department, the Committee recommends the following revisions:-** **(i) Duplication Rectification (Clause 393(1)(4)(ii)): The Committee note that "Serial Number 4 of Schedule V in the Table under the Head 'Income from Capital Market' has been referred to twice. As agreed to by the Department, this duplication may be rectified.** **(ii) Threshold Limit Clarification (Clause 393(1)(6)(iii)): The Committee note that stakeholders suggested providing an independent threshold of ₹50,000 for five different sums referred to in Clause 393(1) Table Sl. No. 6(iii). While the threshold limits have been changed by Finance Act, 2025, there is a drafting error as limits have not been provided for 3 out of 5 sums. Since the threshold limits,as accepted by the Department,are to be aligned with the existing provisions of the Act, the Committee recommend to**

Sl. No	Para No	Clause No.	Observation/Recommendation
			amend the clause suitably. **(ii) Tax Deduction Basis Correction (Clause 393(1) & 393(1)(8)(ii)): The Committee note that a stakeholder pointed out a contradiction: Clause 393(1) requires deduction of tax at source on the entire amount of such income or sum where it exceeds the specified threshold, while Clause 393(1)(8)(ii) specifies the rate of tax to be applied only on such sum exceeding ₹50 lakhs. The Department has acknowledged this as an inadvertent drafting error which requires redrafting to provide that TDS shall be deducted only on the sum exceeding ₹50 lakhs. Accordingly, the Committee recommend that the same may be redrafted.** **(iii) "Benefit or Perquisite" Definition (Clause 393(1)(8)(iv)): The Committee note that stakeholders pointed out the ambiguity in Note 2 appended to Serial No. 8(iv) in the Table, with respect to the nature of the "benefit or perquisite" mentioned therein, as it does not explicitly clarify whether such benefits include monetary payments effected through non-cash modes like cheque, demand draft, or bank transfer. The Department has concurred with the view of the stakeholder and agreed to make drafting corrections appropriately. The Committee approve the same.** **(iv) Missing Notes Incorporation: The Committee observe that all sections in the Act specifying various sums liable to TDS have been merged into a single section providing 3 tables based on three broad categories of Payees. There are Notes supplied in the table itself which provide explanations specific to a clause. However, the Committee note that the following notes, as pointed out by the stakeholders, are missing, which creates ambiguity:** **(a) Non-Resident Deduction Rate (Clause 393(2)): Note 2 as mentioned in Serial No. 10 and 15 in Column E of the Table under Clause 393(2), which specifies the rate of deduction of income tax when such income is credited to a non-resident.** **(b) Winnings in Kind (Clause 393): Note 3 in Column D of the Table in Clause 393 related to tax deduction when the winnings are in kind.** **In this regard, the Department has admitted that "Three Notes below the table in Clause 393(2) and Clause 393(3) respectively have inadvertently**

Sl. No	Para No	Clause No.	Observation/Recommendation
			been missed." The Committee, therefore, recommend rectifying this anomaly by incorporating Notes suitably in Clause 393(2) and Clause 393(3) respectively as proposed. **(v) Inclusion of "Circular" (Clause 536(2)(j)): Responding to the suggestion that circulars/notifications providing exemption from TDS need to be incorporated in the table in Clause 393(4) of the Bill, the Department has clarified that notifications/instructions etc. have already been covered in Clause 536(2)(j) of the Bill, and the word "circular" will be considered for inclusion. As agreed to by the Department, the Committee recommend including the word "circular" in Clause 536(2)(j).** **(vi) Zero Tax Liability for Senior Citizens (Income-Tax Bill, 2025): It has been brought to the notice of the Committee that provisions similar to Section 197A(1C) of the current Act for zero tax liability benefit to senior citizens are missing in the Income-Tax Bill, 2025. The Department has admitted to the inadvertent drafting error (Clause 393(6)). The Committee, therefore, recommend the Department to rectify this drafting error.** **(vii) Redundant Senior Citizen Reference (Clause 393(6)): Clause 393(6) deals with entitlement for no deduction at source for such persons. A stakeholder has suggested removing the reference to senior citizens in Sl. No. 2(a) of the table below Clause 393 as senior citizens are already covered in Sl. No. 2(b) of the table. The Department has admitted to the inadvertent drafting error. Accordingly, the Committee recommend carrying out this drafting correction.** **(viii) Typographical error: For Clause 393(3) in Column D at Serial No. 3 the word 'lilmit' may be replaced with 'limit'.** **(ix) The reference of the repealed Act viz. Income-Tax Act, 1961 may be removed from the Table at sl.no.7(c)(i) in sub-clause (3) of Clause 393 and incorporated in Clause 536 which provides for Repeals and Savings.** **Apart from the above drafting corrections, the Committee accept Clause 393 as proposed by the Department.**

Sl. No	Para No	Clause No.	Observation/Recommendation
424.	394.6	394	The Committee note that Clause 394(1) of the Bill corresponds to Section 206C(1G) of the Income-Tax Act, 1961, which mandates Tax Collection at Source (TCS) on remittances for educational purposes where the funds are sourced from loans obtained from specified financial institutions. However, a stakeholder has identified a significant oversight: the Bill fails to incorporate the exemption from TCS on educational remittances that was introduced by the Finance Act, 2025. The Committee is cognizant that, under the Liberalized Remittance Scheme, educational loans procured from specified financial institutions (as defined in Clause 129(3)(b) of the Income-Tax Bill) are exempt from TCS. Furthermore, as per the substitution made by the Finance Act, 2025, Section 206C(1G) of the Income-Tax Act, 1961, effective from April 1, 2025, explicitly states that an authorized dealer is not required to collect tax if the remitted amount is a loan obtained from a financial institution for educational pursuits.The Department has acknowledged this omission, confirming the necessity of this amendment in the Income-Tax Bill, 2025. Consequently, the Committee strongly recommend that the Departmentincorporate this crucial provision into the Bill. Apart from this essential addition, there is a typographical error in Clause 394(1)(c) where in the phrase “cheque of a draft” the word ‘of’ may be replaced with ‘or’ . Besides the above changes, the Committee accept the Clause 394 as proposed.
425.	395.6	395	The Committee note that Clause 395 of the Bill, which simplifies and merges several Sections (195(2), 197, 197A, 203, 206C (9), 206C (10)) of the current Income Act, 1961 concerning certificates for lower tax deduction or collection. The intent remains the same.A key change in this simplification is the removal of the term "Nil deduction," previously found in Section 197 of the Act. The Department's rationale is that "Nil" is already encompassed within "lower deduction." The Committee however feel that the Department's clarification that "lower certificate" includes "Nil" creates ambiguity and could lead to administrative difficulties for taxpayers. While the

Sl. No	Para No	Clause No.	Observation/Recommendation
			Department has agreed to issue administrative instructions to clarify this, the Committee believe that simply adding the word "NIL" back into Clause 395 would more effectively resolve this confusion. After considering stakeholder input, departmental views, and extensive deliberation the Committee therefore recommendreinstatement of term "NIL" in the Clause. **Apart from this, the Committee accept Clause 395 as proposed**
426.	**396.6**	**396**	**The Committee note that Clause 396 of the Income-Tax Bill, 2025, mapped to Section 198A of the Income-Tax Act, 1961, seeks to provide the certain sums which shall be deemed as income received for the purposes of computing the income of the assessee. The Committee approve Clause 396 as proposed, noting its simplified approach to existing provisions.**
427.	**397.6.1**	**397**	**The Committee note that Clause 397 of the Bill, which consolidates and simplifies the compliance and reporting requirements for Tax Deducted at Source (TDS) and Tax Collected at Source (TCS), is a merger of provisions from existing Sections 200, 203A, 206AA, and 206CC of the current Act, streamlining them into a single, independent clause. Notably, the separate Tax Deduction Account Number (TAN) and Tax Collection Account Number (TCSAN) have been merged into a single "tax deduction and collection account number." The Committee also notethat the intent of the original provisions has been retained despite the textual simplification.Stakeholders, however, have raised concerns about certain discrepancies within this Clause. After considering these views and the Department's responses, the Committee recommend the following:** **i. Clarity on TAN Quoting: The current drafting of Clause 397(1) (b)requires quoting the Tax Deduction and Collection Account Number (TAN) on all challans, statements, and certificates without explicitly linking it to relevant TDS and TCS provisions. The Department has acknowledged this as an inadvertent drafting error and has agreed to re-**

Sl. No	Para No	Clause No.	Observation/Recommendation
			draft these provisions to align them with the current Act. The Committee concur with the Department's commitment to rectify this. ii. Correction of Table Reference: In Clause 397(1)(c)(i), there's an incorrect reference to Sl. No. 5(ii) in the Table, which should be 6(ii). This corresponds to Section 194M of the Income-tax Act, 1961. The Department has admitted this drafting error, and the Committee expect the necessary correction to be made. iii. Inclusion of "for such period" in Statements: Clause 397(3)(b) currently omits the phrase "for such period" when referring to the filing of TDS/TCS statements, a phrase present in Section 200(3) of the current Act. The Department has acknowledged this inadvertent drafting error and agreed to add "for such period" into Clause 397(3(b). The Committeerecommend this proposed correction. Besides these drafting corrections, the Committee approve Clause 397 as proposed.
428.	398.6	398	The Committee note that Clause 398 provides relaxation from being considered an assessee in default if the recipient of income or the buyer has taken into account that transaction in their income return; this provision, previously in Sections 201 and 206C(6A) of the existing Act, has been merged into 398(2)(b)(ii). The Committee further note two drafting errors in Clause 398. Firstly, while Clause 398(2)(b)(ii) aims to prevent an assessee from being in default, the Committee agree with stakeholders that the subsection needs to clearly specify the "amount" to be taken into account for this exemption. The Department of Revenue has acknowledged this as an inadvertent drafting error, and the Committee, therefore, recommend redrafting this clause to remove any ambiguity. Secondly, the Committee note that Clause 398(5)(b) incorrectly refers to "Section 393(3)(f)" for filing correction statements; this should be corrected to "397(3)(f)." The Committee, therefore, recommend that the reference in Clause 398(5)(b) be replaced accordingly.

Sl. No	Para No	Clause No.	Observation/Recommendation
			Apart from these drafting corrections, the Committee approve Clause 398 as proposed.
429.	**399.5**	**399**	**The Committee note that Clause 399 seeks to provide for processing of statements of tax deduction at source and tax collection at source filed, akin to Section 200A and 206CB of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.**
430.	**400.5**	**400**	**The Committee observe that Clause 400 of the Bill grants the Central Government the authority to ease Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)regulations. This clause aligns with several current provisions in the existing Act. Specifically, the provisions allowing for the exemption of certain persons or classes of persons from TDS/TCS, previously detailed in sections 195(7), 197(2A), 197A(1F), 206C(11), and 206C(12) of the Act, have been unified into this new Clause 400. As a result of this merger of TDS and TCS provisions within this single clause, the Committee approve Clause 400 as proposed by the Department of Revenue.**
431.	**401.6**	**401**	**The Committee note that Clause 401 of the Income-Tax Bill, 2025 aims to simplify the text while preserving the original intent of Section 205 of the Income Act, 1961, which bars the demand on an assessee to the extent tax has been deducted. After considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 401 as proposed.**
432.	**402.6**	**402**	**The Committee note that Clause 402 of the Bill aims to consolidate and simplify definitions for expressions used in the chapter on collection and recovery of tax, improving readability while retaining the original intent of existing provisions. However, based on feedback from stakeholders and experts, the Committee recommend following to improve clarity:-**

Sl. No	Para No	Clause No.	Observation/Recommendation
			(i) The Committee note that the definition of "an incorrect claim apparent from any information in the statement" in Clause 402(3) is incomplete due to the omission of TCS statements, an acknowledged drafting error by the Department. The Committee, therefore, recommend that this definition be suitably amended to include TCS-related provisions, aligning with Section 206CB of the Income-tax Act, 1961. **(ii) The Committee also note a stakeholder's concern regarding the clarity of the "unladen weight" definition in Clause 58(10)(d) and the suggestion to restrict its application to road rollers and tractors. The Department has accepted this concern; and agreed to add the words "as the case may be" to provide better clarity and to align it with the existing provisions of the Act. The Committee concur with the Department's submission.** **(iii) The Committee further note the inadvertent insertion of the definition of "authorized person" in Clause 402(27)(g)(iii), which appears to be a typographical error. As agreed by the Department, the Committee recommend omitting this definition from Clause 402(27)(g)(iii).** **(iv) The phrasing of Clause 402(27)(b), which defines "person responsible for paying" for "Interest on securities" (excluding government payments), is incorrect and unclear, likely causing confusion. A stakeholder provided a re-drafted versionas: "in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or State Government- (i) local authority (ii) corporation or (iii) company, including the principal officer thereof", which the Department has agreed to adopt. Accordingly, the Committee recommend that Clause 402(27)(b) be rephrased.** **(v)Typographical error: For Clause 402(2)(a) the word 'situate' may be replaced with 'situated.'** **Besides these recommended drafting**

Sl. No	Para No	Clause No.	Observation/Recommendation
			corrections, the Committee accept Clause 402 as proposed.
433.	**403.6**	**403**	**The Committee observe that Clause 403 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 207 of the Income-Tax Act, 1961 regarding liability for payment of advance tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 403 as proposed**
434.	**404.5**	**404**	**The Committee observe that Clause 404 of the Bill provides for conditions of liability to pay advance tax which corresponds to Section 208 of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 404 as proposed by the Department of Revenue.**
435.	**405.5**	**405**	**The Committee note that Clause 405 of the Bill provides for computation of advance tax, akin to 209 of the Income-Tax Act, 1961 with no policy change. They, therefore, approve Clause 405 as proposed by the Department of Revenue.**
436.	**406.5**	**406**	**The Committee observe that Clause 406 deals with payment of advance tax by assessee on his own accord which corresponds to Section 210 of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 406 as proposed by the Department of Revenue.**
437.	**407.6**	**407**	**The Committee observe that Clause 407 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 210 of the Income-Tax Act, 1961, with no policy change, regarding payment of advance tax by assessee in pursuance of order of Assessing Officer. Further, the Committee notice that the Department of Revenue has accepted the drafting error concerning replacement of "and" with "or" in the sub-clause (9) in Clause 407. The Committee, therefore, recommend that this drafting correction be made in the Clause.**

Sl. No	Para No	Clause No.	Observation/Recommendation
438.	408.5	408	The Committee note that Clause 408, which outlines the installments of advance tax and due dates, aligns with Section 211 of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.
439.	409.6	409	Clause 409 prescribes condition when assessee is deemed to be in default, aligns with Section 218 of the existing Act. From the justification submitted by the Department of Revenue, the Committee observe that no policy change has been proposed in this Clause. Only textual simplification has been carried out while retaining the intent. However, the Committee find an error in the margin title of Clause 409, which incorrectly states "when assessee is considered to be in default" instead of "When assessee is deemed to be in default." The Department has acknowledged and accepted this drafting error. Therefore, the Committee recommend that this specific drafting correction be made in Clause 409. Apart from this drafting correction, the Committee approve the Clause 409 as proposed.
440.	410.6	410	The Committee observe that Clause 410 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 219 of the Act regarding credit for advance tax. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 410 as proposed.
441.	411.6	411	The Committee has examined Clause 411 of the Income-Tax Bill, 2025, which addresses the credit for advance tax. They observe that this clause textually simplifies Section 219 of the existing Act while maintaining its original intent. No policy change is introduced in this provision. The reference of the repealed Act viz. Income-Tax Act, 1961 may be removed from sub-clause (6) of Clause 411 and incorporated in Clause 536 which provides for

Sl. No	Para No	Clause No.	Observation/Recommendation
			Repeals and Savings. After having considered feedback from stakeholders and the Department's response, the Committee concur with the views of the Department and accept Clause 411 subject to the above drafting corrections.
442.	412.5	412	The Committee note that clause 412 corresponding to tion 221 of the Income-Tax Act,1961,seeks to provide penalty payable when tax in default. Recognizing ual simplification, no policy change and retaining inal intent in the Clause, the Committee accept the ıse as proposed by the Department of Revenue.
443.	413.5	413	The Committee note that Clause 413 of the Income-Tax Bill 2025, mirroring Section 222 of the Income-Tax Act, 1961, deals with provisions for certificate by Tax Recovery Officer and Validity thereof. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 413 as proposed by the Department.
444.	414.5	414	The Committee note that Clause 414 of the Bill dealing with provisions for the Tax Recovery Officer by whom recovery is to be effected, aims to simplify the existing provisions of Section 223 of the current Act with no policy change. In place of words "by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner", the words "by an income-tax authority not below the rank of Commissioner" have been substitutedfor simplification. The Committee, therefore, accept Clause 414 as proposed as it meets its objectives.
445.	415.5	415	The Committee note that Clause 415 provides for stay of proceedings in pursuance of certificate and amendment or cancellation thereof, aligns with the existing Section 225 and involves no policy shift. They, therefore, accept Clause 415 as proposed by the Department of Revenue.

Sl. No	Para No	Clause No.	Observation/Recommendation
446.	416.6	416	The Committee observe that Clause 416 provides for other modes of recovery. aligning with Section 226 of the Income-Tax Act, 1961. The Clause has been only textually simplified, retaining its original intent. However, the Committee note that inadvertent omission of "clause (g)" in sub-clause 416(5)(h) has been accepted by the Department of Revenue. The Committee, therefore, recommend the Department to amend Clause 416 accordingly.
447.	417.5	417	The Committee observe that Clause 417, which deals with recovery through State Governments, corresponding to Section 227 of the existing Act, and incorporates no policy changes. Given this, the Committee recommend that the Clause be retained as proposed.
448.	418.5	418	The Committee note that Clause 418 provides for recovery of tax in pursuance of agreements with foreign countries.They observe that the Department's submission indicates no policy change has been occurred; rather the provisions have been merely simplified textually from the existing Section 228A. The Committee, therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.
449.	419.6	419	The Committee note that Clause 419 of the Bill, which addresses the recovery of penalties, fines, interest, and other sums, corresponds to Section 229 of the existing Act. The Committee also note that there is no policy change proposed, and the existing provisions have been textually simplified while retaining their original intent. Regarding the suggestion from expert/stakeholder to specifically include the word "fee" in Clause 419, the Committee are given to understand that the phrase "Any sum imposed by way of interest, fine, penalty, or any other sum" is consistent throughout the Bill and represents a

Sl. No	Para No	Clause No.	Observation/Recommendation
			settled position of law with no documented litigation concerning the non-inclusion of "fee." The Department has further stated that "any other sum" is broad enough to cover any unmentioned sums, given the dynamic nature of the economy. However, the Department is also committed to examine the suggestion further in consultation with the Ministry of Law and Justice. Given the Department's assurance that "any other sum" adequately covers "fee" and their commitment to further examination with the Department of Law, the Committee, for now, accept Clause 419 as proposed.
450.	420.5	420	The Committee note that Clause 420 of the Bill vides for tax clearance certificate, corresponding to tion 230 of the existing Act. They also note that no cy change has been effected by the Department; and a textual simplification of the current Act. The mittee, therefore, accept Clause 420 as proposed.
451.	421.5	421	Clause 421 of the Income-Tax Bill 2025, corresponding to Section 232 of the Income-Tax Act, 1961, seeks to provide that recovery by suit or under other law will not be affected notwithstanding tax due being recovered under any mode prescribed in the proposed legislation. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 421 as proposed by the Department
452.	422.5	422	Noting that Clause 422 of the Bill, which seeks to provide for recovery of tax arrears from a non-resident from his assets, is a textual simplification of Section 173 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.
453.	423.5	423	The Committee note that Clause 423 of the Bill, prescribing interest for defaults in furnishing return of income, aligns with existing Section 234A of the Income-Tax Act, 1961; but features simplified

Sl. No	Para No	Clause No.	Observation/Recommendation
			linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 423 as it is.
454.	424.5	424	The Committee note that Clause 424 of the Bill, scribing interest for defaults in payment of advance aims to simplify the existing provisions of Section 3 of the Act by providing formula to calculate the rest for defaults in payment of advance tax for better prehension. The Committee concur with the artment's justification for this simplification and, efore, accept Clause 424 as proposed.
455.	425.5	425	The Committee note that Clause 425 of the Income-Tax Bill, 2025, mapped to Section 234C of the Income-Tax Act, 1961, prescribes interest for deferment of advance tax. The Committee approve Clause 425 as proposed, noting its simplified approach to existing provisions.
456.	426.5	426	The Committee observe that Clause 426 of the Bill prescribes interest on excess refund which corresponds to Section 234D of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 426 as proposed by the Department of Revenue.
457.	427.6	427	The Committee observe that Clause 427 of the Bill, which provides for fees for default in furnishing statements and corresponds to Section 234E of the Income-Tax Act, 1961, requires a drafting correction. A stakeholder highlighted that Clause 427(1) omits a necessary reference to Section 394(1)(c), which deals with tax collection, despite Clause 427(2)(a) using the term "collectible." The Department has accepted this as a valid correction, agreeing to add the reference to Section 394(1)(c) in Clause 427(1), and the Committee therefore recommend to carry out the drafting correction. Apart from this, they accept the Clause

Sl. No	Para No	Clause No.	Observation/Recommendation
			427 as proposed.
458.	428.5	428	The Committee note that Clause 428 of the Bill pertains to refunds, aligns with the provisions of Section 234F of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 428 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.
459.	429.5	429	The Committee note that Clause 429 is in consonance objectives of the Bill, therefore, the Clause may be le part of the Bill, as proposed by the Department.
460.	430.6	430	Clause 430 of the Bill deals with fee for default relating to intimation of Aadhaar number. The Committee note that this Clause is simplified textual version of existing Section 234H of the extant Act and retaining the same intent. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 430 as proposed.
461.	431.4	431	The Committee note that Clause 431 pertains to refunds and aligns with the provisions of Section 237 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of Clause 431 is as per the objectives of the Bill and retains the same intent. The Committee, therefore, accept the Clause as proposed.
462.	432.6	432	The Committee note that Clause 432 textually simplifies and retains the same intent of Section 238 of the extant Act. However, few typographical errors in Clause 432 (1) which has been accepted by the Department of Revenue, necessitates an amendment. Therefore, the Committee recommend to amend the Clause accordingly. The amended Clause may be read as under: 432(1) Where the income of one person is included in total income of any other person under any provision of this Act, the latter shall

Sl. No	Para No	Clause No.	Observation/Recommendation
			be eligible for a refund under this Chapter in respect of such income.
463.	433.6	433	The Committee note that the suggestion to allow refunds in case of late/revised income tax returns filed due to exceptional/emergency circumstances such as medical emergency, natural calamity, death in the family, etc. has been accepted by the Department. Accordingly, the Committee recommend to carry out suitable modification in Clause 263 to enable refunds in case of filing belated or revised returns. The Committee further note that Clause 433 of the Bill corresponds to Section 239 of the Income-Tax Act, 1961 dealing with form of claim for refund and limitation. They find that in Clause 433 'part' has been mentioned inadvertently while the intended word is 'Chapter'. They also find that this drafting error has been accepted by the Department in case of drafting of Clause 436 as well. The Committee, therefore, recommend that the same drafting correction may also be carried out in Clause 433.
464.	434.6	434	The Committee note that Clause 434 of the Income-Tax Bill 2025, which deals with refund for denying liability to deduct tax, corresponds to Section 239A of the Income-Tax Act, 1961. While Clause 434 primarily addresses for refunds where no tax liability exists, there is no clarity regarding refund of deduction made at a rate higher than required. The ambiguity, in this regard, has been not only admitted by the Department of Revenue during their oral evidence before the Committee; but they also agreed to examine Clause 434 if the wording is causing any problem in this regard. The Committee, therefore, recommend the Department to look into the Clause and amend/rephrase the same to bring clarity even at the cost of few more words, if required, to make the proposed legislation clear and reduce potential disputes.
465.	435.4	435	The Committee note that Clause 435 is in consonance with objectives of the Bill and therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.

Sl. No	Para No	Clause No.	Observation/Recommendation
466.	**436.6**	**436**	**The Committee note that the provisions of Clause 436 corresponding to Clause 242 of the extant Act have been only textually simplified while retaining its intent. The Committee, however, find that there is a drafting error in the provisions of Clause 436 as it mentions 'Part' instead of 'Chapter', which has been accepted by the Department of Revenue. Therefore, the Committee recommend to amend the Clause as under:** **436. "In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess."**
467.	**437.6**	**437**	**The Committee note that Clause 437, relating to interest on refunds, corresponds to Section 244A of the Income-Tax Act, 1961. They find that besides simplification of the language and prescription of interest on refund in a tabular format, no policy change has been effected. They acknowledge the demand for interest rate parity for both dues and refunds. However, after considering the Department's contention that (i) more interest burden on dues and (ii) interest on refunds being more than commercial rate of interest on short-term deposits and comparable with long-term return of fixed deposits; are required for tax payment discipline, the Committee are of the view that *status quo* may be maintained. Nevertheless, they recommend the Department to incorporate the accepted drafting corrections for Clause 437, as pointed out in various suggestions.**
468.	**438.4**	**438**	**The Committee note that Clause 438 relating to 'Set off and withholding of refunds in certain cases' is a textual simplification of Section 245 of the existing Act. The Ministry of Finance (Department of Revenue) have confirmed no policy change during its drafting.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			As the proposed Clause is in consonance with the objectives of the Bill, the Committee are of the view that it may be made part of the Bill, as proposed by the Department.
469.	**439.6**	**439**	**The Committee note that proposed definitions of under-reporting and misreporting of income along with other respective penalties under Clause 439 are consistent with the extant Income-Tax Act, 1961. They, however, note that a reasonable opportunity of being heard has been provided separately in Clause 471 governing procedure for penalty, not within each penalty Clause. After taking into consideration the views and suggestions of various stakeholders and the Department's justification of no major policy change, the Committee find that provisions of Clause 439 aligns with the objectives of the Bill. However, in view of the Department's admission of a drafting error in the use of the word 'considered' in sub-clause (11) (f) of Clause 439, the Committee recommend to amend the proposed Clause accordingly.**
470.	**440.6**	**440**	**The Committee observe that Clause 440 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 270AA of the Act regarding immunity from penalty. Noting that there is no policy change in this regard and having considered the views of the stakeholders as well as the response of the Department, the Committee accept Clause 440 as proposed.**
471.	**441.6**	**441**	**The Committee note that Clause 441 prescribes a penalty of Rupees Twenty-five thousandfor failure to keep, maintain or retain books of accounts, documents, etc. corresponding to Section 271A of the Act. In this regard, they note that the Department of Revenue have accepted the suggestion to substitute the word 'shall' with 'may' in the Clause on the lines of existing Income-Tax Act, 1961. The Committee find merit in the suggestion that replacement of the word 'shall' with 'may' will address the cases of non-compliance of the provisions due to genuine reasons/reasonable cause. Therefore, the Committee recommend to amend the Clause as under:**

Sl. No	Para No	Clause No.	Observation/Recommendation
			441. A penalty of twenty-five thousand rupees may be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to— **(a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or** **(b) retain such books of account and other documents for the period specified in the said rules.**
472.	**442.6**	**442**	**The Committee observe that Clause 442, corresponding to Section 271AA of the existing Act, prescribes a penalty of 2% of the value of each international transaction or specified domestic transaction for failure to keep and maintain information and documents in certain cases. Noting no policy change regarding the prescribed penalty or amount,the Committee recommend to retain the Clause as proposed.**
473.	**443.6**	**443**	**Clause 443 of the Income-Tax Bill, 2025 relates to penalty in respect of certain income, which has been prescribed as 10% of the tax payable under section 195(1)(i). The Committee note that Clause 443 corresponds to section 271AAC of the Income-Tax Act, 1961 and no policy change has been made in the said Clause. However, they note that the Department of Revenue have accepted the omission of sub-clause 5 of Clause 443 as it is redundant given the applicability of Clauses 471 and 472 to Chapter XXI. Therefore, the Committee recommend the Department to amend Clause 443 for brevity and simplicity.**
474.	**444.6**	**444**	**The Committee observe that Clause 444 empowers Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) to impose penalty equal to the aggregate amount of false or omitted entry in books of account, aligning with Section 271AAD of the Income-Tax Act, 1961. The Clause has been only textually simplified, retaining its original intent. However, the Committee note that inadvertent omission of sub section (1) in**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Clause 444 has been accepted by the Department of Revenue. The Committee, therefore, recommend the Department to amend Clause 444 accordingly.
475.	**445.6**	**445**	**The Committee observe that penalty for filing of specified income by a registered non-profit organization, which is chargeable to tax as per Section 337, for the benefit of related persons, has been provided under Clause 445. In this regard, they notice that the term 'related person' has been defined under Clause 355 (h), while the term 'relative' has been defined under Clause 355(i). Therefore, apropos suggestion received and agreed by the Department of Revenue, the Clause 445 may be amended. Further, the Committee note that there is a drafting error in this Clause akin to Clause 449 where there is no sub clause besides only one. Therefore, Clause 445 may be amended as under:** **445. If during any proceedings under this Act, it is found that a registered non-profit organisation has any specified income which is chargeable to tax as per Section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—** **(a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(h), if the violation is noticed for the first time during any tax year; and** **(b) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any related person referred to in section 355(h), if the violation is noticed again in any subsequent tax year.**
476.	**446.4**	**446**	**The Committee note that Clause 446 prescribes a penalty for failure to get accounts audited for tax year or years, corresponding to Section 271B of the existing Act. They also note that no policy change has been effected by the Department; and only a textual simplification of the current Section has been made. The Committee, therefore, accept Clause 446**

Sl. No	Para No	Clause No.	Observation/Recommendation
			as proposed.
477.	447.6	447	The Committee note that Clause 447 addresses penalty for failing to submit an accountant's report as mandated by Section 172.They observe that the Department's submission indicates that no policy change has been made; rather the provisions have been merely simplified textually from the existing Section 271BA for the same violation. The Committee, therefore, recommend that the Clause may be made part of the Bill, as proposed by the Department.
478.	448.7	448	The Committee note that Clause 448, relates to penalty for failure to deduct tax at source, corresponding to Section 271C of the existing Act. The Department justified this Clause as textual simplification, not a policy change. As the Department of Revenue have acknowledged a drafting error in the cross-referencing for this Clause, the Committee recommend to carry out the minor correction in Clause 448.
479.	449.6	449	Clause 449 relates to penalty for failure to collect tax at source and aligns with Section 271CA of the existing Act. From the justification submitted by the Department of Revenue, the Committee observe that no policy change has been proposed in this Clause. Only textual simplification has been carried out while retaining the intent. Further, the Committee notice that the Department of Revenue have accepted the drafting error concerning sub-clause (1) in Clause 449. The Committee, therefore, recommend that this drafting correction be made in the proposed Clause.
480.	450.6	450	The Committee note that Clause 450, corresponding to Section 271D of the existing Act prescribes penalty for failure to comply with provisions of section 185. This Clause represents textual simplification with no change in policy. The Committee concur with the Department's rationale for discouraging cash transactions. The Committee, therefore, accept the Clause in its current format.
481.	451.4	451	The Committee note that Clause 451,

Sl. No	Para No	Clause No.	Observation/Recommendation
			corresponding to Section 271DA of the existing Act, prescribes penalty for failure to comply with provisions of section 186 with intention of restricting cash transactions and also to curb the flow of black money on the lines of Clause 450. The Committee also note from the submissions of the stakeholder that explicit reference to an exception in Clause 451 is redundant as Clause 470 already provides for an exception from penalty in cases where a reasonable cause for non-compliance exists. The Committee, therefore, recommend to amend the Clause as under: **451. "The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186."**
482.	**452.6**	**452**	**The Committee note that Clause 452 of the Income-Tax Bill, 2025, which corresponds to Section 271DB of the Income-Tax Act, 1961, prescribes a penalty of Rs. Five Thousand per day for every day of duration of default to provide a facility for accepting payments through prescribed electronic modes. Given that this Clause is similar to the existing Section 271DB with no policy change, the Committee recommendits inclusion as it is in the proposed Act.**
483.	**453.6**	**453**	**The Committee note that Clause 453, which imposes a 100% penalty for non-compliance with provisions of section 188, aligns with Section 271E of the Income-Tax Act, 1961. The Committee concurs with the Department's justification for retaining this clause with the same intent, incorporating only textual simplification. The Committee, therefore, accept the Clause in its current form.**
484.	**454.4**	**454**	**The Committee note that Clause 454 of the Income-Tax Bill 2025, mapped to Section 271FA of the Income-Tax Act, 1961, prescribes penalties for non-compliance in furnishing financial transactions or reportable amounts. The Committee approve Clause 454 as proposed, noting its simplified approach to existing provisions.**
485.	**455.4**	**455**	**The Committee note that Clause 455, dealing with penalty for furnishing inaccurate statement of financial transaction or reportable account, aims to simplify the existing provisions of Section 271FAA.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			The Committee concur with the Department's justification for this simplification and therefore, accept Clause 455 as proposed.
486.	**456.6**	**456**	**The Committee note that Clause 456, a simplified text of the existing Section 271FAB, relates to penalty for failure to furnish statement or information or document by eligible investment fund. As the Department of Revenue have agreed to remove the reference to Section 9A(5) of the Income-Tax Act, 1961 in Clause 456 of the Bill, the Committee recommend to carry out the drafting correction accordingly.**
487.	**457.4**	**457**	**The Committee note that Clause 457 prescribing penalty for failure to furnish information or document under section 171, aligns with existing Section 271G but features simplified linguistic construction. Expressing their concurrence with the justification given by the Department of Revenue in this regard, the Committee accept Clause 457 as it is.**
488.	**458.4**	**458**	**Noting that Clause 458 of the Bill, dealing with penalty for failure to furnish information or document under section 506 by an Indian concern, is a textual simplification of Section 271GA of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.**
489.	**459.4**	**459**	**The Committee note that Clause 459, stipulating penalties for not submitting report or providing inaccurate report under section 511, aligns with the existing Section 271GB and involves no policy shift. They, therefore, accept Clause 459 as proposed by the Department of Revenue.**
490.	**460.4**	**460**	**Clause 460 of the Income-Tax Bill 2025, which deals with penalties for failure to submit statement under section 505, corresponds to Section 271GC of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 460 as it is.**

Sl. No	Para No	Clause No.	Observation/Recommendation
491.	461.6	461	Clause 461 prescribes a penalty ranging from Rs. Ten Thousand to Rs. One lakh for failure to furnish a statement as required by section 397(3)(b). The Committee note that this Clause is simplified textual version of existing Section 271H maintaining Government's original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee are of the view that Clause 461 may be included in the new Act as proposed.
492.	462.6	462	The Committee observe that Clause 462 seeks to impose penalty of Rs. One lakh for failure to furnish information or furnishing inaccurate information under section 397(3)(d) and aligns with Section 271I of the Income-Tax Act, 1961. They note that the Department have confirmed that this is a rephrasing, not a policy change. After considering all viewpoints, the Committee accept Clause 462, as proposed, as it meets its objectives.
493.	463.4	463	Clause 463 of the Income-Tax Bill 2025, corresponding to Section 271J of the Income-Tax Act, 1961, stipulates penalty of Rs. Ten Thousand for providing incorrect information in any report or certificate under this Act or the rules made thereunder. The Committee further note that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. They, therefore, approve Clause 463 as proposed by the Department.
494.	464.4	464	The Committee note that Clause 464, corresponding to Section 271K of the Income-Tax Act, 1961, seeks to provide for imposition of penalty for failure to furnish statement by certain institutions or funds. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.
495.	465.6	465	The Committee observe that Clause 465, simplifying Section 272A of the Income-Tax Act, 1961, imposes penalties for non-compliance (eg. failure to

Sl. No	Para No	Clause No.	Observation/Recommendation
			provide information or allow inspections) with no policy change. However, the drafting errors *viz*. omission of Section 268(2) and incorrect reference to 389(5)(a) instead of 392(5)(a) in sub-clause (2) of Clause 465, as pointed out by stakeholders, have been accepted by the Department of Revenue. They, therefore, recommend the Department to carry out the aforesaid drafting correction.
496.	**466.4**	**466**	**The Committee note that Clause 466 prescribing penalty for failure to comply with the provisions of section 254 is similar to the provisions of existing Section 272AA of the Income-Tax Act, 1961 with no policy change. They, therefore, approve the Clause 466 as proposed by the Department of Revenue.**
497.	**467.4**	**467**	**The Committee note that Clause 467, a textual simplification of Section 272B of the Income-Tax Act, 1961, seeks to impose penalties for non-compliance with the provisions of section 262. As no policy changes are incorporated, the Committee accept Clause 467 as proposed by the Department of Revenue.**
498.	**468.4**	**468**	**The Committee observe that Clause 468 deals with penalty for failure to comply with the provisions of section 397(1) which corresponds to Section 272BB of the extant Act. They note that, apart from textual simplification, no policy change has been introduced in this Clause. They, therefore, accept Clause 468 as proposed by the Department of Revenue.**
499.	**469.4**	**469**	**The Committee note that Clause 469 grants power to reduce or waive penalties, etc., in certain cases, akin to Section 273A of the Income-Tax Act, 1961. They further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Department.**
500.	**470.6**	**470**	**The Committee observe that Clause 470 of the Bill, mirroring Section 273B of the extant Act, seeks to provide that penalty in certain cases shall not be**

Sl. No	Para No	Clause No.	Observation/Recommendation
			imposed for reasonable cause. After considering stakeholders suggestions and Department's responses, the Committee find that: (i) there is a drafting error in the reference part of the Clause, which the Department have accepted; (ii) the suggestion to condone misreporting of income on the grounds of reasonable cause is untenable as misrepresentation or suppression of facts cannot be permitted under any circumstances. The Committee concur with the views of the Department of Revenue. Accordingly, the Committee recommend that drafting correction be carried out in Clause 470 to include reference to clause 453.
501.	**471.5**	**471**	**The Committee note that Clause 471, outlining penalty procedures, corresponding to Section 274 of the Income-Tax Act 1961, is a textual simplification consistent with the objectives of the Bill. The Committee, therefore, accept the Clause as proposed by the Department.**
502.	**472.4**	**472**	**The Committee observe that Clause 472, mapped to Section 275 of the extant Act, seeks to provide for a bar of limitation for imposing penalties. Noting that its provisions retain the same context and intent as the existing provision of the Income-Tax Act, 1961, with simplified language for greater insight, the Committee accept Clause 472 as proposed by the Department.**
503.	**473**	**473.6**	**The Committee while examining the Clause 473 of the Bill note that the Clause deals with 'contravention of order made under section 247' and corresponds to section 275A of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been retained with the same intent in the proposed clause. Having considered the views of both stakeholders and the Ministry, the Committee accept the Clause 473 as proposed.**
504.	**474**	**474.5**	**The Committee note that Clause 474 deals with 'failure to comply with clause (ii) of section 247(1)(b)', aligns with the provisions of Section 275B of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 474 is as per the objectives of the Bill and retaining the same intent.**

Sl. No	Para No	Clause No.	Observation/Recommendation
			The Committee, therefore, accept the Clause as proposed.
505.	**475**	**475.6**	**The Committee note that clause 475 of the Bill, which mirrors Section 276 of the Income-Tax Act, 1961 concerning actions to prevent tax recovery (i.e., removal, concealment, transfer or delivery of Property), requires a minor amendment. Following a stakeholder's suggestion, and with the Department's agreement, the Committee recommend inserting "therein" after the word "interest" in Clause 475 to ensure consistency with the existing Act. Aside from this drafting Correction, the Committee approve the Clause as proposed.**
506.	**476**	**476.6**	**The Committee note that Clause 476 of the Bill addresses failure to pay tax to credit of Central Government under Chapter XIX-B, mirroring Section 276B of the Income-Tax Act, 1961. Deliberating on stakeholder suggestions, the Committee has identified a need for a drafting correction. The Committee, therefore, recommend that "Note 3 in Table in section 393(3)", as referenced in Clause 476(1)(b)(i), be incorporated into the relevant proposed section. Subject to this specific amendment, the Committee accept Clause 476 as proposed.**
507.	**477**	**477.6**	**The Committee note that Clause 477 deals with failure to pay tax collected at source, mirroring Section 276BB of the Income-Tax Act, 1961. The Committee observe that the intent of the existing section is retained in the proposed clause. After deliberating stakeholder suggestion, the Committee agree with the Ministry's rationale for maintaining penalty and prosecution provisions for deterrence, and therefore accept Clause 477 as proposed.**
508.	**478**	**478.6**	**The Committee, while reviewing Clause 478 of the Bill, which mirrors Section 276C of the Income-Tax Act, 1961, concerning wilful attempt to evade tax, etc., has identified two crucial drafting corrections. Firstly, the Committee recommend removing the reference to "payment of" in Clause 478(1) to avoid an unintended overlap with Clause 478(2) that could lead to inconsistent prosecution for tax evasion versus payment evasion. Secondly, to align with the existing Section 276C and prevent an overly broad**

Sl. No	Para No	Clause No.	Observation/Recommendation
			interpretation of prosecution provisions, the Committee advise replacing "may" with "will" in Clause 478(4)(d). Subject to these precise drafting corrections, the Committee approve Clause 478 as proposed.
509.	479	479.6	Clause 479 deals with failure to furnish returns of income. The Committee note that this Clause is simplified textual version of existing Section 276CC maintaining Government original policy. After considering the viewpoints of both the stakeholders and the Department, the Committee accept Clause 479 as proposed.
510.	480	480.5	The Committee observe that Clause 480 of the Bill textually simplifies and retain the intent of section 276CCC of the Income-Tax Act, 1961 regarding failure to furnish return of Income in search cases. Noting that there is no policy change in this regard and having after considered the views of the stakeholder as well as the response of the Department, the Committee accept Clause 480 as proposed.
511.	481	481.6	The Committee note that Clause 481 of the Bill deals with failure to produce accounts and documents, and corresponds to section 276D of the Income-Tax Act, 1961. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause as proposed by the Department of Revenue.
512.	482	482.6	The Committee note that Clause 482 of the Bill deals with false statement in verification, etc., aligns with section 277 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in the proposed clause. The Committee, therefore, accept the Clause 482 as proposed.
513.	483	483.5	Recognizing Clause 483's alignment with Section 277A of the Income-Tax Act, 1961, deals with the falsification of books or documents, the Committee observe it as a textual simplification that preserves the original intent. The Committee, therefore, accept Clause 483 in its proposed form.
514.	484	484.5	The Committee note that Clause 484, which deals with abetment of false return, etc. and corresponds to Section 278 of the Income-Tax Act, 1961, has been textually simplified while retaining its original intent

Sl. No	Para No	Clause No.	Observation/Recommendation
			and policy. The Committee, therefore, accept Clause 484 as proposed.
515.	**485**	**485.5**	**The Committee note that Clause 485, which outlines punishment for second and subsequent offenses, aligns with Section 278A of the Income-Tax Act, 1961. For rationalization, it now also references Clause 480 (failure to furnish income returns in search cases). Observing that Clause 485 meets the Bill's objectives, the Committee accept it as proposed.**
516.	**486**	**486.6**	**The Committee observe that Clause 486 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 278AA of the Income-Tax Act, 1961 regarding punishment not to be imposed in certain cases. Noting that there is no policy change in this regard and having after considered the views of the stakeholder as well as the response of the Ministry, the Committee accept Clause 486 as proposed.**
517.	**487**	**487.4**	**The Committee while examining the Clause 487 of the Bill note that the Clause deals with offences by companies, and corresponds to section 278B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 487 as proposed.**
518.	**488**	**488.5**	**The Committee note that Clause 488 of the Bill deals with offences by Hindu undivided family aligns with Section 278C of the Income-Tax Act, 1961. The Clause represents textual simplification, retention of same intent and no policy change. The Committee, therefore, accept the Clause 488 as proposed.**
519.	**489**	**489.5**	**The Committee note that Clause 489 deals with presumption as to assets, books of account, etc., in certain cases, corresponding to Section 278D of the existing Act. The Committee also note that no policy change has been effected by the Ministry; and only a textual simplification of the current Act. The Committee, therefore, accept Clause 489 as proposed.**
520.	**490**	**490.4**	**The Committee note that Clause 490 of the Bill provides for presumption as to culpable mental state, mirrors section 278E of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been retained with the same**

Sl. No	Para No	Clause No.	Observation/Recommendation
			intent in this clause. The Committee, therefore, accept the Clause 490 as proposed.
521.	**491**	**491.6**	**The Committee, while examining Clause 491 of the Bill, note that it addresses prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, aligning with Section 279 of the Income-Tax Act, 1961. A stakeholder suggested drafting correction to sub-clause (1), which places "Commissioner (Appeals)" before "Joint Commissioner (Appeals)," has been accepted by the Ministry. With this specific amendment, the Committee accept Clause 491 as proposed.**
522.	**492**	**492.5**	**The Committee note that Clause 492, which aligns with Section 279A of the Income-Tax Act, 1961, categorizes certain offences to be non-cognizable. The Committee also note that two rationalizations have been made in this clause viz. making offenses under Clause 480 (failure to furnish returns in search cases) non-cognizable; and updating the legal reference from the Code of Criminal Procedure, 1973, to the Bhartiya Nagarik Suraksha Sanhita, 2023. Given the Ministry's justification, the Committee accept Clause 492 as proposed.**
523.	**493**	**493.4**	**The Committee, while examining the Clause 493 of the Bill, note that the Clause provides for proof of entries in records or documents which mirrors section 279E of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 493 as proposed.**
524.	**494**	**494.5**	**Noting that Clause 494 of the Bill, dealing with Disclosure of particulars by public servants, is a textual simplification of Section 280 of the Income-Tax Act, 1961 with the same intent and no policy change, the Committee accept the Clause in its present form.**
525.	**495**	**495.5**	**The Committee note that Clause 495, which provides for special courts, is a textual simplification of Section 280A of the Income-Tax Act, 1961, retaining the same intent. Therefore, the Committee accept Clause 495 as proposed.**
526.	**496**	**496.4**	**The Committee note that Clause 496, deals with offences triable by Special Court, aligns with the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			existing section 280B of the Income-Tax Act, 1961. The Committee concur with the Ministry's justification for retaining this clause with the incorporation of the words "Bharatiya Nagarik Surakasha Sanhita" in place "Code of Criminal Procedure, 1973. The Committee, therefore, accept the Clause 496 as proposed.
527.	497	497.6	The Committee observe that Clause 497, deals with Trial of offences as summons case, corresponds to the existing section 280C of the Income-Tax Act, 1961. The Committee concurs with the Ministry's justification for retaining this clause with the incorporation of the words "Bharatiya Nagarik Surakasha Sanhita" in place "Code of Criminal Procedure, 1973. The Committee, therefore, accept the Clause 497 as proposed.
528.	498	498.5	The Committee note that Clause 498 of the Bill deals with application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court, aligns with section 280D of the Income-Tax Act, 1961. The Committee also note that the words "Bharatiya Nagarik Surakasha Sanhita" have been incorporated in place of "Code of Criminal Procedure, 1973. Given the Ministry's justification in this regard, the Committee accept the Clause 498 as proposed.
529.	499	499.6	The Committee note that Clause 499 of the Bill, addressing void transfers (mirroring Section 281 of the Income-Tax Act, 1961), now incorporates "virtual digital asset" into its definition of "asset." The Ministry has justified this inclusion as a rationalization aimed at aligning the provision with other sections of the Bill. The Committee also note that the Ministry has accepted two key drafting improvements suggested by stakeholders: first, in the clause 499(4)(a), changing "virtual digital asset" to the plural "virtual digital assets" for consistency with the broader definition of "assets"; and second, inserting "and" before the last item in Clause 499(4)(a), which enhances clarity and improves overall drafting. After considering the perspectives of both stakeholders and the Ministry, the Committee accept Clause 499 as proposed, incorporating these drafting corrections.
530.	500	500.6	The Committee note that Clause 500 of the Bill, which

Sl. No	Para No	Clause No.	Observation/Recommendation
			corresponds to Section 281B of the Income-Tax Act, 1961, addresses provisional attachment to protect revenue in certain cases. This clause maintains the same intent as the existing section, with no policy changes, only textual simplification. The Committee find that the Ministry has accepted a drafting correction for Clause 500(1)(a). The comma placed between "reassessment of any income" and "which has escaped assessment" will be removed. This change clarifies that "which has escaped assessment" directly modifies the preceding phrase, ensuring the text accurately reflects the intended meaning for assessments or reassessments of income. After considering the views of both stakeholders and the Ministry, the Committee approve Clause 500, incorporating the afore-mentioned drafting correction.
531.	**501**	**501.6**	**The Committee observe that Clause 501 of the Bill, which addresses service of notice generally, corresponds to Section 282 of the Income-Tax Act, 1961. This clause carries forward the existing section's intent without policy changes, merely simplifying the text. However, a critical omission is identified in Clause 501(1). Unlike the existing Section 282(1), the new clause lacked the bracketed definition "(hereafter in this section referred to as "communication")" after listing various forms of communication. The Committee believe that addressing this omission, would provide a better clarity and achieve the intended applicability of the term "communication" in Clause 501(2). The Ministry has duly acknowledged and committed to rectifying this drafting oversight Having considered the views of both stakeholders and the Ministry, the Committee approve Clause 501 as proposed, contingent on the rectification of this drafting error. Aside from the above drafting correction, the Committee recommend to accept the Clause 501 as proposed.**
532.	**502**	**502.5**	**The Committee note that Clause 502 of the Bill provides for authentication of notices and other documents, aligns with existing Section 282A of the Income-Tax Act, 1961; but features simplified linguistic construction with no policy change. Expressing their concurrence with the justification given by the Ministry of Finance (Department of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			Revenue) in this regard, the Committee accept Clause 502 as it is.
533.	503	503.5	The Committee while examining the Clause 503 of the Bill note that the Clause deals with service of notice when family is disrupted or firm etc., is dissolved, and corresponds to section 283 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 503 as proposed.
534.	504	504.5	The Committee note that Clause 504 stipulates service of notice in case of discontinued business, aligns with the provisions of Section 284 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of Clause 504 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.
535.	505	505.5	The Committee note that Clause 505, a textual simplification of Section 285 of the Income-Tax Act, 1961, deals with submission of statement by a non-resident having liaison office. As accepted by the Ministry, correction may be carried out in clause 505 as under: 'within sixty days' may be replaced with 'within eight months' Subject to the aforesaid correction, the Committee accept Clause 505 as proposed by the Department of Revenue.
536.	506	506.6	The Committee observe that Clause 506, which addresses the submission of information or documents by Indian concerns, mirrors Section 285A of the Income-Tax Act, 1961, without introducing any policy changes. A stakeholder pointed out a necessary drafting correction in Clause 506: "section 9(9)(a)" should be changed to "clause (a) of section 9(9)" for consistency with Section 285A. Given the Ministry's acceptance of this change, the Committee recommend redrafting Clause 506 to align with the current Act. Subject to this correction, the Committee approve Clause 506 as presented.
537.	507	507.4	The Committee note that Clause 507 of the Bill

Sl. No	Para No	Clause No.	Observation/Recommendation
			prescribing provisions for submission of statements by producers of cinematograph films or persons engaged in specified activity, aligns with existing Section 285B of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Ministry of Finance (Department of Revenue) in this regard, the Committee accept Clause 507 as it is.
538.	**508**	**508.5**	**The Committee while examining the Clause 508 of the Bill note that the Clause deals with obligation to furnish statement of financial transaction or reportable account, corresponds to section 285BA of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 508 as proposed.**
539.	**509**	**509.5**	**Clause 509 of the Income-Tax Bill 2025, which provides for obligation to furnish information on transaction of crypto-asset, corresponding to Section 285BAA of the Income-Tax Act, 1961. The Committee find that this Clause has been textually simplified and retained with the same intent in this clause. Furthermore, having been assured that no policy change has been incorporated in this Clause, the Committee approve Clause 509 as it is.**
540.	**510**	**510.5**	**The Committee note that Clause 510 of the Bill, which outlines the annual information statement, aligns with Section 285BB of the Income-Tax Act, 1961. The Committee observe that the language of the existing section has been textually simplified in this new clause while retaining its original intent. Therefore, the Committee accept Clause 510 as proposed.**
541.	**511**	**511.6**	**The Committee observe that Clause 511 of the Income-Tax Bill, 2025 textually simplifies and retains the intent of Section 286 of the Act regarding immunity from penalty. Noting that there is no policy change in this regard and having after considered the views of the stakeholders as well as the response of**

Sl. No	Para No	Clause No.	Observation/Recommendation
			the Ministry, the Committee accept Clause 511 as proposed.
542.	**512**	**512.5**	**The Committee, upon reviewing Clause 512 of the Bill, acknowledge that it addresses the publication of information respecting assessees in certain cases, directly paralleling Section 287 of the Income-Tax Act, 1961. This Clause represents textual simplification, no change in policy. The Committee, therefore, approve Clause 512 in its current form.**
543.	**513**	**513.5**	**The Committee note that Clause 513 of the Bill addresses appearance of registered valuer in certain matters, corresponding to section 287A of the Income-Tax Act, 1961. Notably, the Committee find that the provisions of the existing Section 287A have been divided between Clause 513 and a newly introduced Clause 514. The new Clause 514 now outlines the method for registering valuers by specified Income-tax authorities. Acknowledging the Ministry's assurance that the proposed provisions in the Income-Tax Bill 2025 are a simplified version of their counterparts in the IT Act, 1961, the Committee accept Clause 513 as proposed.**
544.	**514**	**514.6**	**The Committee note the introduction of Clause 514 in the Bill, which establishes a framework for the registration of valuers by specified Income-tax authorities and addresses related procedural matters. The Committee also note that in response to a stakeholder's suggestion for prescribing specific qualifications for registered valuers to ensure expertise in valuing certain asset classes, the Ministry has concurred that this constitutes a necessary drafting correction. The Ministry has further assured the Committee that Section 247 of the Companies Act, 2013, and the NAFRA Companies (Registered Valuers and Valuation) Rules, 2017, will be thoroughly reviewed during the drafting of the relevant rules. Having considered the perspectives of both stakeholders and the Ministry, the Committee accept Clause 514 as proposed, subject to the incorporation of the aforementioned drafting correction.**
545.	**515**	**515.6**	**The Committee observe that Clause 515 of the Bill, which governs appearances by authorized representatives, aligns with Section 288 of the Income-Tax Act, 1961. The Ministry has asserted that**

Sl. No	Para No	Clause No.	Observation/Recommendation
			this clause maintains the existing policy, merely simplifying the text. However, a stakeholder identified a drafting error in sub-clause (4)(b) of Clause 515, where it incorrectly refers to Section 275(1)(ii) instead of Section 271(1)(ii). The Ministry has acknowledged this error, and the Committee, therefore, recommend its correction. The Committee note that in Clause 515 references have been made to Income-Tax Act, 1922 and Income-Tax Act, 1961. Considering the stated aims and objectives of the Bill, the Committee recommend that references to both the Acts may be omitted in Clause 515 and the relevant proviso may be incorporated under Repeals and Savings clause viz. Clause 536 of the Bill. After having considered the views of stakeholders and the Ministry, the Committee accept Clause 515 as it stands, with the exception of the above recommendations.
546.	516	516.5	The Committee while examining the Clause 516 of the Bill note that the Clause deals with rounding off of amount of total income, or tax payable or refundable and corresponds to sections 288A and 288B of the Income-Tax Act, 1961. The Committee observe that there is no policy change, however, existing Sections 288A and 288B have been merged into single section considering that both the sections were related to rounding off. The Committee take note of Ministry's justification that the provisions of the existing sections have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 516 as proposed.
547.	517	517.5	The Committee note that Clause 517, which provides for receipt to be given, is in consonance with objectives of the Bill, therefore, the Clause may be made part of the Bill, as proposed by the Ministry.
548.	518	518.5	The Committee note that Clause 518 of the Bill outlines indemnity, akin to Section 290 of the Income-Tax Act, 1961. The Committee further note that this Clause is only a textual simplification, consistent with the objectives of the Bill. Therefore, the Committee accept the Clause as proposed by the Ministry.
549.	519	519.5	Clause 519 of the Income-Tax Bill 2025 which grants

Sl. No	Para No	Clause No.	Observation/Recommendation
			power to tender immunity from prosecution, corresponding to Section 291 of the Income-Tax Act, 1961. The Committee find that this Clause has been reformulated by paraphrasing the existing provisions to enhance clarity and comprehension. Furthermore, noting that there is no policy change in this regard, the Committee accept Clause 519 as proposed.
550.	520	520.5	Noting that Clause 520 of the Bill, dealing with cognizance of offences is a textual simplification of Section 292 of the Income-Tax Act, 1961 with the same intent, the Committee accept the Clause in its present form.
551.	521	521.5	The Committee note that Clause 521 of the Bill, dealing with the non-application of the Probation of Offenders Act, 1958, and Section 401 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, directly corresponds to Section 292A of the Income-Tax Act, 1961. There are no underlying policy changes. The provisions of the existing section have been textually simplified in this clause while retaining their original intent, with the specific update of replacing the reference to the Code of Criminal Procedure, 1973, with the BNSS, 2023. The Committee accept Clause 521 as proposed.
552.	522	522.5	The Committee while examining the Clause 522 of the Bill note that the Clause deals with return of income, etc., not to be invalid on certain grounds and corresponds to section 292B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 522 as proposed.
553.	523	523.5	The Committee note that Clause 523 of the Bill addresses notice deemed to be valid in certain circumstances, aligns with the existing Section 292BB and involves no policy shift. The Committee, therefore, accept Clause 523 as proposed by the Ministry.
554.	524	524.5	The Committee note that Clause 524 of the Bill provides for presumption as to assets, books of account, etc., aligns with existing Section 292C of the Income-Tax Act, 1961 but features simplified linguistic construction. Expressing their concurrence with the justification given by the Ministry of Finance

Sl. No	Para No	Clause No.	Observation/Recommendation
			(Department of Revenue) in this regard, the Committee accept Clause 524 as it is.
555.	525	525.5	The Committee note that Clause 525 outlines the framework for authorisation and assessment in case of search or requisition, aligns with the existing Section 292CC of the extant Act and involves no policy shift. They, therefore, accept Clause 525 as proposed by the Ministry.
556.	526	526.5	The Committee while examining the Clause 526 of the Bill note that the Clause deals with bar of suits in civil courts and corresponds to section 293 of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 526 as proposed.
557.	527	527.5	The Committee note that Clause 527 of the Bill lays down power to make exemption, etc. in relation to participation in business of prospecting for, extraction, etc., of mineral oils, corresponding to Section 293A of the Income-Tax Act 1961. Recognizing textual simplification, no policy change and retaining original intent in this Clause, the Committee accept the Clause 527 as proposed.
558.	528	528.5	The Committee while examining the Clause 528 of the Bill note that the Clause grants power to Central Government or Board to condone delays in obtaining approval, akin to Section 293B of the Income-Tax Act, 1961. The Committee observe that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 528 as proposed.
559.	529	529.5	The Committee note that Clause 529 of the Bill provides for power to withdraw approval. The Committee also note that this Clause is simplified textual version of existing Section 293C of the Income-Tax Act, 1961 maintaining Government original policy. The Committee observe that, beyond textual simplification, no policy change has been introduced in the provisions of this Clause. The Committee, therefore, approve Clause 529 as proposed by the Ministry.
560.	530	530.5	The Committee note that Clause 530 provides for Act to have effect pending legislative provision for charge

Sl. No	Para No	Clause No.	Observation/Recommendation
			of tax representative assessee, aligns with the provisions of Section 294 of the Income-Tax Act, 1961. The Committee also note that the textual simplification of clause 530 is as per the objectives of the Bill and retaining the same intent. The Committee, therefore, accept the Clause as proposed.
561.	**531**	**531.5**	**The Committee has examined Clause 531 of the Bill, which pertains to the revocation of tax exemptions previously granted to certain Union Territories under Section 294A of the Income-tax Act, 1961. The Committee note the Ministry's efforts to simplify the language of the original Section 294A while ensuring its core intent remains intact within this new clause. A significant change is the elimination of obsolete provisions from Section 294A, specifically those that became irrelevant after March 31, 1967. In view of the reference to the Income-Tax Act, 1961 in Clause 531, the Committee recommend that in Clause 531 reference to the Act may be eliminated and the relevant proviso may be incorporated under Clause 536 related to Repeals and Savings.** **The Committee conclude that Clause 531 is consistent with the Bill's overarching objectives and, therefore, approve it as proposed, subject to the aforesaid recommendation.**
562.	**532**	**532.5**	**The Committee note that Clause 532 of the Bill introduces a new provision that grants the power to frame various schemes. Previously, the Income-tax Act, 1961, contained multiple sections that separately empowered the Central Government to create schemes related to faceless provisions. The Committee observe that this approach lacked a clear rationale and led to avoidable repetition within the existing legislation. To address this, The Ministry has incorporated the Clause 532 has as an omnibus clause, with the purpose of rationalizing and consolidating these provisions into a single, comprehensive power. The Committee find this consolidation to be a logical step that enhances clarity and removes redundancy. The Committee note that in Clause 532 reference has been made to Income-Tax Act, 1961.** **The Committee are of the view that considering the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			objectives of the Bill, the reference to the Act may be omitted and the relevant proviso may be incorporated under Repeals and Savings clause viz. Clause 536 of the Bill. **Therefore, the Committee accept Clause 532 as proposed in the Bill, subject to the aforesaid recommendation.**
563.	**533**	**533.6**	**The Committee, in its examination of Clause 533 of the Bill, concerning 'Power to make rules' (which corresponds to Section 295 of the Income-Tax Act, 1961), has carefully considered suggestions from various stakeholders. After reviewing the response of the Ministry, the Committee accept Clause 533 as proposed.**
564.	**534**	**534.5**	**The Committee while examining the Clause 534 of the Bill note that the Clause deals with 'Laying before Parliament' and corresponds to section 296 of the Income-Tax Act, 1961. The Committee take note of the Ministry's justification that the provisions of the existing section have been textually simplified and retained with the same intent in this clause. The Committee, therefore, accept the Clause 534 as proposed, without any further amendment.**
565.	**535**	**535.6**	**The Committee note that Clause 535 of the Bill addresses the removal of difficulties, serving as the direct counterpart to Section 298 of the Income-Tax Act, 1961. The Committee further observe that this clause includes a specific sunset provision: no order for the removal of difficulties can be passed after a period of three years from April 1, 2026. This establishes a clear time limit for such actions. Therefore, the Committee accept Clause 535 as proposed.**
566.	**536**	**536.6**	**The Committee note that Clause 536 aims to repeal the Income-tax Act, 1961, effective from April 1, 2026, the date the new Bill comes into force. Crucially, it also incorporates savings provisions that are intended to be carried forward from the 1961 Act into the new Bill. The Committee acknowledges the Ministry's justification that due to the differences between the 1922 and 1961 Acts, the nature of these savings has evolved compared to those in Section 297 of the earlier Act. The Committee has undertaken an exhaustive deliberation on Clause 536 of the**

Sl. No	Para No	Clause No.	Observation/Recommendation
			proposed Income-Tax Bill, 2025, which addresses 'Repeals and savings' and corresponds to Section 297 of the Income-Tax Act, 1961. **Regarding the application of Rules, Circulars, etc., issued under the Income-Tax Act, 1961, after the new Act comes into force, the Ministry clarified during evidence that: (i) Circulars and notifications issued under the old Act will correspondingly apply to the equivalent clauses in the new Act; (ii) however, for areas involving delegated legislation, prescriptions, or notifications, new rules and forms will need to be prescribed under the new Bill.** **Further, the Committee has identified several drafting corrections based on stakeholder suggestions, which they believe are essential for clarity and unambiguous interpretation. The Committee, therefore, approve clause 536, subject to incorporation of the following amendments:** **(i) Adding the term 'Nothing shall' before proviso (a) and proviso (b) of sub-clause 536(2) of the Bill.** **(ii) Including the word 'Circular' in sub-clause (j) of Clause 536(2).** **(iii) Redrafting Clause 536(2)(n) to explicitly state that Long Term Capital Gain can be set off against Long Term Capital Gain only.** **(iv) Redrafting Clause 536(2)(q) to ensure alignment with Clause 71(1).** **(v) Redrafting Clause 536(2)(s) to include a reference to Section 35ABA of the existing Act.** **(vi) Correcting Clause 536(2)(u) by replacing "294B" with "532(1)."** **Furthermore, during examination of the Bill, the Committee observed multiple lingering references to the Income-Tax Act, 1922, and the Income-Tax Act, 1961. The Committee are of the opinion that there should be a clean break from the reference to the old Act, on the lines of the Bharatiya Nyaya Sanhita, 2023, wherein reference to the Indian Penal Code were not carried forward, and all references may be**

Sl. No	Para No	Clause No.	Observation/Recommendation
			brought under clause 536(2) of the Bill on repeals and savings. **Moreover, the Committee also noted references to other repealed Acts, such as "The Sick Industrial Companies (Special Provisions) Act, 1985," which was repealed in 2003 with effect from 1.12.2016. Given the extensive exercise undertaken for a comprehensive review of the Income-Tax Act, 1961, the Committee suggest that all references to repealed Acts be consolidated and incorporated under Clause 536 of the Bill. This action aims to achieve the stated objective of making the new Act concise, lucid, easy to read, and understand.** **The Committee, therefore, accept Clause 536 as proposed, subject to the aforementioned suggestions.**

BAIJAYANT PANDA
CHAIRPERSON,
SELECT COMMITTEE OF LOK SABHA TO
EXAMINE THE INCOME-TAX BILL, 2025

NEW DELHI
16th July, 2025
25 Ashadha, 1947(Saka)

The Minister of Finance and Minister of Corporate Affairs (Smt. Nirmala Sitharaman) replied to the clarifications sought by the Member.

Thereafter, the motion was adopted and the Bill was introduced.

2.16 P.M.

9. Motion

Smt. Nirmala Sitharaman moved the following motion:-

> "That the Income – Tax Bill, 2025 be referred to a Select Committee of the House.
>
> The names of the members of the Committee will be decided by Speaker.
>
> The terms & conditions regarding the Committee will be decided by Hon'ble Speaker.
>
> The Committee shall make a report by the first day of the next session."

The motion was put to vote and adopted.

2.17 P.M.

10. Matters Under Rule 377

As directed by the Chair, the following members laid on the Table statements on matters sought to be raised by them under Rule 377 as indicated against each:-

1. Shri Suresh Kumar Kashyap regarding need to expedite construction of Pinjore-Baddi-Nalagarh National Highway into four lane highway.

LOK SABHA

BULLETIN-PART II
(General Information relating to Parliamentary and other matters)

No. 1975] [Friday, February 14, 2025/ Magha 25, 1946 (Saka)

No. 1975 **Committee Branch**

Composition of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025

MEMBERS
LOK SABHA

1. Shri Baijayant Panda
2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Eatala Rajender
8. Shri Vishnu Dayal Ram
9. Shri Mukeshkumar Chandrakaant Dalal
10. Shri P P Chaudhary
11. Shri Shashank Mani
12. Shri Bhartruhari Mahtab
13. Shri Naveen Jindal
14. Shri Anurag Sharma
15. Shri Deepender Singh Hooda
16. Shri Benny Behanan
17. Shri Vijayakumar Alias Vijay Vasanth
18. Dr. Amar Singh
19. Adv Gowaal Kagada Padavi
20. Md. Rakibul Hussain
21. Shri Lalji Verma
22. Adv Priya Saroj
23. Ms Mahua Moitra
24. Dr. Kalanidhi Veeraswamy
25. Shri Daggumalla Prasada Rao
26. Shri Kaushalendra Kumar
27. Shri Arvind Ganpat Sawant
28. Smt. Supriya Sule
29. Shri Ravindra Dattaram Waikar
30. Shri N K Premachandran
31. Shri Richard Vanlalhmangaiha

2. The Hon’ble Speaker has been pleased to appoint Shri Baijayant Panda MP, Lok Sabha as the Chairperson of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

UTPAL KUMAR SINGH
Secretary General

Appendix - II

List of Members who submitted suggestions to the Select Committee	
1.	Shri Ravindra Dattaram Waikar, MP
2.	Shri Naveen Jindal, MP
3.	Shri Anurag Sharma, MP
4.	Shri Arvind Sawant, MP
5.	Shri Benny Behanan, MP
6.	Shri Anil Baluni, MP
7.	Shri Raju Bista, MP
8.	Shri Kaushalendra Kumar, MP
9.	Shri Deepender Singh Hooda, MP
10.	Captain Viriato Fernandes, MP

Appendix - III

List of Memoranda received from Stakeholders

SL. NO	NAME OF ORGANIZATION/EXPERTS
1.	RK Sinha & Co. Cost Accountants, Bokaro Steel City, Jharkhand
2.	Shri Ashish Ranjan
3.	CMA Waheed Quadir from Kashmir
4.	Shri Manoj K Madhuker Madhuker & Associates
5.	CMA Shibu K.
6.	Shri Ashutosh Salsingikar
7.	Shri Vipul Tiwari CMA Final Student
8.	Shri Prabhakar BV HIG-438, 5th Main Road, Mogappair Eri Scheme, Chennai-600037
9.	Shri Marappa CV On behalf of Growers Corporation Kodagu Planters Growers Association, Madikeri-571021
10.	Shri PP Muraleedharan
11.	bhagyasree7731@gmail.com
12.	Maduker rvmk2812@gmail.com
13.	rvmkgstn@gmail.com
14.	sanjeevsharma4704@gmail.com
15.	FCMA Susanta Banik
16.	Shri VG Shaji Tax and Management Consultant, Pandalam , Kerala
17.	Shri Ketan Dalal, Managing Director, Katalyst Advisors Pvt. Ltd. 71/75 Mittal Tower, 7th Floor, C Wing, Nariman Point, Mumbai-400021
18.	Shri Darshan Baheti & Associates Cost and Management Accountant Office: "Tanishq Plaza", 1st Floor Main Market Raj Marg Sabji Mandi Sanchore Jalore(Raj.) Email: cmadarshanbaheti@gmail.com darshanbaheti&associates.com
19.	2777krishnasrinivasan@gmail.com

	Members of the and Cost & Management Accountants fraternity
20.	Shri Joffin Alappatt.
21.	Shri Akash Goel CFA, PGDM (IIMK), BE (DCE) 393, SFS Flats, Ashok Vihar, Phase-4, Delhi-110052
22.	baishnathdham@gmail.com
23.	Shalini Mathur, Director Tax and Economic Policy Ernst & Young LLP Ground Floor, 67, Institutional Area Sector 44 Gurgaon Haryana-122003, Gurugram, 122003, India shalini.mathur@in.ey.com
24.	Sunil Kumar Sharma M.com, LLB, LLM, (Advocate) (Tax & Corporate Laws Consultant and Practitioner) e-mail– sharmasunil_bokaro@rediffmail.com
25.	Jayaprakash N
26.	NK Mahajan, Captain (retd.) President Disabled War Veterans (India) Regd.
27.	Sameeksha Sharma Country Principal, India sameeksha.sharma@aprea.asia
28.	Jaideep Dasgupta, FCMA, XLRI. jaideepdasgupta01@gmail.com
29.	cmaskjha311@gmail.com Request to include cost accountants under the definition of accountant as per the income tax bill, 2025.
30.	Kuldeep Kashyap
31.	Saurav Gupta cma sauravgupta <cma.sauravgupta@gmail.com>
32.	gaurav saini512 gaurav.saini512@gmail.com Inclusion of Cost Accountants in the definition of Accountants under Income Tax Bill 2025

33.	*FCMA K.D.JENA* *B.COM,ICWAI,MBA-FIN*
34.	**Darshan Baheti & Associates** Cost and Management Accountant Office: "Tanishq Plaza", 1st Floor Main Market Raj Marg Sabji Mandi Sanchore Jalore(Raj.) Email: cmadarshanbaheti@gmail.com darshanbaheti&associates.com
35.	DEBASIS SENGUPTA, FCMA PRACTICING COST ACCOUNTANT
36.	*CMA Rambabu J*
37.	*CMA C M PAUL, M.COM., FCMA*
38.	*R Rathi*
39.	*SS JENA* *manorama 66consulting manorama.66consulting@gmail.com*
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45.	*Siva Kumar A* *Cost Accountant M/29068*
46.	*CMA Surjit Kumar Shroff*
47.	CMA Santosh Dusane, Nashik-422010
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49.	Smriti A CMA finalist
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69.	shashanksharma9315@gmail.com;
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72.	ACMA Pratibha Sen
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76.	Kailash Chandra Lawti 36109
77.	**Darshan Kuhar**
78.	CMA Rakesh Khire

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80.	ashutoshcharjan143@gmail.com;
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82.	CMA Sonu Rana
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88.	CMA Sonu Rana
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92.	CMA Debsis Gangopadhyay Cost and Management Accountant debasisganguly16@gmail.com;
93.	vipincwa@gmail.com;
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105.	CMA Jeetendra Kataria (Membership No. 37415) Chief Financial Officer *(A wholly owned subsidiary Kilburn Engineering Limited., Kolkata)* **Office:** 1st Floor, Symphony A, Range Hill Rd, Ashok Nagar, Pune, Maharashtra 411 020. **Works:** Gat No.1083/1B, Markal, Taluka Khed, Dist Pune - 412 105. Email ID: **jeetendra.kataria@meenergy.com**
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113.	Amarjeet Chowbey chowbeyamarjeet03@gmail.com;
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310.	TP Ostwal & Associates LLP Mumbai
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312.	CA RS Sanghai
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MINUTES OF THE FIRST SITTING OF THE SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025

The Committee sat on Monday, the 24 February, 2025 from 1100 hrs to 1430 hrs in Main Committee Room, Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Raju Bista
6. Shri Eatala Rajender
7. Shri Vishnu Dayal Ram
8. Shri Mukeshkumar Chandrakaant Dalal
9. Shri P P Chaudhary
10. Shri Bhartruhari Mahtab
11. Shri Naveen Jindal
12. Shri Anurag Sharma
13. Shri Deepender Singh Hooda
14. Shri Benny Behanan
15. Shri Vijayakumar Alias Vijay Vasanth
16. Dr. Amar Singh
17. Adv Gowaal Kagada Padavi
18. Md. Rakibul Hussain
19. Shri Lalji Verma
20. Adv Priya Saroj
21. Ms Mahua Moitra
22. Dr. Kalanidhi Veeraswamy
23. Shri Daggumalla Prasada Rao
24. Shri Kaushalendra Kumar
25. Shri Arvind Ganpat Sawant
26. Smt. Supriya Sule
27. Shri N K Premachandran
28. Shri Richard Vanlalhmangaiha

SECRETARIAT

1. Shri Gaurav Goyal - Joint Secretary
2. Shri T. Mathivanan - Deputy Secretary

LIST OF WITNESSES

Ministry of Finance

Department of Revenue

1. Shri Tuhin Kanta Pandey, Finance Secretary & Secretary (Revenue)
2. Shri Ravi Agrawal, Chairman, CBDT
3. Shri Ramesh Narain Prabat, Member (Legislation), CBDT
4. Shri Raman Chopra, Joint Secretary, Tax Policy and Legislation Division, CBDT
5. Shri Pankaj Jindal, Joint Secretary, Tax Policy and Legislation Division, CBDT
6. Shri Balasubramanian Krishnamurthy, Joint Secretary, TPRU

2. At the outset, the Chairperson welcomed the Members to the First Sitting of the Committee and also congratulated them for having been nominated for the 'Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.'. Then, he drew attention to the motion adopted in the Lok Sabha on 13 February, 2025, to refer the Income-Tax Bill, 2025, to the Select Committee for examination and preparation of a report by the first day of the next session, that is, the Monsoon Session of 2025. He also briefly apprised the Members of the procedure followed by a Select Committee on a Bill and invited their kind attention to Direction 81(1) of the 'Directions by the Speaker Lok Sabha' regarding submission of memoranda on Bills by Members. Thereafter, he apprised the Members about the agenda of the Sitting i.e. preliminary briefing on the Bill by the Ministry of Finance (Department of Revenue).

3. Thereafter, the Chairperson welcomed the representatives of the Ministry of Finance (Department of Revenue) and apprised them of Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings.

4. Then, representatives from the Ministry of Finance (Department of Revenue) briefly outlined the features of the Bill, highlighting its key provisions. They also presented a PowerPoint to the Committee, which covered the history and complexities of the Income Tax Act of 1961, the need for a new Bill, recent reforms since 2014, research and international experiences in drafting the new Bill, as well as its salient features.

5. During the Sitting, the Members sought various clarifications on various clauses/provisions related to the bill, and the representatives of the Ministry responded to them. The Chairperson also directed the representatives of the Ministry to furnish replies to the queries that could not be responded to during the Sitting in writing to the Secretariat within 14 days.

The witnesses then withdrew.

6. The Committee, thereafter, briefly deliberated on the future course of action to examine the Bill and the schedule of Sittings. The Committee, considering the wider implications of the Bill, decided to invite memoranda containing views/suggestions from experts/ industries/ associations/ organizations/ stakeholders by issuing a Press Communique, which will scroll on Sansad TV.

The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record

Minutes of the Second Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 6 March, 2025 from 1100 hrs to 1345 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Eatala Rajender
8. Shri Vishnu Dayal Ram
9. Shri Mukeshkumar Chandrakaant Dalal
10. Shri P P Chaudhary
11. Shri Bhartruhari Mahtab
12. Shri Naveen Jindal
13. Shri Deepender Singh Hooda
14. Shri Benny Behanan
15. Shri Vijayakumar Alias Vijay Vasanth
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Shri Lalji Verma
19. Dr. Kalanidhi Veeraswamy
20. Shri Daggumalla Prasada Rao
21. Shri Arvind Ganpat Sawant
22 Smt. Supriya Sule
23 Shri Ravindra Dattaram Waikar
24. Shri N K Premachandran
25. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

LIST OF WITNESSES

Institute of Chartered Accountants of India (ICAI)

1. CA. Charanjot Singh Nanda, President
2. CA. Prasanna Kumar D, Vice-President
3. CA. Piyush S. Chhajed, CCM
4. CA. Chandrashekhar Vasant Chitale, CCM
5. CA. Vishnu Kumar Agarwal, CCM
6. CA. Babu Abraham Kallivayalil, CCM
7. CA. Ravi Kumar Patwa, CCM
8. CA. Pankaj Shah, CCM
9. CA. Satish Kumar Gupta, CCM
10. CA. Sanjay Kumar Agarwal, CCM

2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. Thereafter, a power-point presentation was made by the representatives of the Institute of Chartered Accountants of India (ICAI) on the subject, which, inter-alia, covered an overview of the Income-Tax Bill, 2025, implications of proposed amendments, measures to reduce litigation, rationalization of tax provisions, faceless assessment mechanisms, and suggestions for easing compliance burdens.
3. The Committee, inter-alia, deliberated upon the following points with representatives of ICAI:

   • Impact of the proposed Income-Tax Bill, 2025, on individual and corporate taxpayers;

   • Measures to reduce tax litigation, including streamlining the appellate process and disposal of pending cases;

• Challenges faced in implementing faceless assessment and appeals and recommendations for improving efficiency;

• Issues related to Tax Deducted at Source (TDS) and the proposal to standardize TDS rates to simplify compliance;

• The need for reforms in appellate proceedings;

• Concerns regarding the surcharge and cess and the proposal to subsume them into a single tax rate;

• Review of the definition of 'Accountant' and its implications for professionals engaged in tax audit and compliance;

• Recommendations for strengthening taxpayer rights and ensuring consistency in tax administration;

• Proposal for introducing a master circular consolidating all tax-related circulars at the beginning of each financial year to provide clarity to stakeholders;

• Suggestions for adopting international best practices in tax policy and administration to improve ease of doing business.

4. Members also sought clarifications on various other issues relating to the subject, and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the discussion, to the Secretariat.

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(The witnesses then withdrew)

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Third Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 6 March, 2025 from 1415 hrs to 1600 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Eatala Rajender
8. Shri Vishnu Dayal Ram
9. Shri Mukeshkumar Chandrakaant Dalal
10. Shri P P Chaudhary
11. Shri Bhartruhari Mahtab
12. Shri Naveen Jindal
13. Shri Deepender Singh Hooda
14. Shri Benny Behanan
15. Shri Vijayakumar Alias Vijay Vasanth
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Shri Lalji Verma
19. Dr. Kalanidhi Veeraswamy
20. Shri Daggumalla Prasada Rao
21. Shri Arvind Ganpat Sawant
22 Smt. Supriya Sule
23 Shri Ravindra Dattaram Waikar
24. Shri N K Premachandran
25. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

LIST OF WITNESSES

Ernst & Young (EY)

1. Shri Jayesh Sanghvi, Partner, EY India
2. Shri Ravikant Kamath, Partner, EY India
3. Ms. Shalini Mathur, Sr Director, EY India
4. Ms. Akanksha Mittal, Sr Manager, EY India

2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. Thereafter, a power-point presentation was made by the representatives of Ernst & Young India on the subject, which, inter-alia, covered an overview of the Income-Tax Bill, 2025, inconsistencies between the existing Act and the proposed Bill, proposed structural reforms, reduction of litigation, faceless assessment mechanisms, tax compliance burdens, surcharge and cess rationalization, and measures for promoting a simplified and progressive tax regime.

3. The Committee, inter-alia, deliberated upon the following points with representatives of Ernst & Young India:

• High pendency of income tax cases and measures to expedite case disposal, particularly at the Commissioner (Appeals) and Income Tax Appellate Tribunal levels;

• Effectiveness and challenges of the faceless assessment and appeals mechanism;

• Provisions for search and seizure and safeguard;

• Definition and applicability of TDS, surcharge, and cess and suggestions for rationalization;

• Definition of Accountant and residency rules;

• The feasibility of integrating GST and income tax databases to reduce compliance burdens;

• Support for R&D through tax incentives and the need for mandatory provisions for corporate R&D spending;

• Impact of tax provisions on Micro, Small, and Medium Enterprises (MSMEs) and ease of doing business;

• Clarifications on the tax treatment of inter-corporate dividends under the proposed Bill.

4. Members also sought clarifications on various other issues relating to the Bill, and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the discussion, to the Secretariat.

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(The witnesses then withdrew)

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Fourth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Tuesday, the 12 March, 2025 from 1500 hrs to 1645 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Mukeshkumar Chandrakaant Dalal
8. Shri P P Chaudhary
9. Shri Shashank Mani
10. Shri Bhartruhari Mahtab
11. Shri Naveen Jindal
12. Shri Deepender Singh Hooda
13. Shri Benny Behanan
14. Shri Vijayakumar Alias Vijay Vasanth
15. Dr. Amar Singh
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Adv Priya Saroj
19. Dr. Kalanidhi Veeraswamy
20. Shri Daggumalla Prasada Rao
21. Shri Arvind Ganpat Sawant
22. Smt. Supriya Sule
23. Shri Ravindra Dattaram Waikar
24. Shri N K Premachandran
25. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Federation of Indian Chambers of Commerce & Industry (FICCI)

1. Shri Dinesh Kanabar, Mentor, FICCI Tax Committee and CEO, Dhruva Advisors LLP
2. Shri Pranav Sayta, Chairman, FICCI Tax Committee and Partner and National Leader, International Tax & Transaction Services, Ernst & Young LLP
3. Shri Sanjay Goenka, Group Executive Director – Taxation, DLF Limited
4. Shri Navin Jain, Head of Tax, Hindustan Unilever Ltd.
5. Shri Tajinder Singh, Senior Vice President – Taxation, Makemy trip
6. Ms. Ira Khanna, Director – Tax, FICCI

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of the Federation of Indian Chambers of Commerce & Industry (FICCI) on the Income Tax Bill, 2025. The Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha. Thereafter, a power-point presentation was made by the representatives of FICCI on the Bill. Their views were structured in two parts. The first part focused on the changes required in the Bill due to omissions in drafting and inadvertent errors that have crept in. The other part highlighted inter-alia amendments proposed for easing compliance burdens, simplification of tax provisions, reduction in litigation etc.

3. Subsequently, the Committee deliberated upon the following major points as summarized under:-

(i) Digital access in search and seizure provisions made under Clause 247 of the Bill vis-à-vis Right to Privacy;

(ii) Expansion of the Dispute Resolution Committee Mechanism;

(iii) Measures to reduce tax litigation including streamlining the appellate process and disposal of pending cases;

(iv) Need for a time-bound resolution mechanism in appellate proceedings;

(v) Provision in the Bill in comparison to the Company's Act, Banking Regulation Act; and Income Tax Act regarding percentage threshold value for being an associated enterprise;

(vi) Accountability of tax authorities in cases of frivolous orders;

(vii) Tax exemption in cases of anonymous donations to Religious and Charitable Trusts;

(viii) Tax audit and issues associated thereunder.

4. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

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(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025 CELL

MINUTES OF THE FIFTH SITTING OF THE SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025

The Committee sat on Wednesday, the 12 March, 2025 from 1645 hrs to 1810 hrs in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Mukeshkumar Chandrakaant Dalal
8. Shri P P Chaudhary
9. Shri Shashank Mani
10. Shri Bhartruhari Mahtab
11. Shri Naveen Jindal
12. Shri Deepender Singh Hooda
13. Shri Benny Behanan
14. Shri Vijayakumar Alias Vijay Vasanth
15. Dr. Amar Singh
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Adv Priya Saroj
19. Dr. Kalanidhi Veeraswamy
20. Shri Daggumalla Prasada Rao
21. Shri Arvind Ganpat Sawant
22. Smt. Supriya Sule
23. Shri Ravindra Dattaram Waikar
24. Shri N K Premachandran
25. Shri Richard Vanlalhmangaiha

SECRETARIAT

1. Shri Gaurav Goyal - Joint Secretary
2. Shri T. Mathivanan - Deputy Secretary

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

MINISTRY OF LAW AND JUSTICE (LEGAL AFFAIRS)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

CONFEDERATION OF INDIAN INDUSTRY (CII)

1. Shri Puneet Kaura, Deputy Chairman, CII Northern Region, Managing Director & CEO, Samtel Avionics Limited
2. Shri Ashok Saigal, Co-Chairman, CII MSME Council Managing Director, Frontier Technologies
3. Shri Ganesh Raj, Chairman, CII Core Group on Direct Tax andPartner & Business Tax Services Leader, EY
4. Shri Amit Patwardhan, Member, CII National Committee on Taxation and Head of Tax – India, HSBC
5. Shri Manish Agarwal, Member, CII National Committee on Taxation and Global Taxation Head, Bharti Airtel
6. Shri Sanjeev Agarwal, Member, CII National Committee on Taxation and Head of Tax, Customs and Export Control, BMW India
7. Shri Sanjeev Jain, Member, CII National Committee on Taxation and Partner, EY
8. Ms. Payal Agarwal, Senior Consultant-CII

2. At the outset, the Chairperson welcomed the representatives of the Confederation of Indian Industry (CII). The Chairperson in his opening remarks, while seeking the considered views and suggestions of the Witnesses to the provisions of the Income Tax Bill, 2025, within its scope and ambit, also drew their attention to Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings.

3. Thereafter, the representatives of the Confederation of Indian Industry (CII) made a PowerPoint Presentation which *inter-alia* covered suggestions on Income Tax Bill 2025 to reduce compliance burden and litigation; key issues in the current law with potential for future litigation; apparent inconsistencies in Income Tax Bill, 2025 *vis-à-vis*

Income Tax Act, 1961 such as changes which may have significant impact on taxable income or compliance burden, redundant provisions, drafting anomalies or referencing errors, etc.

4. Subsequently, the Committee, *inter alia*, deliberated on the following topics:

- Impact of the Income Tax Bill, 2025 - on ease of doing business, reducing the very large pendency of litigation, and the investment climate.
- Issues related to Tax Deducted at Source (TDS) – rationalisation of rates, role of Form 26A, TDS credit and refunds.
- Dispute Redressal - Alternate Dispute Resolution Mechanisms, abolition of Settlement Commission, Faceless Assessments & Appeals and virtual hearings, issues and probable solutions for pendency tax cases, issues related to Advance Pricing Agreement (APA) and Authority for Advance Rulings (AAR).
- Central Processing Centers – functioning of Bengaluru and Ghaziabad Centres and the issues related to their systems/softwares.
- Recasting the Balance Sheets/Financial Statements of companies on the direction of NCLT or SEBI – issues faced in filing a Revised Return, need to create a dedicated forum to address this issue.
- Issue of frequent changes in reassessment procedure.
- Issues related to Micro, Small, and Medium Enterprises (MSME) and Employee Stock Ownership Plan (ESOP).

5. The Members also sought clarifications on various clauses/provisions/suggestions related to the Bill which were responded to by the representatives of the Confederation of Indian Industry (CII). The Chairperson directed the representatives of the CII to furnish written submission on points raised by Members which remained unanswered, to the Select Committee Secretariat within the next 10 days.

The witnesses then withdrew.
The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record.

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Minutes of the Sixth sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Wednesday, the 19 March, 2025 from 1500 hrs to 1800 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Eatala Rajender
6. Shri Vishnu Dayal Ram
7. Shri Mukeshkumar Chandrakaant Dalal
8. Shri P P Chaudhary
9. Shri Shashank Mani
10. Shri Bhartruhari Mahtab
11. Shri Anurag Sharma
12. Shri Deepender Singh Hooda
13. Shri Benny Behanan
14. Shri Vijayakumar Alias Vijay Vasanth
15. Dr. Amar Singh
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Adv Priya Saroj

19. Ms Mahua Moitra

20. Dr. Kalanidhi Veeraswamy

21. Shri Daggumalla Prasada Rao

22. Shri Kaushalendra Kumar

23. Shri Arvind Ganpat Sawant

24. Smt. Supriya Sule

25 Shri Ravindra Dattaram Waikar

26. Shri N K Premachandran

27. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Associated Chambers of Commerce and Industry of India (ASSOCHAM)

1. Mr Basudev Mukherjee, Assistant Secretary General ASSOCHAM
2. Mr. Vineet Agrawal, Co-chairman, National Council on Direct Taxes, ASSOCHAM & Senior Executive Vice President and Group Head (Taxation and Ethics), JSW Group
3. Mr. Atul Puri, Co-chairman, National Council on International Taxes, ASSOCHAM and Managing Partner, ShineWing India
4. Mr. Hitesh Sawhney, Sr. Member, National Council on Direct Taxes, ASSOCHAM and Partner, Price Waterhouse & Co LLP
5. Mr Avinash Sharma, Director, ASSOCHAM

PHD Chamber of Commerce and Industry

1. Mr Hemant Jain, President, PHDCCI
2. Mr. Mukul Bagla, Chair, Direct Tax Committee
3. Dr. Rakesh Gupta, Co-Chair, Direct Tax Committee
4. Ms. Pallavi Dinodia, Co-Chair, Direct Tax Committee
5. Ms. Babeeta Sharma, Sr. Secretary – Direct Tax Committee

Madras Chamber of Commerce and Industry

1. Mr.Sriram Seshadri, Member, MCCI Governing Council, Past Chairman, MCCI Direct Taxes Committee & Partner, Price WaterHouse & Company
2. Mr.Vikram Vijayaraghavan, Past Co chairman, MCCI Direct Taxes Committee & Advocate, Subbaraya Aiyar Padmanabhan & Ramamani Advocates
3. Ms. D Vasumathi, Manager - Administration

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee. The Chairperson in his opening remarks, while seeking the suggestions of the Witnesses on the extant provisions of the Income Tax Bill, 2025 within its scope and ambit, also drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha on 'Confidentiality' of the proceedings of the Committee till the Report on the Bill is presented to the House. Thereafter, representatives from Associated Chambers of Commerce and Industry of India (ASSOCHAM), PHD Chamber of Commerce and Industry (PHDCCI) and Madras Chamber of Commerce and Industry (MCCI) respectively made presentations on various provisions of the Bill. The presentation by ASSOCHAM *inter-alia* covered topics on omission of deduction of inter corporate dividends; expansion of scope of Alternate Minimum Tax; expansion of

meaning of 'Associated Enterprises'; omission of 'No withholding deduction' certificate; disallowance of expenses due to delayed Tax Deduction at Source (TDS) payment beyond return filing deadline; meaning of terms not defined in the tax treaties; challenges in interpretation and ambiguities; and reference inconsistencies in certain provisions. The presentation by representatives of PHD Chamber of Commerce and Industry on the Bill *inter-alia* covered an overview of the Income-Tax Bill, 2025; taxation of royalty payable by Non-Resident; exclusion of fast track demergers in definition of demerger; offsetting of brought forward long term capital losses; Income Tax dispute resolution; improving effectiveness of Central Processing Centre; changes affecting charitable and religious trusts; changes in Reopening of Assessments increasing the risk of arbitrary reassessments with removal of key safeguards; restriction on inter-corporate dividend deduction; Tax Deducted at Source (TDS) and Tax Collected at Source (TCS) rationalization proposals etc. The MCCI presentation *inter-alia* covered issues pertaining to impact of the Income-Tax Bill, 2025 on manufacturing sector; service sector; corporate transactions; impetus of skill development; transfer pricing and Significant Economic Presence (SEP); suggestions for enhancing effectiveness in avoidance/ resolving disputes etc.

3. The Committee, *inter-alia*, deliberated upon the following points with representatives of Associated Chambers of Commerce and Industry of India (ASSOCHAM), PHD Chamber of Commerce and Industry (PHDCCI) and Madras Chamber of Commerce and Industry (MCCI):

- Challenges arising from the new assessment procedure, especially concerning the faceless assessments and its impact on reducing corruption;
- Expansion of powers to reopen assessments and privacy concerns with officials being allowed to access virtual digital spaces and share information with other Departments;
- Impact on international collaboration, mergers, acquisition or foreign investments with changes in the definition in relation to clauses pertaining to business and corporate transactions;
- Implication of change in the residential status in the proposed Bill with regard to the mobility of international employees;

- Tax audit and issues related thereto;
- Improving effectiveness of Central Processing Centre;
- Suggestions submitted by the organizations at the pre draft Bill stage which have been accepted by the Government and incorporated in the Bill and the ones which have been left out; copies of which were sought in a tabulated form for the Committee to understand whether stakeholders' viewpoints have been taken into account;
- Ways to counter loss of tax revenue due to pending litigations and means to expand the tax payer base;
- Measures to reduce tax litigation, including streamlining the appellate process and disposal of pending cases

4. Members also sought clarifications on various other issues relating to the Bill which were responded to by the Witnesses. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the oral evidence to the Select Committee Secretariat within seven days.

(The Witnesses then withdrew)

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Seventh Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 27th March, 2025 from 1500 hrs to 1720 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Eatala Rajender
6. Shri Vishnu Dayal Ram
7. Shri Mukeshkumar Chandrakaant Dalal
8. Shri P P Chaudhary
9. Shri Shashank Mani
10. Shri Naveen Jindal
11. Shri Anurag Sharma
12. Shri Anil Baluni
13. Shri Lalji Verma
14. Shri Vijayakumar Alias Vijay Vasanth
15. Dr. Amar Singh
16. Adv Gowaal Kagada Padavi
17. Md. Rakibul Hussain
18. Shri Richard Vanlalhmangaiha

19. Ms Mahua Moitra

20. Dr. Kalanidhi Veeraswamy

21. Shri Daggumalla Prasada Rao

22 Shri Arvind Ganpat Sawant

23 Smt. Supriya Sule

24 Shri Ravindra Dattaram Waikar

25. Shri N K Premachandran

SECRETARIAT

1. Shri Gaurav Goyal - Joint Secretary
2. Ms. Miranda Ingudam - Director
3. Shri Nilendu Kumar - Deputy Secretary
4. Shri T. Mathivanan - Deputy Secretary

LIST OF WITNESSES

All India Federation of Tax Practitioners

1. Smt. Prem Lata Bansal, Senior Advocate (Former President of the All India Federation of Tax Practitioners, AIFTP)
2. Shri V.P Gupta, Advocate (Former Chairman Direct Tax Committee, AIFTP)
3. Shri D.K Gandhi (Former President of the All India Federation of Tax Practitioners).
4. Shri Shivang Bansal, Advocate

Income Tax Appellate Tribunal Bar Association.

1. Shri Ajay Wadhwa, Advocate
   President - ITAT Bar Association Delhi
2. Shri Gaurav Jain, Advocate
   Advisor Tax, ITAT Bar Association Delhi
3. Shri R.S Ahuja, Chartered Accountant
   Vice President, ITAT Bar Association Delhi

4. Shri Ranjan Chopra, Chartered Accountant
   General Secretary, ITAT Bar Association Delhi
   Senior Partner, Khanna and Annadhanam

Ministry of Law and Justice (Legislative Department)

1. Shri R.K. Pattanayak, Joint Secretary and Legislative Counsel
2. Ms. Akali V. Konghay, Joint Secretary and Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee. The Chairperson in his opening remarks, while seeking the suggestions of the Witnesses on the extant provisions of the Income Tax Bill, 2025 within its scope and ambit, also drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha on 'Confidentiality of the proceedings of the Committee till the Report on the Bill is presented to the House. Thereafter, representatives from Income Tax Appellate Bar Association and All India Federation of Tax Practitioners respectively made presentations on various provisions of the Bill.

3. The presentation by Income Tax Appellate Bar Association: inter-alia covered topics on need for highly qualified members of Income Tax Appellate Tribunal (ITAT) with domain Expertise and Judicial Temperament; limitations of a four year appointment term of Members of ITAT; absence of a formal mechanism for appraisal and evaluation of members of ITAT and terms and conditions of service of President, Vice-President and Member; issues pertaining to pendency of appeals before the Appellate Tribunal and their timely disposal; and their timely disposal, need for amendments in provisions for formal appraisal and evaluation system for Members; need for introduction of qualitative filters for filing appeals by the Department; measures for reduction of repetitive appeals filed by the Department; steps for ensuring simplification in procedure of appeals; simplification in procedure before issuance of notice under section 148; measures to empower assessees to raise issues before the Additional CIT for better accountability and reasoned orders, need for ensuring Speaking Orders by the authorities; introduction of Standard Operating Procedures (SOP) for assessment queries so as to empower CBDT through the Act;

timely issuance of certificates and accountability for delays; amendment for time limit for completion of assessment, reassessment and recomputation; amendments for introducing mandatory communication of draft assessment orders and opportunities for comment; need for peer review of assessing officers' actions and accountability for errors etc.

4. The presentation by representatives of All India Federation of Tax Practitioners on the Bill inter-alia covered topics on time limit for completion of assessment, reassessment and recomputation through an internal reporting system to monitor the appeals effect, proposal for cash method of accounting for letter compliance and reporting; one time settlement of disputes through settlement Commission; appeals to Appellate Tribunal, appeals to High Courts; prosecution to be at instance of Principal Commissioners so as to bring transparency while sanctioning prosecution; need for inserting cap limit @ 10% of gross total Income; and reference inconsistencies in certain provisions.

4. The presentation by representatives of All India Federation of Tax Practitioners on the Bill inter-alia covered topics on time limit for completion of assessment, reassessment and recomputation; one time settlement of disputes through settlement commission; appeals to Appellate Tribunal, appeals to High Courts; prosecution to be at instance of Principal commissioners so as to bring transparency while sanctioning prosecution; need for inserting cap limit @ 10% of gross total Income; and reference inconsistencies in certain provisions.

5. The Committee, inter-alia, deliberated upon the following points with representatives of All India Federation of Tax Practitioners and Income Tax Appellate Bar Association:

- Material changes in the Act and its impact on the tax payers;
- Arbitrary powers in the clauses, potential litigation and costs thereof,
- Pendency of cases, amount held up in tax disputes etc:
- Success rate of Departments in CIT appeals;
- Challenges arising from the new assessment procedure, especially concerning the faceless assessments and its impact on reducing corruption;
- Implication of change in the proposed Bill with regard to increasing the tax base and tax liability;
- Structural referral process to Hon'ble Supreme Court and issues related thereto;
- Improving effectiveness of Tribunals and mitigation of losses by tax litigation;

- Measures to reduce tax litigation, including streamlining the appellate process and disposal of pending cases;
- Clarification on ambiguity of language by removing archaic language;
- Citation of unintended complication in provisions with specific examples;
- Provisions w.r.t. safeguards for revenue loss and undue hardships to assessee;
- Existing loopholes in the taxation process and ways of inculcating best practices from international practices abroad;
- Provisions w.r.t 'charitable trust' or 'mixed trust'.

6. Members also sought clarifications on various other issues relating to the Bill which were responded to by the Witnesses. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the oral evidence to the Select Committee Secretariat within seven days.

(The Witnesses then withdrew)

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Eighth sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 03 April, 2025 from 1500 hrs to 1730 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Sudheer Gupta
5. Shri Anil Baluni
6. Shri Raju Bista
7. Shri Eatala Rajender
8. Shri Mukeshkumar Chandrakaant Dalal
9. Shri P P Chaudhary
10. Shri Shashank Mani
11. Shri Bhartruhari Mahtab
12. Shri Naveen Jindal
13. Shri Anurag Sharma
14. Shri Deepender Singh Hooda
15. Shri Benny Behanan
16. Shri Vijayakumar Alias Vijay Vasanth
17. Dr. Amar Singh
18. Adv Gowaal Kagada Padavi

19. Md. Rakibul Hussain
20. Adv Priya Saroj
21. Ms Mahua Moitra
22. Dr. Kalanidhi Veeraswamy
23. Shri Daggumalla Prasada Rao
24. Shri Kaushalendra Kumar
25. Shri Arvind Ganpat Sawant
26. Smt. Supriya Sule
27. Shri Ravindra Dattaram Waikar
28. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary
3.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Tax Compaas Advisors Private Limited

1. Shri Ajay Rotti, Founder & CEO, Tax Compaas

BMR Legal Advocates

1. Ms. Seema Kejriwal, Partner, BMR Legal
2. Shri Shankey Agrawal, Partner, BMR Legal
3. Ms. Shruti Agarwal, Managing Associate, BMR Legal
4. Shri Pranoy Goswami, Senior Associate, BMR Legal

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan, Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee. The Chairperson in his opening remarks, while seeking the suggestions of the Witnesses on the extant provisions of the Income Tax Bill, 2025 within its scope and ambit, also drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha on 'Confidentiality' of the proceedings of the Committee till the Report on the Bill is presented to the House. Thereafter, representatives from BMR Legal Advocates and Tax Compaas respectively made presentations on various provisions of the Bill. The presentation by BMR Legal Advocates *inter-alia* covered broad topics such as the need for substantive changes in the Income Tax Act; drivers of tax behavior from tax payer's perspective; global best practices from various countries; their wish list with respect to international tax and direct tax for making India attractive for foreign entities and improving ease of doing business in the country; dispute statistics; some policy considerations for targeted actions seeking resolution of age old disputes, dedicated incentives for services and manufacturing, alignment with global best practices on tax technology, increase in safe harbour thresholds to reduce transfer pricing disputes etc. The presentation by Tax Compaas on the Bill *inter-alia* covered issues pertaining to Tax Deducted at Source (TDS); eligibility to claim deductions on inter-corporate dividends; repeals and savings being dealt by Section 536 of the Income Tax Bill, 2025 etc.

3. The Committee, *inter-alia*, deliberated upon the following points with representatives of BMR Legal Advocates and Tax Compaas:

- Broader implications of the proposed reforms and shortcomings, if any;
- unintended problems, if any, arising out of simplified language in the Bill;
- concept of large tax payer units and benchmarking for the same;

- inter-corporate dividend taxation;
- requirements of Micro, Small and Medium Enterprises (MSMEs) and means to aid them through the Bill;
- means to enhance tax certainty and reduction in tax litigation, multiple returns filing, etc;
- means to improve the faceless system and idea of penalties for income tax officers pursuing frivolous litigation;
- provision in Bill for judicial interpretation developed under the 1961 Act to apply to corresponding provisions of 2025;
- prospective challenges faced in dealing with two different tax legislations operating simultaneously;
- impact of existing tax provisions on high net worth individuals (HNIs) and startups considering global expansion;
- balancing of regulatory compliance with protection of individual's fundamental right of privacy.
- modifications required in tax structure and procedures to attract Foreign Direct Investment (FDI);
- idea of a policy having a smaller penalty for individuals if he/she was unaware of the process to encourage him/her to report the issue and widen the tax base;
- usage of Artificial Intelligence (AI) to cut through backlog and reduce pendency with some kind of human supervision.

4. Members also sought clarifications on various other issues relating to the Bill which were responded to by the Witnesses. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the oral evidence to the Select Committee Secretariat within seven days.

(The Witnesses then withdrew)

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Minutes of the Ninth sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Monday, the 16 April, 2025 from 1100 hrs to 1300 hrs in Committee Room-D, Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Eatala Rajender
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri P P Chaudhary
6. Shri Shashank Mani
7. Shri Benny Behanan
8. Shri Vijayakumar Alias Vijay Vasanth
9. Dr. Amar Singh
10. Adv Gowaal Kagada Padavi
11. Md. Rakibul Hussain
12. Adv Priya Saroj
13. Dr. Kalanidhi Veeraswamy
14. Smt. Supriya Sule
15. Shri Ravindra Dattaram Waikar
16. Shri N K Premachandran
17. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Miranda Ingudam	-	Director
3.	Shri.Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Institute of Cost Accountants of India

1. CMA Bibhuti Bhushan Nayak, President, ICMAI

2. CMA T C A Srinivasa Prasad, Vice President, ICMAI
3. CMA Ashwin G. Dalwadi, Immediate Past President and Council Member, ICMAI
4. CMA Rajendra Singh Bhati, Chairman, Direct Taxation Committee, ICMAI
5. CMA (Dr.) Ashish P. Thatte, Chairman, Indirect Taxation Committee, ICMAI
6. CMA Manoj Kumar Anand, Chairman, Professional Development & CPE Committee, ICMAI
7. CMA Vinayaranjan P, Chairman, Training & Educational Facilities Committee, ICMAI
8. CMA (Dr.) Debaprosanna Nandy, Secretary (Officiating), ICMAI

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan, Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. Thereafter, a power-point presentation was made by the representatives of the Institute of Cost Accountants of India (ICMAI) on the subject, which, *inter-alia*, covered their suggestions on the Income-Tax Bill, 2025, including proposals for statutory recognition of cost records and audit, mechanisms for tax base broadening, rationalization of exemptions, role of cost data in transfer pricing, identification of tax evasion risks, treatment of presumptive taxation, and reforms to enhance transparency and compliance in the tax system.

3. The Committee, *inter-alia*, deliberated upon the following points with representatives of the Institute of Cost Accountants of India (ICMAI):

• Need for mandatory maintenance and audit of cost records in specified sectors to aid tax compliance and curb evasion;

• Role of cost data in identifying under-reporting of profits and strengthening transfer pricing assessments;
• Feasibility of integrating cost audit data into income tax assessment frameworks;
• Suggestions for broadening the tax base through better sectoral analysis using cost audit tools;
• Use of cost records for detecting anomalies in high-turnover, low-profit sectors;
• Proposals regarding rationalization of tax exemptions and deduction regimes;
• Clarifications on presumptive taxation and need for safeguards against misuse;
• Suggestions for enhancing the transparency, accountability, and predictability of the taxation framework;
• Observations on simplification of compliance procedures for small taxpayers and MSMEs.

4. Members also sought clarifications on various other issues relating to the subject, and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the discussion, to the Secretariat.

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(**The witnesses then withdrew)**

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Tenth sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Monday, the 16 April, 2025 from 1400 hrs to 1515 hrs in Committee Room-D, Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Eatala Rajender
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri P P Chaudhary
6. Shri Benny Behanan
7. Shri Vijayakumar Alias Vijay Vasanth
8. Dr. Amar Singh
9. Adv Gowaal Kagada Padavi
10. Md. Rakibul Hussain
11. Adv Priya Saroj
12. Dr. Kalanidhi Veeraswamy
13. Smt. Supriya Sule
14. Shri Ravindra Dattaram Waikar
15. Shri N K Premachandran
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Miranda Ingudam	-	Director
3.	Shri.Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Institute of Company Secretaries of India

1. CS Dhananjay Shukla, President, The ICSI
2. CS Pawan G Chandak, Vice President, The ICSI

3. CS Manish Gupta, Former President & Council Member, The ICSI
4. CS (Dr.) J Sridhar, Former President, The ICSI
5. CS Asish Mohan, Secretary, The ICSI

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan, Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

2. At the outset, the Chairperson welcomed the Members and the witnesses to the Sitting of the Committee. Thereafter, a power-point presentation was made by the representatives of the Institute of Company Secretaries of India (ICSI) on the subject, which, *inter-alia*, covered their analysis of the Income-Tax Bill, 2025 and recommendations pertaining to the principle of ease of doing business, simplification of tax language, alignment with company law provisions, dispute resolution, pre-filing consultation mechanisms, clarity on taxability of digital and cross-border transactions and capacity building for better compliance.

3. The Committee, *inter-alia*, deliberated upon the following points with representatives of the Institute of Company Secretaries of India (ICSI):

• Alignment of the Income-tax Bill with the Companies Act to ensure consistency in definitions and compliance frameworks;

• Recommendations for simplification of tax provisions and use of plain language to enhance interpretability;

• Development of pre-filing consultation mechanisms for taxpayers to minimize disputes;

• Suggestions for improving the alternate dispute resolution framework under the proposed law;

• Tax implications of digital economy transactions and the need for definitional clarity;

• Issues surrounding cross-border taxation and treaty consistency;
• Role of company secretaries in enhancing voluntary tax compliance and corporate governance;
• Capacity building of stakeholders and officers for effective implementation of the new tax regime;
• Suggestions for phased implementation and robust awareness campaigns to ensure smooth transition.

4. Members also sought clarifications on various other issues relating to the subject, and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied to by them during the discussion, to the Secretariat.

(The witnesses then withdrew)

The Committee then adjourned.
A verbatim record of the proceedings has been kept.
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MINUTES OF THE ELEVENTH SITTING OF THE SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025

The Committee sat on Friday, the 17 April, 2025 from 1100hrs to1305hrs in Committee Room 'D', Parliament House Annexe,New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri P P Chaudhary
8. Shri Shashank Mani
9. Shri Anurag Sharma
10. Shri Vijayakumar Alias Vijay Vasanth
11. Dr. Amar Singh
12. Adv GowaalKagada Padavi
13. Md. Rakibul Hussain
14. Dr. Kalanidhi Veeraswamy
15. Shri Arvind Ganpat Sawant
16. Smt. Supriya Sule
17. Shri Ravindra Dattaram Waikar
18. Shri N K Premachandran
19. Shri Richard Vanlalhmangaiha

SECRETARIAT

1. Ms. Miranda Ingudam - Director
2. Shri T. Mathivanan - Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan, Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Ministry of Corporate Affairs

1. Ms. Deepti Gaur Mukerjee, Secretary
2. Smt. Anuradha Thakur, Additional Secretary
3. Shri Sanjay Shorey, Director General of Corporate Affairs
4. Shri Inderdeep Singh Dhariwal, Joint Secretary
5. Smt. Anita Shah Akella, Joint Secretary
6. Shri Balamurugan D., Joint Secretary
7. Shri N.K Dua, Joint Director
8. Shri Pranay Chaturvedi, Joint Director

National Financial Reporting Authority (NFRA)

1. Ms. Ravneet Kaur, Chairperson, CCI & NFRA
2. Ms. Vidhu Sood, Secretary, NFRA
3. Shri Rajeev Ranjan, Deputy General Manager
4. Shri Sushant Jain, Assistant Manager
5. Shri Vidyadhar Kulkarni, Principal Consultant

2. At the outset, the Chairperson welcomed the representatives of the Ministry of Corporate Affairs and the National Financial Reporting Authority (NFRA). The Chairperson in his opening remarks, while seeking the considered views and suggestions of the Witnesses to the provisions of the Income Tax Bill, 2025, within its scope and ambit, also drew their attention to Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings.

3. Thereafter, the representatives of the Ministry of Corporate Affairs made a PowerPoint Presentation which *inter-alia* covered suggestions w.r.t. Companies Act, Insolvency and Bankruptcy Code (IBC), Drafting suggestions, Remarks on certain issues. Then, the representatives of the National Financial Reporting Authority (NFRA) also made a PowerPoint Presentation which *inter-alia* covered NFRA's mandate and functions in brief, NFRA's approach in review of the provisions of the IT Bill, 2025, Income Computation and Disclosure Standards (ICDSs), Accounting related matters, Audit related matter, Registration of Valuers, Other matters arising out of possible typographical issues.

4. Subsequently, the Committee, *inter alia*, deliberated on the following topics:

- ❖ Insolvency and Bankruptcy Code (IBC) – working of National Company Law Tribunal (NCLT) and the Insolvency and Bankruptcy Board of India (IBBI), complaints against Resolution Professionals, issue of waterfall mechanism
- ❖ Fair value versus market value - principle-based definitions consistent with international standards
- ❖ Consideration of the Cost Accountants, the Company Secretaries, or any other professional bodies for recognition as Tax Accountants, accounting standards, international best practices related to accounting,
- ❖ Income Computation Disclosure Standards and Indian Accounting Standards Rules - cash based and accrual-based accounting, Accounting Standards Rules 2015 and 2021
- ❖ Investigation of cases – role of NFRA, SEBI, CBI, SFIO, irregularities in the case of auditing and action taken
- ❖ Top six Auditors of the world and their presence in India – compliance of audit standards of accounting and auditing, prohibition on audit firms providing non-audit services

5. The Members also sought clarifications on various clauses/provisions/ suggestions related to the Bill which were responded to by the representatives of the Ministry of Corporate Affairs and the National Financial Reporting Authority (NFRA). The Chairperson directed the representatives of the the Ministry of Corporate Affairs and the National Financial Reporting Authority (NFRA) to furnish written submission on points raised by Members which remained unanswered, to the Select Committee Secretariat within the next 10 days.

The witnesses then withdrew.

The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record

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MINUTES OF THE TWELFTH SITTING OF THE SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025

The Committee sat on Friday, the 17 April, 2025 from 1400 hrs to 1600hrs in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri P P Chaudhary
8. Shri Anurag Sharma
9. Shri Vijayakumar Alias Vijay Vasanth
10. Dr. Amar Singh
11. Adv GowaalKagada Padavi
12. Md. Rakibul Hussain
13. Dr. Kalanidhi Veeraswamy
14. Shri Arvind Ganpat Sawant
15. Smt. Supriya Sule
16. Shri Ravindra Dattaram Waikar
17. Shri N K Premachandran
18. Shri Richard Vanlalhmangaiha

SECRETARIAT

1. Ms. Miranda Ingudam - Director
2. Shri T. Mathivanan - Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan, Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Bharat Web3 Association

1. Shri Ramakrishna Venkatesh, Senior Vice President & Head – Public Policy, CoinSwitch
   Director, Bharat Web3 Association (BWA)
2. Shri Siva Venkatraman, Head of Finance, Coin Switch.
   Chair, Finance Subcommittee, BWA.

2. At the outset, the Chairperson welcomed the representatives of the Bharat Web3 Association. The Chairperson in his opening remarks, while seeking the considered views and suggestions of the Witnesses to the provisions of the Income Tax Bill, 2025, within its scope and ambit, also drew their attention to Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings.

3. Thereafter, the representatives of the Bharat Web3 Association made a PowerPoint Presentation which *inter-alia* covered Taxation on Virtual Digital Assets (VDAs) – Background (2020-2025), Key Tax Issues in VDA Sector, Recommendations for VDA Tax Reform under the New Income Tax Bill 2025, and other suggestions.

4. Subsequently, the Committee, *inter alia*, deliberated on the following topics:

- Issues related to Virtual Digital Assets (VDAs) –high rate of Tax Deposited at Source (TDS) on all VDA transactions, too low existing TDS threshold which makes compliance onerous, 30% tax on capital gains, no set-off/carry-forward of losses allowed for VDAs.
- Unintended Consequences of High Taxes - Indian users shifted trading to foreign platforms, Peer-to-Peer (P2P)/informal channels, to avoid taxes, severely impacting Government oversight on these transactions.
- Lack of Compliance by Offshore VDA Platforms –Ambiguity in definition (Section 194S) enabling non-deduction of TDS by foreign players, Taxation Policy (TDS) resulting in creating a non-level competitive field,reduced oversight & increased risk of frauds at foreign platforms.
- Mining and trading of Cryptocurencies, role of Financial Action Task Force (FATF) and Financial Intelligence Unit (FIU) tracking of VDAs, taxation in absence of regulation of VDAs

- ❖ Need for licensing Virtual Digital Assets (VDAs) platforms, implementing strong investor protection mechanisms, involvement of RBI and SEBI in providing guidelines related to VDAs, and amending current 194S of Income Tax Act, 1961.

5. The Members also sought clarifications on various clauses/provisions/suggestions related to the Bill which were responded to by the representatives of the Bharat Web2 Association. The Chairperson directed the representatives of the Bharat Web2 Association to furnish written submission on points raised by Members which remained unanswered, to the Select Committee Secretariat within the next 10 days.

The witnesses then withdrew.

The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record

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Minutes of the Thirteenth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 24 April, 2025 from 1100 hrs to 1250 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Anil Baluni
4. Shri Eatala Rajender
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri Bhartruhari Mahtab
8. Shri Anurag Sharma
9. Shri Vijayakumar Alias Vijay Vasanth
10. Dr. Amar Singh
11. Adv Gowaal Kagada Padavi
12. Md. Rakibul Hussain
13. Adv Priya Saroj
14. Ms. Mahua Moitra
15. Dr. Kalanidhi Veeraswamy
16. Shri Kaushalendra Kumar
17. Smt. Supriya Sule
18. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary
3.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

US-India Strategic Partnership Forum (USISPF)

1. Mr. Naveen Aggarwal, Office Managing Partner – Delhi NCR & U.S. Corridor Leader, KPMG in India
2. Dr. Shreeya Kashyap, Senior Associate, US India Tax Forum, USISPF
3. Mr. Rishabh Srivastava, Partner, Corporate and International Tax, BBSR & Associates LLP

Export Promotion Council for Export Oriented Units (EOUs) & Special Economic Zones (SEZs) [EPCES].

1. Shri Srikanth Badiga, Chairman, EPCES
2. Shri Tanu Aggarwal, Dy. Director General, EPCES

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of US-India Strategic Partnership Forum (US-ISPF) and Export Promotion Council for Export Oriented Units (EOUs) & Special Economic Zones (SEZs) [EPCES] on the Income Tax Bill, 2025. Thereafter, the Chairperson outlined the role being played by US-ISPF for ease of doing business and simplification of tax-compliance scenario alongwith the vital responsibility of the EPCES to promote exports from India, among others. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha.

3. Subsequently, a power-point presentation was made by the representatives of US-ISPF on the Bill. While appreciating the simplification of language in the Bill and omission of redundant/outdated provisions, the views of US-ISPF revolved primarily around the need for easing the compliance burden, reduction of tax-disputes, rationalization of TDS sections and rates, time limit for giving effect to appeal orders, filing of returns by non-residents, etc..

4. Later, EPCES, in their power point presentation highlighted the hardships being faced by the Special Economic Zones, SEZs, issues around the setting up of Export Oriented Units, EOUs in the country governed under Chapter 6 of the Foreign Trade Policy, about SEZ 2.0, the DESH Bill, removal of MAT and DDT for the SEZs, revival of income tax benefits to the service industries, continuation of benefits of SEZs developers under clause 139 (erstwhile section 80-IAB of IT Act, 1961) and under clause 144 (erstwhile Section 10 AA of IT Act, 1961) etc..

5. Following the power-point presentation, the Committee deliberated upon the major points as summarized under:-

a. Current status of SEZs and their comparison with GIFT city;
b. Digital raids in search and seizure provisions made under Clause 247 of the Bill vis-à-vis Right to Privacy;
c. Contribution in direct taxes by the SEZs;
d. Issues pertaining to tax benefits to SEZs; Continuation of tax benefits to SEZs;
e. Appeal time before the CIT;
f. Tax residency certificates for non-residents taxpayers;
g. Relaxed residency requirement for Indian citizens going abroad for purpose of employment;
h. LTCG parity for residents and NRIs;
i. SEZs not exporting power but had taken the benefits;
j. Clarity on resolution of pending cases of tax dispute after the implementation of new Act;
k. Measures to reduce tax litigation including streamlining the appellate process and disposal of pending cases;
l. Need for a time-bound resolution mechanism in appellate proceedings;

6. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members, as per their concern respectively. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Fourteenth Sitting of the Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025

The Committee sat on Thursday, the 24th April, 2025 from 1400 hrs to 1515 hrs in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab – (Acting) Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Eatala Rajender
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri Anurag Sharma
7. Shri Vijayakumar Alias Vijay Vasanth
8. Dr. Amar Singh
9. Adv Gowaal Kagada Padavi
10. Md. Rakibul Hussain
11. Adv Priya Saroj
12. Ms. Mahua Moitra
13. Dr. Kalanidhi Veeraswamy
14. Shri Kaushalendra Kumar
15. Smt. Supriya Sule
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1. Ms. Miranda Ingudam - Director
2. Shri T. Mathivanan - Deputy Secretary

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

MINISTRY OF LAW AND JUSTICE (LEGAL AFFAIRS)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Ministry of Commerce and Industry

Department of Commerce

1. Shri L. Satya Srinivas, Special Secretary
2. Shri Vimal Anand, Joint Secretary
3. Shri Abhinav Gupta, Additional DGFT

Department for Promotion of Industry and Internal Trade (DPIIT)

1. Shri. Amardeep Singh Secretary, DPIIT
2. Dr. Sumeet Kumar Jarangal Director
3. Shri Arijit Dutt GM, SIDBI
4. Shri Durgesh Pandey CEO, NCGTC

Ministry of Electronics and Information Technology

1. Shri Abhishek Singh, Additional Secretary
2. Shri Sushil Pal, Joint Secretary
3. Smt. Asha Nangia, Group Coordinator and Scientist G
4. Shri Ravinder Kumar Meena, Scientist D

2. In the absence of the Chairperson, as indicated by the Chairperson and agreed to by the Committee, Shri Bhartruhari Mahtab, MP chaired the Sitting.

In this regard, Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha reads as under:-

"If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting"

3. At the outset, the Chairperson welcomed the representatives of the Ministry of Commerce (Department of Commerce and Department For Promotion of Industry and Internal Trade, DPIIT) and the Ministry of Electronics and Information Technology. The Chairperson in his opening remarks, while harping on the wide-ranging implications of the Income Tax Bill, 2025, on various area of administration under different Ministries of the Government of India, sought the considered views and suggestions of the Witnesses to the provisions of the Income Tax Bill, 2025, within their scope and ambit. Attention was also drawn to Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings by the Chairperson.

4. Thereafter, the representatives of the Department of Commerce made a Power Point Presentation which *inter-alia* mentioned the provisions contained in the Income Tax Bill 2025 relating to the Department of Commerce and suggested a date of applicability/sunset clause for the clause numbers 139 and 144 for clear delineation of the date of applicability of the export profit-linked incentives. Subsequently, the representative of DPIIT briefed the Committee about the exemptions given to the start-ups, about the benefits of taxation for sweat equity shares under Section 156, which has also been continued in the Bill alongwith exemption sought from Minimum Alternative Tax to start-ups. Thereafter, representatives of MeitY, through their power point representation, highlighted the new provisions of the Income Tax Bill, 2025, vide clause 61 for computation of income on a presumptive basis, clause 167,which gives the CBDT the power to make safe harbour rules alongwith provisions introduced under search and seizures for digital raid, among others.

5. Subsequently, the Committee, *inter alia*, deliberated on the following topics:

- Issues related to tax concession granted to EOUs
- Impact of Minimum Alternate Tax discontinuation on SEZs
- Return of tax incentives utilised by SEZs who are non-functional in their niche area
- Efforts being undertaken for continuation of tax benefits for SEZs
- Parity of taxation in SEZs and EOUs
- Abolition of Angel Tax (erstwhile under section 56(2) of the IT Act, 1961).
- Similar opportunities to be given to start-ups as to the GIFT city
- Widespread shutdown of start-ups-reasons
- Efforts for increasing merchandise exporting
- Methods to increase the export volume
- Pre-consultations undertaken before the drafting the Income Tax Bill, 2025.

6. The Members also sought clarifications on various other aspects related to the Bill which were responded to by the representatives of the Ministries. The Chairperson

directed the representatives to furnish written submission on points raised by Members which remained unanswered, to the Secretariat within the next 10 days.

The witnesses then withdrew.
The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record.

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Minutes of the Fifteenth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 25 April, 2025 from 1100 hrs to 1210 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Bhartruhari Mahtab – Acting Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri Anurag Sharma
8. Shri Vijayakumar Alias Vijay Vasanth
9. Dr. Amar Singh
10. Adv Gowaal Kagada Padavi
11. Md. Rakibul Hussain
12. Adv Priya Saroj
13. Dr. Kalanidhi Veeraswamy
14. Shri Kaushalendra Kumar
15. Smt. Supriya Sule
16. Shri Ravindra Dattaram Waikar
17. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Azim Premji Foundation

1. Shri. Srinivasan Pagalthivarthi, Member – Azim Premji Foundation and Director, Azim Premji Trustee Company Private Limited;
2. Shri, Lakshmnarayana Kollengode Ramanathan – Chief Endowment Officer and Director, Azim Premji Foundation; and
3. Shri. Ravi Kiran Vadapally – Chief Financial Officer, Premji Invest and Director, Azim Premji Trustee Company Private Limited.

2. **In the absence of the Chairperson, as indicated by the Chairperson and agreed to by the Committee, Shri Bhartruhari Mahtab, MP chaired the Sitting.**

In this regard, Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha reads as under:-

"If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting"

3. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of Azim Premji Trustee Company Private Limited on the Income Tax Bill, 2025. The Chairperson highlighted the landmark nature of the Bill in streamlining India's tax framework through the elimination of redundant provisions and consolidation of the Income Tax Act, 1961, aimed at enhancing the ease of doing business and fostering inclusive economic growth. Appreciating Azim Premji Foundation's rich experience and commitment to the social development sector, the Chairperson emphasized the value of their perspective in assessing the Bill's implications on non-profit institutions. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of

the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha.

4. Subsequently, a presentation was made by the representative of Azim Premji Foundation. While clarifying that the Foundation is among the largest tax-paying charitable organizations in India and does not seek any tax exemptions, the views presented revolved around enabling scalability and long-term sustainability of non-profits through broadening of permissible investment modes under Section 350 read with Schedule 16 of the IT Bill, 2025 to include listed equity shares, allowing irrevocable earmarking of dividends from designated shares for charitable purposes, incorporating such provisions directly within the Schedule for legislative clarity, restrictive treatment of General Public Utility (GPU) institutions, particularly the 20 per cent cap on incidental business income, etc.

5. Following the presentation, the Committee deliberated among other things upon the major points as summarized under:-

a. Removal of the 20% cap on commercial activities for GPU organizations and alignment with other charitable categories such as education, medical relief, etc.;
b. Proposal for tax-neutral mergers of trusts as provided under the current Income Tax Act but omitted in the Bill;
c. Removal of the "residue income" category as redundant with existing income classifications;
d. Allowance for investments in listed equity shares and earmarking dividends for charity at source.;
e. Clarification on how anonymous donations should be treated, especially regarding the 85% expenditure rule;
f. Reducing the 85% spending rule for NPOs to 50% or 20%;
g. Concerns over mandatory prescribed investment modes for NPOs and suggestions for alternatives;
h. Clarification on issues arising from the cancellation of NPO registration;
i. Tax exemptions for charitable trusts and safeguards against misuse of funds;
j. Concerns regarding NPOs investing in equity markets and preventing speculative losses; and

6. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Sixteenth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 25 April, 2025 from 1215 hrs to 1415 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Bhartruhari Mahtab – Acting Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri Anurag Sharma
7. Shri Vijayakumar Alias Vijay Vasanth
8. Dr. Amar Singh
9. Adv Gowaal Kagada Padavi
10. Md. Rakibul Hussain
11. Adv Priya Saroj
12. Dr. Kalanidhi Veeraswamy
13. Shri Kaushalendra Kumar
14. Smt. Supriya Sule
15. Shri Ravindra Dattaram Waikar
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

National Small Industries Corporation (NSIC)

1. Dr. Subhransu Sekhar Acharya, CMD, NSIC
2. Shri V. Raghunath, EO to CMD / DGM(F&A), NSIC

Federation of Indian Micro and Small & Medium Enterprises (FISME)

1. Shri Sandeep Kishore Jain, President
2. Shri Anil Bhardwaj, Secretary General

2. In the absence of the Chairperson, as indicated by the Chairperson and agreed to by the Committee, Shri Bhartruhari Mahtab, MP chaired the Sitting.

In this regard, Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha reads as under:-

"If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting"

3. At the outset, the Chairperson welcomed the Members and the representative of the National Small Industries Corporation (NSIC) to the Sitting of the Committee convened to take Oral Evidence on the Income Tax Bill, 2025. In his opening remarks, the Chairperson emphasized the importance of NSIC's role in facilitating the growth and competitiveness of MSMEs in India, particularly in relation to their access to finance, technology, and market linkages. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha.

4. Subsequently, the representative of NSIC shared insights on the recent budgetary changes, including the enhanced investment and turnover limits for MSMEs, and their potential benefits for the sector and enhancing the presumptive taxation limit to 5 crore from 2 crore to Rs. 2 crore, in line with the revised MSME thresholds.

5. Following the power-point presentation, the Committee inter alia deliberated upon the major points as summarized under:-

a. Challenges related to trade receivables and the impact of delayed payments on MSMEs;
b. The role of NSIC in facilitating market access and credit for MSMEs;
c. The alignment of government efforts to support MSMEs with the broader "Make in India" initiative.

6. Members also sought clarifications on various issues relating to the Bill. The witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days. **The Witnesses then withdrew. The sitting was then adjourned for lunch at 1245 PM and reconvened at 1:30 PM to hear oral evidence of FISME.**

7. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Select Committee of the Lok Sabha convened to examine the Income Tax Bill, 2025. The Chairperson then outlined the role being played by the representatives of FISME in promoting the growth and development of MSMEs, with a focus on simplifying tax compliance and enhancing the ease of doing business for small enterprises. The Chairperson also emphasized the importance of the Income Tax Bill, 2025 in fostering economic growth and creating a conducive environment for MSMEs to thrive. The Chairperson further drew the attention of the representative to the scope and objectives of the Bill, and reminded them of the 'Confidentiality' of the proceedings as stipulated in Direction 55(1) of the Directions by the Speaker, Lok Sabha.

8. Subsequently, the representatives of FISME presented their views on the Income Tax Bill, 2025. The views of FISME primarily revolved around key issues affecting the MSME sector, including the need to ease the compliance burden; address the challenges of economic double taxation; provide clarity on long-term capital gains tax; and simplify provisions regarding the conversion of MSME companies to Limited Liability Partnerships (LLPs) without the incidence of capital gains tax. Furthermore, FISME emphasized the importance of decriminalizing financial offenses and introducing penalties as a first step; and reserving criminal charges for cases of continued non-compliance. Additionally the representatives discussed concerns related to the dissolution of firms and the liability of

partners in limited liability partnerships; and highlighting the need for a more balanced approach to tax liability in such situations.

9. Following the presentation, the Committee deliberated upon among other things the major points as summarized under:-

a. The comparison between different countries' taxation policies and the equity distribution among directors;;
b. Suggestions made regarding the tax liability during the dissolution of a firm and long-term capital gains (LTCG) tax;
c. The need for a clear policy to prevent misuse of the provision on the sale of old property by MSMEs;
d. The impact of government measures like faceless taxation on transparency, with mixed views on whether it helped the system;
e. Concerns about the complexities in tax law and penalties for first-time offenders, along with suggestions for a better balance between punishment and penalty;
f. The challenge faced by MSMEs in meeting tax compliance requirements, especially regarding the higher threshold for tax audits;
g. More affordable and accessible tax advisory services to MSMEs; and
h. Concerns regarding double taxation.

10. Members also sought clarifications on various issues relating to the Bill. The witnesses responded to the queries raised by the Members, as per their concern respectively. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Seventeenth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 25 April, 2025 from 1420 hrs to 1520 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Bhartruhari Mahtab – Acting Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri Anurag Sharma
7. Shri Vijayakumar Alias Vijay Vasanth
8. Dr. Amar Singh
9. Adv Gowaal Kagada Padavi
10. Md. Rakibul Hussain
11. Adv Priya Saroj
12. Dr. Kalanidhi Veeraswamy
13. Shri Kaushalendra Kumar
14. Smt. Supriya Sule
15. Shri Ravindra Dattaram Waikar
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Addl. Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Smt. Sunita Moorti Anand, Additional Secretary
2. Dr. R.J.R. Kasibhatla, Additional Legal Adviser

LIST OF WITNESSES

Ministry of Micro, Small & Medium Enterprises

1. Shri S.C.L. DAS, Secretary
2. Dr. Ishita Ganguli Tripathy, Addl. Development Commissioner
3. Shri Pankaj Jindal, Joint Secretary
4. Ms. Rukmai Attri, Joint Development Commissioner

National Institute for Micro, Small and Medium Enterprises (ni-msme)

1. Dr. Shrikanth Sharma, Director, School of Entrepreneurship and Extension

2. In the absence of the Chairperson, as indicated by the Chairperson and agreed to by the Committee, Shri Bhartruhari Mahtab, MP chaired the Sitting.

In this regard, Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha reads as under:-

"If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting"

3. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of the Ministry of Micro, Small and Medium Enterprises (MSME) and the National Institute for Micro, Small and Medium Enterprises (ni-msme) on the Income Tax Bill, 2025. The Chairperson outlined the role of the Ministry and the ni-msme in promoting the growth and development of MSMEs, emphasizing the importance of simplifying tax compliance and enhancing the ease of doing business for small enterprises. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha.

4. Subsequently, a Power Point presentation was made by the representatives of the Ministry of Micro, Small and Medium Enterprises (MSME) on the Income Tax Bill, 2025. While appreciating the alignment of definitions within the Bill, which recognizes micro,

small, and medium enterprises for the first time, the MSME representatives primarily focused on the need for further simplification of tax compliance. They emphasized suggestions such as enhancing the audit ceiling under Section 63 of the IT Bill, 2025 from Rs. 1 crore to Rs. 5 crore, aligning the presumptive taxation scheme with the MSMED Act by increasing the threshold under Section 58 of the IT Bill, 2025, and including mental health and stress management under deductible ailments in the tax framework.

5. Later, the representatives of the Ministry also discussed the formalization drive undertaken by the government, highlighting the significant number of MSMEs registered under the Udyam platform, and their contribution to India's economy. They recommended further enhancements to improve the tax ecosystem for these enterprises, aligning the Bill with existing provisions of the MSMED Act to ensure greater consistency and ease of doing business for MSMEs across the country.

6. Following the power-point presentation, the Committee inter alia deliberated upon the major points as summarized under:-

a. Industry reaction to the faceless tax system;
b. Differentiation of problems faced by MSMEs, particularly micro-enterprises, and how challenges vary between micro and larger MSMEs;
c. Taxation and benefits for MSMEs, particularly concerns on increasing investment and turnover limits and the tax burden on MSMEs in comparison to international competitors;
d. Tax concessions for SC/ST/OBC communities, especially in terms of MSME support and special benefits;
e. Challenges faced by MSMEs in business income computation and transfer pricing;
f. Issue of double taxation on dividends
g. Impact of tax policies on rural MSMEs, particularly in terms of Long term Capital Gains (LTCG) on subsidies and exemptions from certain taxes;
h. Data discrepancies in MSME tax compliance and the adequacy of the CBDT data for accurate tax compliance assessment;

i. Effectiveness of MSME registration benefits, such as access to government procurement markets, priority sector lending, and credit guarantees, especially for smaller, informal micro-enterprises;

j. Complex compliance and procedural burdens on MSMEs, such as audits by Chartered Accountants and other compliance tasks that create additional burdens for small enterprises;

7. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members, as per their concern respectively. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Eighteenth Sitting of the
Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 2 May, 2025 from 1100 hrs to 1235 hrs in Committee Room 'C', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Sudheer Gupta
3. Shri Anil Baluni
4. Shri Raju Bista
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri P P Chaudhary
8. Shri Shashank Mani
9. Shri Bhartruhari Mahtab
10. Shri Deepinder Singh Hooda
11. Shri Benny Behanan
12. Dr. Amar Singh
13. Shri Lalji Verma
14. Adv Priya Saroj
15. Ms. Mahua Moitra
16. Dr. Kalanidhi Veeraswamy
17. Smt. Supriya Sule
18. Shri Ravindra Dattaram Waikar

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary
3.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary and Legal Adviser

LIST OF WITNESSES

Vaish Associates Advocates

1. Shri Neeraj Kumar Jain, Senior Partner
2. Shri Anshul Sachar, Executive Director/Partner
3. Shri Aditya Vohra, Associate Partner
4. Shri Deepesh Jain, Associate Partner

Reina Legal

1. Shri Gajendra Maheshwari, Managing Partner
2. Shri Ankur Jain, Partner
3. Shri Nishant Chugh, Partner
4. Shri Kuldeep Singh, Associate Partner

2. As proposed by the Chairperson and agreed to by the Committee, Smt.Supriya Sule, MP chaired the later part of the Sitting in the absence of Hon'ble Chairperson. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

"*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Chairperson welcomed the Members and Witnesses to the Committee Sitting convened for Oral Evidence of the representatives of Vaish

Associates Advocates and Reina Legal on the Income Tax Bill, 2025. The Chairperson highlighted the significance of these organizations in the examination of the proposed legislation, noting their recognized expertise in both direct and indirect taxation, as well as their active roles in domestic and international tax matters. Further, the Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a Power Point presentation was made by the representatives of both the organisations. While appreciating the historic shift in India's tax legislation, both the organizations put forth certain suggestions and highlighted some issues which *inter-alia* includes issues pertaining to Deduction of Tax at Source and Tax Collection at Source; Determination of residential status of a person in India; Income deemed to accrue or arise in India in relation to a business income of a non-resident; Income by way of royalty payable by a non-resident; Deductions on account of expenses incurred on repairs of plant and machinery; Income derived from letting out of residential house property; Tax on income of certain domestic companies; Transfer pricing; Search and Seizure Proceedings; Procedure in appeal and provisions with respect to Advance Rulings.

5. Following the power-point presentation, the Committee *inter alia* deliberated upon following major points:-

a) Jurisdiction of income-tax authorities in faceless assessment and privacy of individual;
b) Establishment of Boards of Advance Rulings across the country;
c) Communication strategy to enhance public awareness about the proposed legislation;
d) Income deemed to accrue or arise in India;

e) Best global practices in case of Search and Seizure Proceedings;

f) Pendency of Appeals;

g) Mandatory timeline in appellate proceedings.

6. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Nineteenth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 2 May, 2025 from 1240 hrs to 1340 hrs in Committee Room 'C', Parliament House Annexe (PHA), New Delhi.

PRESENT

Smt. Supriya Sule : Acting Chairperson

LOK SABHA

2. Shri Sudheer Gupta
3. Shri Anil Baluni
4. Shri Raju Bista
5. Shri Vishnu Dayal Ram
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri P P Chaudhary
8. Shri Shashank Mani
9. Shri Bhartruhari Mahtab
10. Shri Deepinder Singh Hooda
11. Shri Benny Behanan
12. Dr. Amar Singh
13. Shri Lalji Verma
14. Adv Priya Saroj
15. Ms. Mahua Moitra
16. Dr. Kalanidhi Veeraswamy
17. Shri Ravindra Dattaram Waikar

SECRETARIAT

1.	Ms. Miranda Ingudam	-	Director
2.	Shri Nilendu Kumar	-	Deputy Secretary
3.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary and Legal Adviser

LIST OF WITNESSES

Economic Laws Practice

1. Shri Kumar Visalaksh, Senior Partner
2. Shri Rahul Khurana, Partner

Ved Jain & Associates

1. Shri Ved Kumar Jain, Founder & Mentor
2. Shri Ankit Jain, Partner
3. Shri Ankit Gupta, Manager Taxation
4. Shri Ankit Singhal, Manager Taxation

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Smt.Supriya Sule, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

"*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Acting Chairperson welcomed the Members and Witnesses to the Committee Sitting convened for Oral Evidence of the representatives of Economic Laws Practice and Ved Jain and Associates on the Income Tax Bill, 2025. The Chairperson highlighted the significance of these organizations in the examination of the proposed legislation, noting their legal and taxation acumen. Further, the Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a Power Point presentation was made by the representatives of both the organisations. While appreciating the landmark reform in India's tax legislation, both the organizations put forth certain suggestions and highlighted some issues which *inter-alia* includes issues pertaining to Access to virtual digital space during Search and Seizure operations; Definition of income; Definition of 'risk management strategy' under Clause 280(6)(a); Power of revision of orders prejudicial to revenue; Empowering Assessing Officer to issue Nil deduction Certificate; Clarity and certainty in the proposed legislation to avoid litigations; Residence of a tax payer of India when he leaves India for employment outside India; Income by way of royalty payable by a non-resident; Relaxation for refund; Cash basis accounting of charitable trust; Deduction under Section 80M of the Principal Act.

5. Following the power-point presentation, the Committee *inter alia* deliberated upon following major points:-

a) Digitization of tax paying and processing method;
b) Privacy of individual during search and seizure;
c) Issue of Nil deduction Certificate;
d) Search and Seizure Proceedings;
e) Provisions relating to NGO and charitable trusts;

6. Members sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twentieth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 2 May, 2025 from 1430 hrs to 1540 hrs in Committee Room 'C', Parliament House Annexe (PHA), New Delhi.

PRESENT

Smt. Supriya Sule – Acting Chairperson

LOK SABHA

2. Shri Sudheer Gupta
3. Shri Raju Bista
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Shashank Mani
8. Shri Bhartruhari Mahtab
9. Shri Deepinder Singh Hooda
10. Shri Benny Behanan
11. Dr. Amar Singh
12. Shri Lalji Verma
13. Adv Priya Saroj
14. Ms. Mahua Moitra
15. Dr. Kalanidhi Veeraswamy
16. Shri Ravindra Dattaram Waikar

SECRETARIAT

1. Ms. Miranda Ingudam - Director
2. Shri Nilendu Kumar - Deputy Secretary
3. Shri T. Mathivanan - Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Additional Legal Adviser
2. Shri Neeraj Rawat, Deputy Legal Adviser

LIST OF WITNESSES

Economic Laws Practice

1. Shri Jayant G. Pendse, former Member, CBDT

Asia Pacific Real Assets Association (APREA)

1. Ms. Sameeksha Sharma, Country Principal, India
2. Shri Sanjay Somani, Tax Head, Mindspace REIT
3. Shri Ramil Gupta, Tax Head, Indigrid InVIT
4. Ms. Prerna M., Senior Partner, PWC
5. Ms. Pallavi Garg, Senior Partner, EY
6. Shri Hemant Salian, Group Tax Head, Nexus REIT
7. Shri Vinay Sekar, CEO, Cube Highways InVIT

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Smt.Supriya Sule, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

"*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Acting Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of the former member, Central Board of Direct Taxes and Asia Pacific Real Assets Association on the Income Tax Bill, 2025. The Chairperson highlighted

their valuable experience in tax administration and their contributions toward simplifying tax compliance and promoting ease of doing business. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a presentation was made by the former member, CBDT on the Bill. His views were primarily revolved around the need for clarity on the date of amalgamation and demerger of companies; removal of references to the Portuguese Civil Code in Clause 10, rationalisation of the provision on unexplained expenditure under Clause 105, introduction of a time limit for rectification under Clause 287(9), timely issuance of directions by Joint Commissioners under Clause 272, deletion of outdated provisions relating to non-resident taxation under Clause 306, simplified process for Hindu Undivided Family partition declarations, corpus donation received by charitable trusts corpus donation received by charitable trusts and payment of advance tax.

5. Later, the representatives of the APREA in their power point presentation highlighted the gaps between the current Income-tax Act and the proposed new Bill, and other broader structural reforms for infrastructure sector development. They *inter-alia* emphasized the exemption from capital gains on swap of (i) convertible debt instruments like CCDs or OCDs, (ii) LLP interest and (iii) directly held assets, in exchange of units issued by business trusts, designating Specific Purpose Vehicles(SPVs) held by listed business trusts as "companies in which public are substantially interested", exemption for no lapse of losses on migration of SPVs into business trust; withholding tax on interest payments on listed Non Convertible Debentures (NCDs) issued by a business trust; Transfer of units of (privately/ publicly) listed business trusts; Taxation of Hybrid Annuity Model; Scope of deduction under Section 35AD for infrastructure projects.

6. Following the power-point presentation, the Committee *inter alia* deliberated upon the major points as summarized under:-

(i) Pendencies of appeals

i. Jurisdiction of income-tax authorities in faceless assessment and privacy of individual;
ii. Amalgamation and demerger of companies;
iii. Unexplained expenditure of assessee in any tax year;
iv. Power of Joint Commissioner to issue directions under Clause 272;
v. Corpus donation exemption;
vi. Assessment after partition of a Hindu Undivided Family;
vii. Advance tax notice;
viii. Lack of uniformity due to continued applicability of Portuguese Civil Code provisions in taxation;
ix. Higher rate of depreciation on Energy Storage Systems;
x. Taxation of business trusts at Maximum Marginal rate;
xi. Uniformity between the Finance Bill, 2025 and the Income tax Bill, 2025.

7. Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members, as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty First Sitting of the Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 8 May, 2025 from 1100 hrs to 1215 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Jagdeesh Shettar
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Bhartruhari Mahtab
8. Shri Naveen Jindal
9. Dr. Amar Singh
10. Md. Rakibul Hussain
11. Shri Lalji Verma
12. Adv Priya Saroj
13. Shri Daggumalla Prasada Rao
14. Smt. Supriya Sule
15. Shri Arvind Ganpat Sawant
16. Shri Richard Vanlalmangaiha
17. Shri Ravindra Dattaram Waikar

SECRETARIAT

1.	Ms. Bharti S. Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri T. S. Muralidharan, Additional Legislative Counsel
3. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary and Legal Adviser
2. Shri Neeraj Rawat, Deputy Legal Adviser
3. Shri Surendra Kumar, Deputy Legal Adviser

LIST OF WITNESSES

Life Insurance Corporation of India (LIC)

1. Shri Siddhartha Mohanty, CEO & MD
2. Shri Dinesh Pant, Appointed Actuary & Executive Director (Actuarial)
3. Shri Sunil Agrawal, Chief Financial Officer
4. Shri Rajesh Mohan Marwaha, Protocol Officer

General Insurance Corporation of India (GICRe)

1. Shri Ramaswamy Narayanan, CMD
2. Shri V. Balkrishna, General Manager
3. Shri Rajesh Laheri, Deputy General Manager

2. At the outset, the Chairperson welcomed the Members and Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of Life Insurance Corporation of India (LIC) and General Insurance Corporation of India (GICRe) on the Income Tax Bill, 2025. The Chairperson highlighted the significance of these organizations in the examination of the proposed legislation, noting their experience in the field of insurance sector. Further, the Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

3. Subsequently, a Power Point presentation was made by the representatives of both the organisations. While appreciating the historic shift in India's tax legislation, the LIC and GIC presentations focussed on corporate tax including taxation rates in the insurance sector and suggested concessional rates. Both the organizations put forth suggestions and highlighted *inter-alia* issues pertaining to Deduction of Tax at Source and Tax Collection at Source; Tax exemption limits related to Insurance Agents; Powers of Assessing Officers, Tax on income of certain domestic companies etc.

4. During the power-point presentation, the following major points were covered:-

a) Enhancement in tax concessions on insurance premiums paid under the cover of Sec 80C as per Section 123 of the new bill;

b) Exemption on incomes from annuity policies;

c) Aligning the exemption on income commuted with the rates of IRDAI i.e. 60 per cent) and consequently getting at least two-third of the amount exempted with one-third left for commutation;

d) Issues with regard to exemption on ULIP and LIC policies wherein ULIP maturity amount beyond Rs.2.5 lakh is taxable and in case of LIC, this amount is beyond Rs.5 lakh. So, resolving the gap regarding government exemption on premium paid by policyholder and the one specified by IRDAI by bringing the government exemption at par with IRDAI limits (seven times of the risk) was suggested;

e) Raising the tax exemption limit for Insurance Agents from Rs. 20,000 limit up to Rs.2.5 lakhs and Rs.4 lakhs as per the new regime under Section 194D;

f) Insurance companies may not be subject to Government Audits;

g) Discretionary element to Assessing Officer under Sec 37 should be done away with as any interpretation scope on part of AO will unnecessarily lead to lot of litigation;

h) The concept of IBNR "Incurred But Not Reported" may be provided as a deduction so that it would ease the way we do business, simply because otherwise it is left to the assessing officer to decide whether it is allowable or not;

i) The GIC as per its own unique concept has created a "Catastrophic Reserve" from its own profits so as to deal with catastrophic losses. This too may be allowed for deductions in Income Tax;

j) The provision for set-off to be given on Dividends paid by companies has been removed from the new Bill, due to some typographical error which will affect all the companies and may lead to litigation may be included in the new Tax Bill;

5. Thereafter, Members sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members. The Chairperson then

directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty Second Sitting of the Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 8 May, 2025 from 1220 hrs to 1400 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda – Chairperson

LOK SABHA

2. Shri Jagdeesh Shettar
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Bhartruhari Mahtab
8. Shri Naveen Jindal
9. Dr. Amar Singh
10. Md. Rakibul Hussain
11. Shri Lalji Verma
12. Adv Priya Saroj
13. Shri Daggumalla Prasada Rao
14. Smt. Supriya Sule
15. Shri Arvind Ganpat Sawant
16. Shri Richard Vanlalmangaiha
17. Shri Ravindra Dattaram Waikar

SECRETARIAT

1.	Ms. Bharti S. Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri T. S. Muralidharan, Additional Legislative Counsel
3. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary and Legal Adviser
2. Shri Neeraj Rawat, Deputy Legal Adviser
3. Shri Surendra Kumar, Deputy Legal Adviser

LIST OF WITNESSES

Dawat-E-Hadiyah

1. Mr. Mufaddal Fatehi, Chief Accounts Officer
2. Shri Viren Merchant, Statutory Auditor
3. Mr. Abuali Darukhanwala, Honorary Finance Officer
4. Mr. Ibrahim Kanchwala, Senior Accounts Officer

Prajapita Brahma Kumaris Ishwariya Vishwa Vidyalaya

1. Shri Lalit Kumar Tulsiram Inani (CA), Secretary
2. Shri Chunduru Naga Krishna Kishore, Taxation Executive
3. Ms. Bhasha, Direct Tax Executive
4. Ms. Mansi Parikh, Audit Executive

2. At the outset, the Chairperson welcomed the Members and Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of Dawat-E-Hadiyah and Prajapita Brahma Kumaris Ishwariya Vishwa Vidyalaya on the Income Tax Bill, 2025. The Chairperson highlighted the significance of these organizations in the examination of the proposed legislation, noting their experience with regard to the Bill and crucial views in understanding the consequences of the provisions of the Bill on religious and charitable institutions. Further, the Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

3. Subsequently, a Power Point presentation was made by the representatives of both the organisations. While appreciating the historic shift in India's tax legislation, both the organisations presented their views on various issues and suggestions related to taxation pertaining to non-profit organisations including direct tax implications, tax exemptions for various charitable activities, specific challenges faced and practical implementation measures so as to make the Bill more fair and transparent.

4. During the power-point presentation, the following major points were covered:-

a) The capital receipts from immovable properties may be clubbed along with other incomes;

b) Suggestion was made that the provision (from old Income Tax Act, 1961) regarding income of NPOs not applied (in current financial year), may be applied in the subsequent year by filing Form 9A, may be included or carried forward in the new Act;

c) Further, suggestion was also made if the law maker finds it difficult to define 'religious purposes', then one sub-Clause may be issued on lines that along with the charitable purposes, religious purposes shall include religious activities and also charitable activities that form an integral part of that particular religion;

d) Tax exemption may be granted to not only for wholly religious purposes but also to organizations which are established for 'religious and charitable purposes' in line with the provisions of the Section 115BBC(ii), Clause 2, of the old Income Tax Act, 1961

e) Issue regarding utilisation of Corpus and repayment of loans over not more than next 5 years, with recommendation that the time period may be extended to 20 years;

f) Issue regarding mandatory investment of the 15 per cent accumulated income of NPOs as per the new Bill was raised;

g) Matters concerning Clause 395 on the new bill nsurance companies may not be subject to government Audits;

h) Moreover, issue with regard to Clause 347 which entails mandatory maintenance of Books of Accounts including details like name, address, purpose, mode of payment for each and every payment was also discussed and exemption was sought for petty expenses upto the limit of Rs. 10, 000;

i) Easing the tax compliance burden by simplifying the procedure of tax filing (especially through online mode) so as to make it easy, less time consuming, more inclusive and more effective;

j) A perennial platform or helpline may be established to guide the NPOs in matter of Taxation policies and resolve their queries or doubts expeditiously so as to help them better in tax compliance;

5. Thereafter, Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members as per their

concern respectively. The Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

*****

Minutes of the Twenty Third Sitting of the Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 8 May, 2025 from 1430 hrs to 1530 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Arvind Ganpat Sawant – Acting Chairperson

LOK SABHA

2. Shri Jagdeesh Shettar
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Bhartruhari Mahtab
8. Shri Naveen Jindal
9. Dr. Amar Singh
10. Md. Rakibul Hussain
11. Shri Lalji Verma
12. Adv Priya Saroj
13. Shri Daggumalla Prasada Rao
14. Smt. Supriya Sule
15. Shri Richard Vanlalmangaiha
16. Shri Ravindra Dattaram Waikar

SECRETARIAT

1.	Ms. Bharti S. Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri T. S. Muralidharan, Additional Legislative Counsel
3. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary and Legal Adviser
2. Shri Neeraj Rawat, Deputy Legal Adviser
3. Shri Surendra Kumar, Deputy Legal Adviser

LIST OF WITNESSES

1. Shri Harpreet Singh Ajmani, Advocate
2. Ms. Parul Jolly, Partner, SCV & Co. LLP

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Shri Arvind Ganpat Sawant, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

> "*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Chairperson welcomed the Members and Witnesses to the Sitting of the Committee convened to take Oral Evidence of the representatives of Shri Harpreet Singh Ajmani, Advocate and Ms. Parul Jolly, Partner on the Income Tax Bill, 2025. The Chairperson highlighted the distinguished career of the witnesses, noting their recognized expertise in both direct and indirect taxation, transfer pricing, as well as their active roles in domestic and international tax matters including cross-border

investments and tax planning. Further, the Chairperson in his opening remarks drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a Power Point presentation was made by Shri Harpreet Singh Ajmani, Advocate. While appreciating the historic shift in India's tax legislation, both the organisations presented their views on various issues and suggestions related to cross-border investments and tax planning, tax exemptions, procedural litigation, practical implementation measures so as to make the Bill more fair and transparent.

5. During the power-point presentation, the following major points were covered:-

a) Attention was invited to the issue of the limitation for passing the draft order, which is currently pending before the Supreme Court;

b) Fixing a specific timeline for the draft order vis. a vis., intervening stage of passing a draft order between the orders by a transfer pricing officer and the passing of a final order by the learned assessing officer;

c) The term 'information' may be replaced by the term 'reason to believe' which is very well-defined term and has a lot of judicial precedents;

d) The composition of BAR may be similar to as in the erstwhile regime (as per Old Act, 1961);

e) Appeals travelling from Board of Advanced Ruling to the High Court Appeals may be dealt with by two-judges bench;

f) The witnesses also suggested that the restrictions on the power of granting stay as per the new Bill may be removed (keeping in line with the Supreme Court rulings);

g) The concept of need of incriminating materials for block assessment of assesee should be put in as a check and balance;

h) In case of appeals or matters pending more than one year, there should be a recording of reason or justification by the CIT (Appeals) as to why there was a delay;

6. Thereafter, Members also sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

*****

Minutes of the Twenty Fourth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 9th May, 2025 from 1100 hrs to 1330 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri P P Chaudhary - Acting Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Eatala Rajender
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri Shashank Mani
7. Shri Anurag Sharma
8. Dr. Amar Singh
9. Md. Rakibul Hussain
10. Shri Lalji Verma
11. Adv Priya Saroj
12. Ms. Mahua Moitra
13. Shri Arvind Ganpat Sawant
14. Shri Ravindra Dattaram Waikar
15. Shri N.K. Premachandran
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Bharti Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Regional Income Tax Commissioners

1. Shri Prasenjit Singh DGIT (Investigation), Delhi;
2. Shri Raman Chopra PCIT(Central)-1, Delhi;
3. Shri Sibichen K. Matthew PDIT(INV), Chennai;

4. Shri Ashok Kumar Jha CCIT-11, Mumbai;
5. Shri Anuj Arora PCIT(Central), Bhopal;
6. Shri Amaresh Singh PDIT (Investigation), Bhopal;
7. Shri Niraj Kumar PCCIT(OSD), Kolkata;
8. Shri Amlan Tripathy PCIT-2, Kolkata;
9. Shri Chabungbam Deepak Singh CIT(DR)(ITAT), Guwahati;
10. Shri T James Singson CIT(TDS), Guwahati;
11. Shri V.K. Gupta, Ex-IRS; and
12. Shri G. C. Srivastava, Ex-IRS

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Shri P P Chaudhary, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

"*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Acting Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence by Regional IT Commissioners of North, South, West, Central, East and North-East Regions on the Income Tax Bill, 2025. The Chairperson highlighted their valuable experience and their contributions toward simplifying tax compliance and promoting ease of doing business. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a power-point presentation was made by the representatives of the CIT on the modalities involved alongwith the rationals behind the Drafting of the IT Bill, 2025.

5. During the power-point presentation, the following major points were covered:-

(i) A Brief Background on the entire process of drafting of the new Bill (including comparative studies) was highlighted;
(ii) It was also reiterated informed that the Income Tax Bill, 2025 has been made concise by removing all obsolete and redundant provisions, simplifying the language, improving readability, extensively using more tables and formulas, eliminating repetitive provisions and also consolidating provisions which were scattered all around in the previous Act;
(iii) Throughout the drafting process online suggestions were invited from all stakeholders (approx. 20,000 received) and extensive discussions were also held with Industrial associations, NPOs, Australian and UK Tax Officials;
(iv) Presently, outreach programs for common people are being developed along with training modules for Tax Officers and other stakeholders, to be followed with capacity building programmes;
(v) Establishment of Litigation Management Committee;
(vi) It has been informed that number of pending appeals and the disputed demand have been significantly brought down;
(vii) Creation of 83 posts of CIT and Principal CITs for dealing with appeals;
(viii) Discussion on Direct Tax Vivad Se Vishwas Scheme, 2021 and 2024;
(ix) Introduction of Block Assessment Scheme which includes features like Consolidated assessment for block period, procedural clarity and simplified computation along with consolidated penalty mechanism;
(x) Introduction of new scheme of e-dispute resolution;
(xi) Linking the exemption status of STs belonging to North-East region to their respective PAN Cards so as to eliminate the repetition of same process and ease tax compliance for all stakeholders involved;
(xii) Setting up of a Standing Committee, which addresses the litigating factors on a real-time basis (through research work) and recommends to the CBDT which in-turn issues relevant guidelines to be followed by the Tax officers, Commissioner Appeal and even Tribunals in order to reduce litigation to a great extent;
(xiii) Issue regarding Section 247 Clause 3 of the proposed new Bill as the original Section 132, that is right to access the virtual digital space by Tax Officers with considerable apprehension that it is affecting the right to privacy;
(xiv) Need for specifying strict timelines for disposal of all appeals by the Assessing officers, Commissioner Appeals and Tribunals;
(xv) The IT Department's initiative to give a 100 per cent pre-filled form and so far for elite persons facility of 90 per cent pre-filled form so as to ease the process of filing ITR;

(xvi) Establishment of online system of CP-Gram where any person or any assesse can file a complaint which is resolved normally in 30 days; and

(xvii) Issues pertaining out of issues of notices under the old Act or proceedings or appeals pending under the old Act will continue to proceed further as if the old Act was not repealed;

6. Thereafter, Members sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members, as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

*****

Minutes of the Twenty Fifth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Friday, the 9th May, 2025 from 1430 hrs to 1500 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Vishnu Dayal Ram
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri P P Chaudhary
6. Shri Shashank Mani
7. Dr. Amar Singh
8. Md. Rakibul Hussain
9. Shri Lalji Verma
10. Adv Priya Saroj
11. Ms. Mahua Moitra
12. Shri Arvind Ganpat Sawant
13. Shri Ravindra Dattaram Waikar
14. Shri N.K. Premachandran
15. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Bharti Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

SBI SC ST Employees Welfare Association North East Circle

1. Shri Bishnu Kinkar, President; and
2. Shri H D Kharkongor, General Secretary

2. At the outset, the Chairperson welcomed the Members and the Witnesses to the Sitting of the Committee convened to take Oral Evidence by representatives of SBI SC ST Employees Welfare Association North East Circle on the Income Tax Bill, 2025. The Chairperson desired to understand the issues faced by the Scheduled Tribes in the Sixth Scheduled areas who are given Income Tax exemption and gather their on ground experience. Further, the Chairperson in his opening remarks also drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the *Directions by Speaker, Lok Sabha*.

4. Subsequently, a power-point presentation was made by the representatives consisting of various views related to the historical new bill especially with regards to Taxation and tax exemption for people belonging to the Scheduled Tribes of North-East areas of India. .

5. During the power-point presentation, the following major points were discussed:-

(i) Specific issues related to Section 10(26) and 10(26AAA) pertaining to the North Eastern States and Sikkim and request was made for including the States of Assam and Meghalaya in the Section 10(26) of the new Act;
(ii) Request was made for exemption of all people belonging to Scheduled Tribes who are working outside the Scheduled areas or North-East region so as to endure financial empowerment;
(iii) Removal of the income limit of Rs.20 lakhs for taxation of STs in other north east states (as being currently given to Sikkimese residents);
(iv) Resolving issues related to Nil deduction Certificate so as to ease tax compliance burden for Tax payees as well as Government; and
(v) Income generated from Scheduled areas and other exempted areas will be exempted from tax.

6. Thereafter, Members sought clarifications on various issues relating to the Bill. The Witnesses responded to the queries raised by the Members, as per their concern respectively. The Acting Chairperson then directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within 7-10 days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty Sixth Sitting of the
Select Committee of Lok Sabha to Examine the Income-Tax Bill, 2025.

The Committee sat on Monday, the 26 May, 2025 from 1130 hrs to 1730 hrs in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri P P Chaudhary – Acting Chairperson

LOK SABHA

2. Shri Jagdeesh Shettar
3. Shri Sudheer Gupta
4. Shri Raju Bista
5. Shri Eatala Rajender
6. Shri Mukeshkumar Chandrakaant Dalal
7. Shri Bhartruhari Mahtab
8. Shri Naveen Jindal
9. Shri Lalji Verma
10. Ms Mahua Moitra
11. Shri Kaushalendra Kumar
12. Shri Arvind Ganpat Sawant
13. Shri Ravindra Dattaram Waikar
14. Shri N K Premachandran
15. Shri Richard Vanlalmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti S. Tuteja	-	Director
3.	Ms. Miranda Ingudam	-	Director
4.	Shri Nilendu Kumar	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ravi Agrawal, Chairman, CBDT

3. Shri Ramesh Narain Parbat, Member (L), CBDT
4. Shri Pankaj Jindal, Joint Secretary, CBDT
5. Shri Balasubramanian Krishnamurthy, Joint Secretary (TPRU)
6. Shri Shahi Sanjay Kumar, Pr. CIT, Delhi
7. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
8. Shri Anurag Sahay, CCIT Delhi
9. Shri G.M. Doss, CCIT
10. Shri Prasenjit Singh, DGIT (Inv.), Delhi
11. Shri Vipul Agarwal, CIT (Int. Tax)

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri T. S. Muralidharan, Additional Legislative Counsel
3. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser
2. Shri Neeraj Rawat, Deputy Legal Adviser
3. Shri Surendra Kumar, Deputy Legal Adviser
4. Shri Arpit Anant Mishra, Deputy Legal Adviser

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Shri PP Chaudhary, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

> "*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Chairperson welcomed the Members and Witnesses to the Sitting of the Committee convened to take Oral Evidence of the Ministry of Finance (Department of Revenue) on the Income Tax Bill, 2025. The Chairperson apprised the Committee that over a period of last two months, the Committee has held twenty five sittings (25) wherein detailed consultations took place with various stakeholders on the provisions contained in the Income Tax Bill, 2025. The

Committee also undertook a Study Visit to Bengaluru and Mumbai from 13th to 17th May 2025 in this regard.

4. Further, the Chairperson drew the attention of the Witnesses to the scope and ambit of the Bill and to the 'Confidentiality' of the Proceedings of the Select Committee as stipulated in Direction 55(1) of the Directions by Speaker, Lok Sabha.The Chairperson then informed that the suggestions received from the stakeholders were forwarded to the Ministry in Batches . The replies of the Ministry on the suggestions contained in Batch-I and Batch-II have since been received and would be taken up for further consideration by the Committee.

5. Thereafter, the representatives of the Ministry of Finance (Department of Revenue) made a Power Point Presentation wherein a detailed summary of substantive issues raised in the suggestions and replies furnished therein was presented before the Committee. The Chairperson and the Members sought clarifications on the suggestions not accepted by the Ministry and the Witnesses responded to certain queries. Various issues like Power of Survey, Search and Seizure, War Injury Pension, taxation on income from Crypto currency, definition of demerger, faceless assessment, facility of updated returns, training and capacity building of Income Tax Commissioners and performance accountability, deletion of the word 'reasonably' from Section 9 of the Act etc. also came up for detailed discussions. On some of the issues, Secretary, Department of Revenue informed that a detailed Note will be submitted for the information of the Committee. Chairperson directed that these issues will be taken up for further discussion by the Committee during the ensuing Sittings. During the deliberations, the Committee observed that the representatives of the Department of Revenue accepted a number of drafting mistakes and inadvertent errors which had **crept** into the Bill. The Chairperson and Members emphasized on the crucial role of Legislative Department in vetting of Bills and advised the representatives of the Ministry of Law and Justice present in the Sitting to be more careful in future legislative drafting.

6. The Chairperson then directed that discussion on the replies given by the Ministry on the suggestions would be taken up Clause wise so that no suggestion is missed. The Committee then deliberated in detail on each suggestion of Batch 1 one by one from Serial No 1-120.

7. It was decided that certain issues/suggestions viz Tax treatment of fast – track demerger under Section 233 of Companies Act, Recognition of Skill Development Institutions as separate Charitable purpose, Recognition of Goodwill

as a deductible item, Transfer Pricing Provisions etc. would be taken up for discussions during the next Sittings.

8. The Chairperson thereafter concluded the sitting and announced that the discussion will resume the next day from Serial No. 121. The representatives of the Ministry were also asked to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat by 30.05.2025.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty Seventh Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Tuesday, the 27th May, 2025 from 1000 hrs to 1430 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri P P Chaudhary - Acting Chairperson

LOK SABHA

2. Shri Jagdish Shettar
3. Shri Sudheer Gupta
4. Shri Raju Bista
5. Shri Eatala Rajender
6. Shri Bhartruhari Mahtab
7. Shri Naveen Jindal
8. Shri Deepender Singh Hooda
9. Shri Lalji Verma
10. Shri Kaushalendra Kumar
11. Shri Arvind Ganpat Sawant
12. Shri Ravindra Dattaram Waikar
13. Shri N.K. Premachandran
14. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti Tuteja	-	Director
3.	Ms. Miranda Ingudam	-	Director
4.	Shri Nilendu Kumar	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue);
2. Shri Balasubramanian Krishnamurthy, Joint Secretary (TPRU);
3. Shri Shahi Sanjay Kumar, Pr. CIT, Delhi;
4. Shri Raman Chopra, Pr. CIT (Central-1), Delhi;
5. Shri Anurag Sahay, CCIT, Delhi;
6. Shri G.M. Doss, CCIT
7. Shri Prasenjit Singh, DGIT (Inv.) Delhi;
8. Shri Vipul Agarwal, CIT (Int. tax)
9. Shri Ravi Agrawal, Chairman;
10. Shri Ramesh Narain Parbat, Member (L);
11. Shri Pankaj Jindal, Joint Secretary;

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary;
2. Shri T.S. Muralidharan, Additional Legislative Counsel;
3. Shri Satish Murugan P., Deputy Legislative Counsel**;**

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser;
2. Shri Neeraj Rawat, Deputy Legal Advisor;
3. Shri Surendra Kumar, Deputy Legal Advisor;
4. Shri Arpit Anant Mishra, Deputy Legal Advisor;

2. In the absence of the Chairperson, as proposed by the Chairperson and agreed to by the Committee, Shri P P Chaudhary, MP chaired the Sitting. In this regard, Rule 258 (3) of the *Rules of Procedure and Conduct of Business* in Lok Sabha reads as under:-

"*If the Chairperson is absent from any sitting, the Committee shall choose another member to act as Chairperson for that sitting.*"

3. At the outset, the Acting Chairperson welcomed the Members to the Twenty-Seventh Sitting of the Committee convened to take Oral Evidence of the Ministry of Finance (Department of Revenue). As decided by the Committee during their sitting held on the previous day i.e. 26.5.2025, the Chairperson informed that discussion on views of the Ministry on Batch I suggestions of stakeholders (upto Sl. No. 120) will be continued further on 27.5.2025. Thereafter, he drew attention of the Members to Direction 81(1) of the 'Directions by the Speaker Lok Sabha' which reads "at any time before the consideration of the Bill is finally concluded by a Select Committee, any member of the Committee may submit a memorandum or note containing the views of that member on the Bill in writing to the Committee."

4. Then, the representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice were ushered in. The Chairperson welcomed the representatives of the aforesaid Ministries and apprised them of Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings.

5. Thereafter, the Chairman took up for discussion the views of the Ministry on suggestions of various stakeholders from Clause 197 (Sl.no. 121) onwards. The Committee *inter alia* deliberated upon following major issues relating to various provisions of the Bill:

i. Mechanism for tax transfers done before 23 July, 2024;
ii. Issuance of Master Circular by CBDT during the start of every Tax year;
ii. Search and Seizure provisions of the Bill;
iii. Accessibility to Virtual digital assets - suggesting safeguards to protect right to privacy;
iv. Provision of taking Statements under oath;
v. Reopening of cases without notice;
vi. Rate of interest to be levied in case of non disposal of appeal within one year by Commissioner of Income Tax;
vii. Dispute Resolution panels and Dispute Resolution Committee;
viii. Exclusion of Cost Accountants from the definition of Accountants;
ix. Legal implication of replacing 'notwithstanding' by 'irrespective of'

x. Definition of Accumulated income;
xi. 'Place of effective management' in the definition of Company.

6. The Committee then decided to finish the examination of views expressed by the Ministry on Batch I suggestions at one go instead of resuming the deliberations post lunch. However, deliberations could be completed upto Sl. No. 225 of the Batch I suggestions and it was decided that certain issues viz. Computation of Minimum Alternate Tax (MAT)/Alternate Minimum Tax, Feasibility of preparing Master Circular for the benefit of tax payers, etc. would be taken up for further discussion in next sittings.

7. Thereafter, the Chairperson directed the representatives to furnish written replies to the queries of the Members that remained unanswered, to the Secretariat within three days.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty-Eighth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Wednesday, the 4th June, 2025 from 1100 hrs to 1530 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Shri Sudheer Gupta
3. Shri Raju Bista
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakant Dalal
6. Shri P P Chaudhary
7. Shri Bhartruhari Mahtab
8. Shri Naveen Jindal
9. Shri Benny Behanan
10. Md. Rakibul Hussain
11. Shri Lalji Verma
12. Dr. Kalanidhi Veeraswamy
13. Shri Daggumalla Prasada Rao
14. Shri Kaushalendra Kumar
15. Shri Arvind Ganpat Sawant
16. Shri Ravindra Dattaram Waikar
17. Shri N.K. Premachandran
18. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Bharti Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ravi Agarwal, Chairman-CBDT
3. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
4. Shri Pankaj Jindal, JS (TPL-II)-CBDT
5. Shri Balasubramanian Krishnamurthy, JS (TPRU), DOR
6. Shri Prasenjit Singh, DGIT Investigation, Delhi
7. Dr. G.M Doss, CCITTDS, Mumbai
8. Shri Ashok Kumar Jha, CCIT-11, Mumbai
9. Shri Anurag Sahay, CCIT (Central), Delhi
10. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
11. Shri Shahi Sanjay Kumar, Pr. CIT (Central-2), Delhi
12. Shri Thakur Singh Mapwal, Director (TPL-I), Delhi
13. Dr. Samuel Pitta, Deputy Secretary (TPL-II), Delhi
14. Shri Ashish Agarwal, Deputy Secretary (TPL-III), Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary;
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel;
3. Shri T.S. Muralidharan, Additional Legislative Counsel;

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser;
2. Shri Arpit Anant Mishra, Deputy Legal Advisor.

2. At the outset, the Chairperson welcomed the Members and Witnesses to the Sitting of the Committee convened to take Oral Evidence of the Ministry of Finance (Department of Revenue) on the Income Tax Bill, 2025. The Chairperson, thereafter, extended his gratitude and place on record his appreciation for the sincerity and continued hard work of the Members of the Committee and for the progress that has been made in the work of the Committee despite the fact that five (05) Members including himself were on tour. The Chairperson informed that discussion on views of

the Ministry on Batch-I suggestions of stakeholders upto Sl. No. 225 were completed in the last sitting and after some deliberations on how to proceed further, it was decided to complete the remaining portion of the views of the Ministry on Batch-I suggestions.

3. Then, the representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice were ushered in. The Chairperson welcomed the representatives of the aforesaid Ministries and apprised them of Direction 55(1) of 'Directions by the Speaker, Lok Sabha' regarding confidentiality of the Committee proceedings. The Chairperson informed that the Committee will continue further consideration of the views of the Ministry of Finance, Department of Revenue on Batch I of the suggestions from Sl. No. 226 onwards.

4. At the outset, the Secretary, Department of Revenue, Ministry of Finance apprised the Committee that Batch-I had 277 suggestions with around 194 unique suggestions. As Sl. No. 225 of Batch-I has been covered, another 52 odd suggestions remains to be covered today. In Batch-II, out of 93 suggestions by various stakeholders, 73 were unique suggestions while in Batch-III, out of 762 suggestions, 531 were unique suggestions.

5. The Committee, thereafter, took up remaining portion of Batch-I i.e. from Sl. No. 226 onwards and deliberated in detail upon the clause-by-clause replies given by the Ministry on the suggestions of various stakeholders. After completion of Batch-I, the Committee decided to defer Batch-II and took up Batch-III instead, for discussion as the repeated suggestions were already identified in Batch-III. The Committee noted that as replied by the Ministry in written submissions, some matters may be of policy nature, however, some may still be re-considered from the perspective of administrative simplification. During the discussion, the Ministry responded to various queries raised

by the Members and assured to submit detailed Note/data on points / issues which required re-consideration.

6. The Committee completed deliberations till Sl. No. 75 of Batch-III and also decided that certain issues/suggestions viz. Dispute Resolution Panel versus Dispute Resolution Committee and Dispute Resolution Reforms with adoption of Global best practices on dispute reduction, pendency of Appeals and Appellate proceedings, re-opening assessment of the past years, effectiveness of the Central Processing Centre, definition of 'Accountant' and Amalgamation & Demerger process, incorporating some provisions of the Bill in the Rules; etc. would be taken up for detailed discussions during the next Sittings.

7. The Chairperson directed the representatives of the Ministry of Finance to furnish brief note on some of the compelling issues as well as written replies to the queries of the Members that remained unanswered, to the Secretariat.

8. The Chairperson, thereafter, concluded the Sitting and announced that the discussion will resume the next day from Serial No. 76 onwards of the Batch-III of the suggestions.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Twenty-Ninth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Thursday, the 05th June, 2025 from 1100 hrs to 1600 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Shri Raju Bista
3. Shri Vishnu Dayal Ram
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri P P Chaudhary
6. Shri Bhartruhari Mahtab
7. Shri Naveen Jindal
8. Shri Anurag Sharma
9. Md. Rakibul Hussain
10. Shri Lalji Verma
11. Dr. Kalanidhi Veeraswamy
12. Shri Arvind Ganpat Sawant
13. Shri Ravindra Dattaram Waikar
14. Shri N.K. Premachandran
15. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Bharti S. Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
3. Shri Pankaj Jindal, JS (TPL-II)-CBDT
4. Shri Balasubramanian Krishnamurthy, JS (TPRU), DOR
5. Shri Prasenjit Singh, DGIT Investigation, Delhi
6. Dr. G.M. Doss, CCITTDS, Mumbai
7. Shri Ashok Kumar Jha, CCIT-11, Mumbai
8. Shri Anurag Sahay, CCIT (Central), Delhi
9. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
10. Shri Shahi Sanjay Kumar, Pr. CIT (Central-2), Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T.S. Muralidharan, Additional Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser

2. At the outset, the Chairperson welcomed the Members to the Twenty-Ninth Sitting of the Committee convened to take Oral Evidence of the Ministry of Finance (Department of Revenue). The representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice who were Witnesses for the meeting were called in and their attention was drawn to the 'confidentiality' of the proceedings, documents and discussions of the Select Committee as specified in Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. Thereafter, the Chairperson directed the Witnesses to resume the discussion on the comments/views of the Ministry of Finance (Department of Revenue) from Sl. No. 76 of Batch-III on the suggestions received from various stakeholders pertaining to the Income-tax Bill, 2025. The Chairperson requested the Members to intervene and seek clarification wherever there are issues that are important and compelling.

4. During the course of meeting, the Chairperson and the Members sought clarification on certain suggestions/points including determination of annual value of property under Clause 21(1) of the Income-Tax Bill, 2025; Amount payable by the assessee to a micro or small enterprise (MSME) beyond the time limit specified in section 15 of the MSME Development Act, 2006 under Clause 37(2)(g); Removal of Clause 46(10) of the Bill which relates to the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA); Reduction in the years (from 5 years to 2 years) for which assessee cannot take benefits of presumptive scheme under certain conditions; Transfer Pricing: Exemption from capital gains by investing in certain long term specified bonds issued by NHAI, REC, etc.; Transactions effected due to resolution plan approved by NCLT under IBC; and Source of Unexplained Credits. In response thereto, the Witnesses informed that they will furnish a written brief/note separately on these issues.

5. The Chairperson thereafter concluded the sitting at Serial No. 402 and announced that the discussion will resume from Serial No. 403 in the next sitting. The Chairperson appreciated the Witnesses for their continued commitment, dedication and hard work.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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Minutes of the Thirtieth Sitting of the Select Committee of Lok Sabha to examine The Income-Tax Bill, 2025.

The Committee sat on Monday, the 09th June, 2025 from 1100 hrs to 1600 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Shri Nishikant Dubey
3. Shri Sudheer Gupta
4. Shri Raju Bista
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Bhartruhari Mahtab
8. Dr. Amar Singh
9. Md. Rakibul Hussain
10. Shri Lalji Verma
11. Dr. Kalanidhi Veeraswamy
12. Shri Daggumalla Prasada Rao
13. Shri Kaushalendra Kumar
14. Shri Arvind Ganpat Sawant
15. Smt. Supriya Sule
16. Shri Ravindra Dattaram Waikar
17. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti Sanjeev Tuteja	-	Director
3.	Ms. Miranda Ingudam	-	Director
4.	Shri Nilendu Kumar	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
3. Shri Pankaj Jindal, JS (TPL-II)-CBDT
4. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
5. Shri Balasubramanian Krishnamurthy, JS (TPRU), DOR
6. Shri Prasenjit Singh, DGIT Investigation, Delhi
7. Shri Shahi Sanjay Kumar, Pr. CIT (Central-2), Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri T.S. Muralidharan, Additional Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser

2. At the outset, the Chairperson welcomed the Members to the Thirtieth Sitting of the Select Committee convened to take Oral Evidence of the Ministry of Finance (Department of Revenue). Thereafter, the representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice were called in and their attention was drawn to the confidentiality of the proceedings, as specified in Direction 55(1) of the *Directions by the Speaker, Lok Sabha*.

3. The Chairperson then stated that the Committee had deliberated till Sl.No.402 (Clause 121) of the replies furnished by the Ministry of Finance (Department of Revenue) in Batch-III of the suggestions received from various stakeholders pertaining to the Income-tax Bill, 2025 and the Committee would resume deliberations from Sl.No.403 onwards. The Chairperson requested the Members to intervene and seek clarification on issues that are important and

compelling. The Committee continued deliberations on Clauses 123 to 274 of the Income Tax Bill, 2025.

4. During the course of deliberations, the Chairperson and Members sought clarifications on various points which *inter-alia* include the following*:*

i. deductions in respect of maintenance including medical treatment of a dependant who is a person with disability,
ii. deductions for life insurance premium;
iii. deductions in respect of inter-corporate dividends;
iv. necessity of Unique Disability ID or the medical certificate for claiming deductions under Clause 154;
v. agreement with foreign countries or specified territories and GAAR provisions;
vi. computation of income from international transaction having regard to arm's length price;
vii. meaning of 'associated enterprise';
viii. tax on long term capital gains;
ix. Minimum Alternate Tax and Alternate Minimum Tax;
x. time limit for retention of impounded books of account or documents under Clause 246;
xi. ensuring right to privacy during search and seizure proceedings;
xii. time limit to issue directions under Clause 272 on certain cases by the Joint Commissioner(Income Tax);
xiii. Power of Survey;
xiv. faceless assessment.

5. The witnesses addressed the queries put forth by the Committee. During the deliberations, the representative from Ministry of Law and Justice clarified that it is the well-settled principle of drafting that after every clause there should be 'or'. If conjunctive is used, it may create problem. But 'or' is disjunctive and this matter is well-settled by courts also. They have also apprised the Committee that the Supreme Court judgment's is binding on the parties involved when it constitutes *ratio decidendi*. But the lawmaking authority, which is Parliament, can carve out and make a different law.

6. Additionally, the Chairperson emphasized that there should be a clean break from the existing Income Tax Act, 1961 and the new Bill should be self-contained even if it entails addition of a few more words. The Chairperson and Members also highlighted several critical points necessitating reconsideration by the Ministry and thorough examination by the Committee. These points *inter-alia* include:

i. separate and exclusive deduction for life insurance premium irrespective of the tax regime;
ii. deductions in respect of maintenance including medical treatment of a dependant who is a person with disability;
iii. usage of Unique Disability ID (UDID) issued under Rights of Persons with Disabilities (RPwD) Act, 2016;
iv. working of General Anti-Avoidance Rule (GAAR), Double Taxation Avoidance Agreement (DTAA) and Principal Purpose Test (PPT);
v. meaning of 'associated enterprise';
vi. benefits of Section 80M after its introduction in the Income Tax Act.
vii. arranging the Clauses in Chapter XII (Mode of payment in certain cases) in tabular form for better clarity and simplification;
viii. clarification whether surcharge would be included for computation of Minimum Alternate Tax(MAT);
ix. inclusive definition of 'qualifying ship';
x. providing for the computation mechanism in the Bill itself so that the Income-Tax Bill is self-contained.
xi. time limit to provide copies of books of accounts and other documents impounded;
xii. time limit for retention of items impounded;
xiii. issue pertaining to usage of the term 'any person' in certain Clauses;
xiv. statistics of success rate of raids;
xv. timeline for giving the copy of statement recorded;
xvi. search and seizure proceedings vis-à-vis privacy of individual;
xvii. providing copies of impounded books of accounts or other documents during survey.

7. The Committee considered and deliberated on the replies of the Ministry up to Serial No. 572 of Batch-III. The Chairperson stated that the discussion will resume from Serial No. 573 of Batch-III in the next Sitting. The Chairperson also

acknowledged and placed on record the sustained hard work and diligence of the Members of the Committee and the Secretariat due to which the Committee has reached this stage of examination of the proposed Bill. The Chairperson also expressed his gratitude to the representatives of the Ministry of Finance who have put in enormous efforts and come prepared for the Sittings of the Committee. The Sitting thereafter concluded.

(The Witnesses then withdrew)

(The Committee then adjourned)

A verbatim record of the proceedings has been kept.

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Minutes of the Thirty-First Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Tuesday, the 10th June, 2025 from 1000 hrs to 1600 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Eatala Rajender
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri P P Chaudhary
7. Shri Deepender Singh Hooda
8. Dr. Amar Singh
9. Md. Rakibul Hussain
10. Shri Lalji Verma
11. Dr. Kalanidhi Veeraswamy
12. Shri Daggumalla Prasada Rao
13. Shri Arvind Ganpat Sawant
14. Shri Ravindra Dattaram Waikar
15. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti S. Tuteja	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Ravi Agarwal, Chairman-CBDT
2. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
3. Shri Pankaj Jindal, JS (TPL-II)-CBDT
4. Shri Balasubramanian Krishnamurthy, JS (TPRU), DOR
5. Shri Prasenjit Singh, DGIT Investigation, Delhi
6. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
7. Shri Thakur Singh Mapwal, Director (TPL-I), Delhi
8. Dr. Samuel Pitta, Deputy Secretary (TPL-II), Delhi
9. Shri Ashish Agarwal, Deputy Secretary (TPL-III), Delhi
10. Shri Pardeep Sharma, Deputy Secretary (TPL-IV), Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T.S. Muralidharan, Additional Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser

2. At the outset, the Chairperson welcomed the Members to the Thirty-First Sitting of the Committeeconvened to take Oral Evidence of the Ministry of Finance (Department of Revenue). The representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice who were Witnesses for the meeting were called in and their attention was drawn to the 'confidentiality' of the proceedings, documents and discussions of the Select Committee as specified in Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. Thereafter, the Chairperson directed the Witnesses to resume the discussion on the comments/views of the Ministry of Finance (Department of Revenue) from Sl. No. 573 of Batch-III on the suggestions received from various

stakeholders pertaining to the Income-tax Bill, 2025. The Chairperson requested the Members to intervene and seek clarification wherever there are issues that are important and compelling.

4. During the course of meeting, the Chairperson and the Members sought clarification oncertain suggestions/points such as:

- status and functioning of Dispute Resolution Committees,
- concept of 'reason to believe',
- assessment after partition/partial partition of Hindu Undivided Families(HUFs),
- timeline and mechanism of block assessment procedures,
- workload of Assessing Officers and comparison with global counterparts,
- anonymous donations being exempted only for wholly religious Non-Profit-Organisations (NPOs) and not to mixed trusts,
- issues relating to Tax Deducted at Source (TDS) etc.

5. In response thereto, the Witnesses clarified on certain issues and informed that they will furnish a written brief/note separately on remaining issues. The Chairperson thereafter concluded the sitting after completion of Suggestions contained in Batch III.

(The Witnesses then withdrew)

A verbatim record of the proceedings has been kept.

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SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025 CELL

MINUTES OF THE THIRTY-SECOND SITTING OF THE SELECT COMMITTEE OF LOK SABHA TO EXAMINE THE INCOME-TAX BILL, 2025.

The Committee sat on Monday, the 16th June, 2025 from 1100 hrs to 1600 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Vishnu Dayal Ram
5. Shri Mukeshkumar Chandrakaant Dalal
6. Shri Naveen Jindal
7. Shri Vijaykumar Alias Vijay Vasanth
8. Shri Lalji Verma
9. Adv Priya Saroj
10. Dr. Kalanidhi Veeraswamy
11. Shri Daggumalla Prasada Rao
12. Shri Arvind Ganpat Sawant
13. Smt. Supriya Sule
14. Shri Ravindra Dattaram Waikar
15. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti S. Tuteja	-	Director
3.	Ms. Miranda Ingudam	-	Director
4.	Shri Nilendu Kumar	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ravi Agarwal, Chairman-CBDT
3. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
4. Shri Pankaj Jindal, JS (TPL-II)-CBDT
5. Shri Prasenjit Singh, DGIT Investigation, Delhi
6. Shri Anurag Sahay, CCIT (Central), Delhi
7. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
8. Shri Shahi Sanjay Kumar, Pr. CIT (Central-2), Delhi
9. Shri Vipul Agarwal, CIT, Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T.S. Muralidharan, Additional Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser

2. At the outset, the Chairperson welcomed the Members to the Thirty-Second Sitting of the Committee convened to take oral evidence of the Ministry of Finance (Department of Revenue) on the Income Tax Bill, 2025 – Clause by Clause and general discussion. The representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice who were Witnesses for the Sitting were called in and their attention was drawn to the 'confidentiality' of the proceedings, documents and discussions of the Select Committee as specified in Direction 55(1) of the Directions by the Speaker, Lok Sabha. The Chairperson also acknowledged and appreciated the commendable work done by the Ministry.

3. Thereafter, the Committee took up the suggestions received from various stakeholders in Batch-II and Batch-IV for deliberation. The Chairperson requested Members to feel free to seek clarifications or initiate further deliberations as and when they deem necessary. Then, the

Committee deliberated on all the suggestions received in Batch-II and Batch-IV, i.e., from S.No. 1 to S.No. 93 in Batch-II and S.No. 1 to S.No. 157 in Batch-IV.

4. The Committee, *inter-alia,* deliberated/requested the Ministry to furnish a note/reconsider their reply on the following topics, *viz*. definition of 'Accountant', 'Systemic Failure' 'Books of Account', and 'Computer, Computer System, Computer Resource or Communication Device', provisions related to Virtual Digital Assets (VDAs), norms related to Non-Performing Assets(NPAs), Valuation of Assets, timeline for filing response to Notice, Appeals to Appellate Tribunal, Tax Refunds, Penalty on Under-Reporting, computation of income on presumptive basis, Applicability/Sunset clause, Capital Gains provisions related to MSMEs, Income Computation and Disclosure Standards (ICDS), scope of Section 270(1)(a), computation of undisclosed income of the block period, penal provisions relating to cash transactions, TDS on partner remuneration, tax on the 'Notice Period Pay', deductible treatment expenses, etc.

5. During the Sitting, the Chairperson and the Members sought clarification on various suggestions/points. The Committee decided to proceed with discussions with the Ministry on both general and complex issues, including clauses set aside for deeper deliberations, in their next Sitting scheduled for 17th June 2025.

(The Witnesses then withdrew)

The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record.

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Minutes of the Thirty Third Sitting of the Select Committee of Lok Sabha to examine The Income-Tax Bill, 2025.

The Committee sat on Tuesday, the 17th June, 2025 from 1100 hrs to 1230 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Shri Nishikant Dubey
3. Shri Jagadish Shettar
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri Shashank Mani
6. Shri Naveen Jindal
7. Shri Anurag Sharma
8. Shri Vijayakumar alias Vijay Vasanth
9. Shri Lalji Verma
10. Adv. Priya Saroj
11. Dr. Kalanidhi Veeraswamy
12. Shri Daggumalla Prasada Rao
13. Shri Arvind Ganpat Sawant
14. Smt. Supriya Sule
15. Shri Ravindra Dattaram Waikar
16. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Bharti Sanjeev Tuteja	-	Director
3.	Ms. Miranda Ingudam	-	Director
4.	Shri Nilendu Kumar	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri Arvind Shrivastava, Secretary (Revenue)
2. Shri Ravi Agarwal, Chairman-CBDT
3. Shri Ramesh Narain Parbat, Member (Legislation)-CBDT
4. Shri Pankaj Jindal, JS (TPL-II)-CBDT
5. Shri Balasubramanian Krishnamurthy, JS (TPRU), DOR
6. Shri Prasenjit Singh, DGIT Investigation, Delhi
7. Dr. G.M.Doss, CCIT-TDS, Mumbai
8. Shri Ashok Kumar Jha, CCIT-11, Mumbai
9. Shri Anurag Sahay, CCIT (Central), Delhi
10. Shri Raman Chopra, Pr. CIT (Central-1), Delhi
11. Shri Shahi Sanjay Kumar, Pr. CIT (Central-2), Delhi
12. Shri Vipul Agarwal, CIT, Delhi

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T. S. Muralidharan, Additional Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Dr. R.J.R. Kasibhatla, Joint Secretary & Legal Adviser

2. At the outset, the Chairperson welcomed the Members to the Thirty Third Sitting of the Select Committee convened to continue the ongoing sequence of Oral Evidences of the Ministry of Finance (Department of Revenue). Thereafter, the representatives of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT) and the Ministry of Law and Justice were called in and their attention was drawn to the confidentiality of the proceedings, as specified in Direction 55(1) of the *Directions by the Speaker, Lok Sabha*.

3. The Chairperson then stated that the Committee had completed the deliberations with the Ministry of Finance (Department of Revenue) on all the

four (04) Batches of the replies furnished by the Ministry of Finance (Department of Revenue) in response to the compilation of the suggestions received from various stakeholders pertaining to the Income-Tax Bill, 2025. The Chairperson further informed that the Committee would take up discussion with the Ministry on their replies to the first batch of List of Points (LoPs), comprising of 40 general queries. It was also stated that though replies from the Ministry on subsequent LoPs were awaited, the Ministry would be called again only if there was a compelling need to do so since most of these issues have already been discussed threadbare and the Committee can internally discuss the responses. The Committee then started with their deliberations on the Replies to the List of Points sequentially.

4. During the course of deliberations, the Chairperson and Members sought clarifications on various points which *inter-alia* include the following*:*

i. Definition of company in which the public is substantially interested with the definition given in the Companies Act;
ii. Definition of demerger with specific reference to Section 230, 231 and 232 of Companies Act and issues associated with fast track demerger;
iii. Double taxation relief and meaning of the word used in double taxation agreement as provisioned in Clause 159
iv. Definition of transfer pricing vis-à-vis arms length pricing associated with the definition of Associated Enterprises as mentioned in Clause 162 alongwith details of 162(1) and 162(2);
v. Issues related to royalty income from patents registered in India;
vi. Expansion of the definition of GDR to include units of business trusts as underlying securities;
vii. Replacement of the word “notwithstanding” with “irrespective of”;
viii. Issues related to faceless jurisdiction of the income tax authorities;
ix. Tribunal Reforms’ Act and the need for increasing the number of professionals;
x. Dispute Resolution Committee, issues associated with it alongwith increasing the amount ceiling from Rs. 50 Lakh to 1 Crore under its jurisdiction for resolution; Comparison of Dispute Resolution Committee (DRC) and Dispute Resolution Panel (DRP) and their functioning;
xi. Alternate Dispute Resolution Forum; Arbitration; Global best practices on these; Settlement Commission, etc.

5. The Witnesses responded to the queries put forth by the Committee. During the deliberations, on being asked to intervene, the representative from Ministry of Law and Justice clarified that though the word 'notwithstanding' have been used without prejudice save as otherwise provided, a decision was taken at the highest level that colonial wordings or jargons which irritated common man had to be replaced and was replaced with 'irrespective of'. The representative further clarified on 'Search and Seizure provisions' that suggestions for taking oath under a Magistrate was not required as it was a quasi-judicial process as stated by the Ministry of Finance. He also clarified on the Tribunal Reforms Act, 2021 under which Rules were framed for qualification, terms and conditions of Service of the Members of the Income Tax Appellate Tribunal (ITAT) and any amendment in the law has to be done by Parliament and as such, is a policy decision, beyond the scope of the Bill.

6. Thereafter, the Chairperson acknowledged and placed on record the sustained hard work and diligence of the Members of the Committee and the Secretariat due to which the Committee has progressed so far in the examination of the proposed Bill. The Chairperson also expressed his gratitude to the representatives of the Ministry of Finance for their sustained efforts and patient cooperation and appreciated that the Ministry had accepted a large number of the suggestions, which indicated open mindedness on their part.

(The Witnesses then withdrew)

(The Committee then adjourned)

A verbatim record of the proceedings has been kept.

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Minutes of the Thirty-Fourth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Wednesday, the 02nd July, 2025 from 1100 hrs to 1300 hrs. in Committee Room 'C', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Raju Bista
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri P P Chaudhary
6. Shri Shashank Mani
7. Shri Benny Behanan
8. Shri Vijayakumar Alias Vijay Vasanth
9. Dr. Amar Singh
10. Adv. Gowaal Kagada Padavi
11. Md. Rakibul Hussain
12. Shri Lalji Verma
13. Ms. Mahua Moitra
14. Dr. Kalanidhi Veeraswamy
15. Shri Kaushalendra Kumar
16. Shri Arvind Ganpat Sawant
17. Smt. Supriya Sule
18. Shri Ravindra Dattaram Waikar
19. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Ms. Bharti S. Tuteja	-	Director
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

List of Representatives

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T.S. Muralidharan, Additional Legislative Counsel
4. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Shri M.C. Prusty, Sr. Govt. Advocate
2. Shri Arpit Anant Mishra, Deputy Legal Adviser

2. At the outset, the Chairperson extended a warm welcome to all the Members and representatives from the Ministry of Law and Justice (Legislative Department and Legal Affairs) to the Thirty-Fourth Sitting of the Committee convened to hold internal deliberations of the Select Committee on the Income-Tax Bill, 2025.

3. Thereafter, the Chairperson briefed the Members on the work done by the Committee during the course of 33 Sittings where the Committee have undertaken thorough and methodical examination of the Bill including an intensive Clause-by-Clause review in the last eight (08) Sittings in the presence of representatives from the Ministry of Finance and CBDT. The Chairperson stated that the total number of hours of Sitting of the Committee amounted to more than 120 hours; total number of stakeholders who appeared before the Committee stood at 68; the total number of memoranda received was 286; total number of suggestions that have been accepted so far by the Ministry of Finance was 281 which included a mix of technical correction as well as several substantive recommendation that have significantly improved the draft legislation.

4. The Chairperson also drew the attention to the provision of Direction 81(1) of the Directions by the Speaker, Lok Sabha regarding submission of Memoranda on the Bill by the Members of the Committee.

5. During the course of meeting, the Chairperson clarified certain core issues and grey areas in the Bill raised by the Members. This *inter-alia* included issues such as justification for different definitions for different matters, creation of more qualified tax professionals even from Cost Accountants and Company Secretaries or others without compromising the merits, randomization of faceless assessment cases, taxation provisions for NRIs, real-time e-ledger system, raising threshold limits for Dispute Resolution Panel (DRP) and Dispute Resolution Committee (DRC), tax on gifts given to family members, Rajasthan High Court Model to dispose of pending litigations, safeguarding dignity of taxpayers during search and survey, issues about benefits to the Scheduled Tribe Areas, etc.

6. Thereafter, on the suggestions raised by Members for a structured sitting on pending issues, the Chairperson directed the Secretariat that the list of suggestions received from stakeholders which have been accepted by the Ministry of Finance and the Points for discussion during the next Sitting to be held on 07th July, 2025 may be circulated to Members.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the Thirty-Fifth Sitting of the Select Committee of Lok Sabha to examine the Income-Tax Bill, 2025.

The Committee sat on Monday, the 07th July, 2025 from 1100 hrs to 1300 hrs. in Committee Room 'D', Parliament House Annexe (PHA), New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Dr. Anil Baluni
3. Shri Vishnu Dayal Ram
4. Shri Mukeshkumar Chandrakaant Dalal
5. Shri Bhartruhari Mahtab
6. Shri Anurag Sharma
7. Shri Deepender Singh Hooda
8. Shri Benny Behanan
9. Dr. Amar Singh
10. Md. Rakibul Hussain
11. Shri Lalji Verma
12. Ms. Mahua Moitra
13. Dr. Kalanidhi Veeraswamy
14. Shri Kaushalendra Kumar
15. Shri Arvind Ganpat Sawant
16. Smt. Supriya Sule
17. Shri Ravindra Dattaram Waikar
18. Shri N. K. Premchandran
19. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

List of Representatives

Ministry of Law and Justice (Legislative Department)

1. Shri Udaya Kumara, Additional Secretary
2. Shri R.K. Pattanayak, Joint Secretary & Legislative Counsel
3. Shri T.S. Muralidharan, Additional Legislative Counsel
4. Shri Satish Murugan P., Deputy Legislative Counsel

Ministry of Law and Justice (Department of Legal Affairs)

1. Shri M.C. Prusty, Sr. Govt. Advocate
2. Shri Arpit Anant Mishra, Deputy Legal Adviser

2. At the outset, the Chairperson extended a warm welcome to all the Members and representatives from the Ministry of Law and Justice (Legislative Department and Legal Affairs) to the Thirty-Fifth Sitting of the Committee convened to hold internal deliberations of the Select Committee on the Income-Tax Bill, 2025.

3. Thereafter, the Chairperson briefed the Members on the work done by the Committee during the course of 34 Sittings where the Committee have undertaken thorough and methodical examination of the Bill including an intensive Clause-by-Clause review in the presence of representatives from the Ministry of Finance and CBDT and internal deliberations of the Members on the Bill during the previous Sittings. The Chairperson stated that the total number of hours of Sitting of the Committee amounted to more than 123 hours; total number of stakeholders who appeared before the Committee stood at 68; the total number of memoranda received was 286; total number of suggestions that have been accepted so far by the Ministry of Finance was 281 which included a mix of technical correction as well as several substantive recommendation that have significantly improved the draft legislation.

4. The Chairperson also informed the Members that the drafting of the Report was in progress and the draft Report alongwith the final draft of the Bill based on the general sense of the Committee will be taken up for adoption at the final Sitting. The Chairperson also drew the attention to the provision of Direction 81(1) of the Directions by the Speaker, Lok Sabha regarding submission of Memoranda on the Bill by the Members of the Committee.

5. During the course of Sitting, the Chairperson clarified certain core issues and grey areas in the Bill raised by the Members such as taxing the digital value loop and data-driven profits; the provisions relating to 'irrespective of,' 'according to,' and 'notwithstanding; taxability of reinvested funds in a charitable trust; definition of Cost Accountants; source of unexplained income; taxation provisions for NRIs; issues related to tax benefits to the Scheduled Tribe Areas, etc.

6. Thereafter, Chairperson acceded to the requests made by the Members to submit written suggestions, preferably within three days.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

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Minutes of the 36th Sitting of the Select Committee on the Income Tax Bill, 2025.

The 36th sitting of the Select Committee was held on Wednesday, the 16th July, 2025 from 1100 hrs to 1230 hrs. in the Committee Room B, Parliament House Annexe, New Delhi.

PRESENT

Shri Baijayant Panda - Chairperson

LOK SABHA

2. Dr. Nishikant Dubey
3. Shri Sudheer Gupta
4. Shri Anil Baluni
5. Shri Raju Bista
6. Shri Eatala Rajender
7. Shri Vishnu Dayal Ram
8. Shri Mukesh kumar Chandrakaant Dalal
9. Shri Shashank Mani
10. Shri Bhartruhari Mahtab
11. Shri Anurag Sharma
12. Shri Vijayakumar Alias Vijay Vasanth
13. Dr. Amar Singh
14. Adv Gowaal Kagada Padavi
15. Shri Lalji Verma
16. Adv Priya Saroj
17. Ms Mahua Moitra
18. Dr.Kalanidhi Veeraswamy
19. Shri Daggumalla Prasada Rao
20. Shri Arvind Ganpat Sawant
21. Smt. Supriya Sule
22. Shri Ravindra Dattaram Waikar
23. Shri N K Premachandran
24. Shri Richard Vanlalhmangaiha

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Ms. Miranda Ingudam	-	Director
3.	Shri Nilendu Kumar	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee, convened to consider and adopt the Draft Report on the Income Tax Bill, 2025 and the Bill as amended. The Chairperson appraised that the Committee would try to build a consensus in the adoption of the Draft Report, however, Members desirous of submitting dissent note might do so by 1100 hrs on 17 July, 2025 so that the Report could be finalised and presented to the Lok Sabha on the First Day of the Monsoon Session that is on 21st July,2025.

3. The Committee then took up consideration of the Draft Report and the Bill as amended which were both adopted by the Committee unanimously.

4. The Committee then authorized the Chairperson to finalise the Report in light of the factual verifications made by the Ministries concerned and the grammatical mistakes ,if any, and present the same along with the Bill as amended to the Lok Sabha.

6. Further, the Committee also authorized the Chairperson to present the Report and the Bill as amended to Lok Sabha on the First Day of the Monsoon Session that is on 21st July,2025.

7. The Committee also appreciated the efforts of the officials of the Lok Sabha Secretariat, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, and Ministry of Law and Justice (Legislative Department and Department of Legal Affairs).

The Committee then adjourned.

A copy of verbatim record of the proceedings is placed on record

DR. AMAR SINGH
Member of Parliament
(Lok Sabha) (Ex-IAS)
Shri Fatehgarh Sahib-Punjab
Secretary-CPP (Congress Party in Parliament)

सत्यमेव जयते

MEMBER:
- Standing Committee on PAC
- Standing Committee on Petroleum & Natural Gas
- Consultative Committee on Information & Broadcasting

Dissent Note/Suggestions on Income Tax Bill 2025

Respected Chairman Sir,

The Select Committee examining the Income Tax Bill 2025 has been working for past three months. Regular meetings have been held and very wide-ranging feedback has been gathered from stakeholders from across the country. Chartered Accountants, Firms with expertise in Tax Law, Industry bodies like FICCI, CII, trusts etc. all placed their views in front of the committee.

Rules 72 through 76 of Lok Sabha Rules of Procedure deal with Select Committees. Confidentiality and autonomy of operation are important precedents that have been set by previous Select Committees. The power to call expert opinions and suggest changes to the bill being examined are part and parcel of the responsibility of the Select Committee. In the present case, all the suggestions received by the esteemed Committee were sent to the Ministry of Finance for consideration, out of which 281 suggestions were accepted, most of them being minor changes.

I wish to put on record that an exercise of this magnitude could have achieved far more than the present proposed amendments. The power of Parliament to review laws passed by itself in due time is a powerful tool bestowed to ensure that over time with experience laws become more efficient and citizen friendly. Hence, the Income Tax Bill 2025 should have ideally reduced litigation, appeal decision periods and undue harassment of tax payees. Unfortunately, in its current form this is unlikely to happen. Despite so much feedback the Government has decided

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Member of Parliament (Lok Sabha)
Shri Fatehgarh Sahib

DR. AMAR SINGH
Member of Parliament
(Lok Sabha) (Ex-IAS)
Shri Fatehgarh Sahib-Punjab
Secretary-CPP (Congress Party in Parliament)

सत्यमेव जयते

MEMBER:
- Standing Committee on PAC
- Standing Committee on Petroleum & Natural Gas
- Consultative Committee on Information & Broadcasting

largely to simplify the language and make minor tweaks rather than dramatically change the Income Tax law to remove pain points for both the income tax payees and the assessing Government agencies.

The general feedback from stakeholders was that the proposed changes would increase likely scenarios for unnecessary harassment and litigation rather than reduce its scope. Just a small example is the proposed change that during a raid any person present may be detained for questioning as part of the investigation. House staff, relatives or visiting acquaintances are just some of the categories of people who may be detained even when they have nothing to do with any violation the house owner maybe committing. Power to investigate tax violations must always be balanced by sanctity of individual fundamental rights and liberty in a democracy.

Among the suggestions the most common were problems faced by tax payees and what changes could be made to fix the same. The 281 suggestions accepted however will do nothing to fix the common issues that most tax payees face. Few examples of sought changes by stake holders which could have been included are-

1. Demand for changes to law to ensure that majority appeals are decided in one year. For context there are lakhs of appeals pending at Commissioner Appeals level for years. A set timeline on appeals would ensure higher tax payee confidence in the procedure.

Dr. Amar Singh
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Shri Fatehgarh Sahib

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2. Demand for reducing powers proposed under Section 247- the wording of the section gives very wide-ranging power to the Government to force tax payees to hand over all types of personal digital data including passwords, chats etc. Most stakeholders demanded holding onto the wording of the 1961 Act in the interest of individual privacy and to respect the Hon'ble Supreme Court ruling on Right to Privacy as a Fundamental Right of individuals.
3. Demand for continuing with interpretations of clauses and words as per rulings of Hon'ble Supreme Court of India. The proposed changes to already settled questions of law and interpretation is likely to lead to an increase in litigation.
4. Demand for reducing overreaching power of assessment officers including Section 249 which allows the officer to deny providing the reasons for re-assessing to even the concerned tribunals. A clause specifying the circumstances under which re-assessment can take place would create a more transparent and equitable environment.
5. A revisit to relevant provisions of the Bill is required to reduce the challenges faced by large income tax payees with respect to income tax refunds and 20% advance for filing appeals.
6. The definition of "agricultural income" and its interpretation may not be changed from the 1961 Act to ensure that no undue pressure is put on farmers.

Dr. Amar Singh
Member of Parliament (Lok Sabha)
Shri Fatehgarh Sahib

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DR. AMAR SINGH
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Shri Fatehgarh Sahib-Punjab
Secretary-CPP (Congress Party in Parliament)

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MEMBER:
- Standing Committee on PAC
- Standing Committee on Petroleum & Natural Gas
- Consultative Committee on Information & Broadcasting

Sir, the above are a few examples from among the vast number of productive and useful suggestions we received. The actual number was quite large. Even at this stage I would request that we consider changing the language and incorporating the most useful of these suggestions to make the Income Tax Bill 2025 relevant to the needs of our nation's taxpayers in the year 2025.

Yours sincerely,

Dr Amar Singh, MP (LS)
Sri Fatehgarh Sahib
Punjab

Dr. Amar Singh
Member of Parliament (Lok Sabha)
Shri Fatehgarh Sahib

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16 July 2025

To: Chairman Income Tax Committee 2024

Shri Bayjant Panda

Lok Sabha Secretariat

Subject: Three suggestions for inclusion in the Income Tax Bill 2024 Annexure

Suggestion 1: Assessment of Balance Sheet of Government

Today the government is only using P&L accounting, which does not include an **Assessment of the Balance sheet** of what the government owns. This is different from private enterprises and public sector units. By not doing accrual accounting the assets that are possessed by the government are not properly estimated and therefore their use, accurate accounting, upkeep and maintenance is not looked into with any degree of interest or accuracy. In addition, there are hidden assets that may not be visible to the Government, which once properly accounted can support a one of thrust for Viksit Bharat.

I propose that the government should also start accounting for its balance sheet, which will indicate to the government and to the general public the list of assets owned by the government. This will allow both the government and the public (who are ultimate owners of that asset) to better utilize them and maintain them.

Possible Next Steps:

This can be done by a one-off accounting that understands and documents the balance sheet value of the government followed by accounting every year that includes any new asset that the government creates or purchases.

Suggestion 2: Risk based Tax Accounting using Technology

Risk based tax accounting has been trailed in some countries. This implies that instead of treating each and every tax payer in a similar manner, a risk register is created and used to focus the efforts of the Tax department towards would be defaulter. Over a period of time, and using AI techniques this can be evolved to a point that many tax payers (those showing more compliant behaviour) are asked to file taxes, but are dropped from Tax Department scrutiny.

Such an approach would lessen the burden of assessment of the Tax department, alongside lowering the load of Tax assessment to the citizen who have shown behaviour that is not risky. This approach has been taken in some countries (as testified by many accounting firms in our Mumbai session).

Possible Next Steps:

After consulting with those countries that have trialled this out, we can learn from them to trial this in a few segments of the taxpaying population. After the success of such pilots, it can be scaled up across the country.

Suggestion 3: Training of IT Officials and Communication to Citizens

Income Tax training of officials and communication to citizens should be part of the process of introducing the Income Tax Bill 2024. This is required as with this process, while the letter of the Act has been simplified and shortened, the spirit of how officials and citizens behave should also be addressed.

In relation to Income Tax officials, we should institute extra training modules that inform them of the apprehension that came up in almost every sitting of the committee that many Income Tax officials still have an extractive mindset. While revenue loss must be protected, the Income Tax official has to follow rules that give the benefit of doubt to citizens, makes their Income Tax experience more agreeable, and dispose of their claims in a timely manner.

Similarly, the Income Tax Bill introduction and acceptance should be done with significant public communication. This public communication would outline how this bill is a result of bi-partisan support in the committee and the Parliament. It should also highlight the necessity of paying taxes in a clean and timely manner will help strengthen the nation. This has been done in a public participation or *Janbhagidari* mode for many programs like Ujjwala and Swachh Bharat, and a smaller form or public engagement will go a long way in participation of tax payers.

Both Officials and Tax payers at this point in spirit stand against each other. The suggested training and communication will go a long way in strengthening the gap between these two. This will ensure that the spirit behind the simplification of Income Tax Act is seen by both parties, leading to ease of implementation.

<u>Possible Next Steps:</u>

Such an effort would require creating additional training modules for Income Tax officials that focus on behavioural shifts. It would require coming out with a mass campaign similar to Ujjwala or other *Janbhagidari* schemes to outline the simplification and encourage citizens to take part more fully in the Tax Process.

Thanking you for your consideration to include this in the Annexure of the revised draft bill.

Yours sincerely,

Shashank Mani

MP, Lok Sabha Deoria

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www.shashankmani.in

cc: Income Tax Bill Secretariat

N.K. PREMACHANDRAN
Member of Parliament
(Lok Sabha)
Kollam, Kerala

सत्यमेव जयते

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No.1398/MP/KLM/2025 17/07/2025

Dear Shri. Baijayant Panda ji,

As per the directions of the Select Committee meeting dated 16th July 2025 of Income Tax Bill 2025, I am submitting my observations and suggestions regarding the Bill.

I. **Introductory Remarks**

Income Tax Bill 2025 is only proposing simplification of language and thematic consolidation of the Tax provisions. A new Income Tax law was tabled, the taxpayer community of this nation (which is a minority) were hoping for something pristine. This urge (in taxpayers) for the new law was due to (i) presence of several provisions in the statute which had lost their relevance / or were phased out; (ii) digital and technological disruptions in business necessitated newer tax norms; (iii) transformations in the international tax space; (iv) scattered provisions (largely due to piecemeal and patchy amendments); (v) complex language to accommodate the conditionalities and exceptions and scattered provisions which made reading of the provisions in a coordinated manner difficult. Concomitantly, there is pressure on the regulatory environment to absorb, assimilate and respond appropriately to such changes. The stage is therefore set for a 'change'. The schematics and manner of executing the change is a choice that the Government must make. The change must give India a new vision and reinforced mission.

A paradigm shift was felt the need of the hour. Overhaul at the policy level was required. The Government eulogizes that the new law

would go by the mantra of "trust first and scrutinize later". The public trust can be won only if the promised change is transformational. The exercise of the new Income Tax Bill could woefully fail if it merely remains as a reformatting or semantic glorification of the law.

Therefore the amendment exercise must be carried out in 'substance' otherwise all the efforts would only be superficial. The new law should :

(a) Enhance the ease of doing business in India;

(b) It should attract talent and deter the brain drain;

(c) Induce modern and strong principles;

(d) The certainty, simplicity and justice dispensation should be the ethos of the new law;

(e) Secure tax that is fair and equitable.

There are a few 'feel good' factors in the Bill. To name a few:

(a) The size of the present income -tax statute has been substantially reduced. This weeds out the redundancy in the statute.

(b) The language is simpler and seems to be on the direction of 'ease of reading and understanding' the law, in the manner it ought to be. This is the hallmark of proficiency displayed in this creation.

(c) The simplified structure is a highlight of this Bill achieved by being bereft of multiple sub sections, explanation, provisos, clauses, sub-clauses and limbs. Cases of 'exceptions to exceptions' or 'double negatives' appear to be a matter of past. The uses of tables make the reading easier.

(d) The ‘no incentive’ policy which has been advocated for close to a decade now has been gradually implemented. The statute is moving away from the ‘induced behaviour’ regime.

(e) The effective, consistent, wide and deep use of technology in the compliance and administration of the tax system would increase the efficiency. It is expected that the AI would only tighten the technological snags.

In short, these are steps in the right direction. However, there are many and more concerns voiced by several doyens of tax at multiple forums. To name a few:

i. In an urge to trim the language, one cannot skim the ethos of the present matured statute. The ease of reading and conveying a legal concept clearly does not every time lie in cutting down by words.

ii. The statute is sought to be lightened by moving the operative sections to annexure in a tabular format. The accomplishment of ‘statute shrinking’ is at the cost of complex structure of tables into columns, rows, clauses, items therein.

iii. The choice or replacement of terms to render the Act ‘reader friendly’ has resulted in several avoidable irreconcilable inconsistencies.

iv. The transformation in the status of several provision (from proviso to sub-section or explanation to sub-section or operative portion to an annexure) merely to achieve a ‘proviso or explanations free law’ is likely to be at the cost of several interpretational issues.

v. Largely, no substantive changes have been made through the Bill. However, the few ones made appear to be lopsided and in favour

of Revenue authorities without providing a rationale for such change.

The overhauling of the legislation is the need of the hour. The Government rightly took heed of the pulse of the nation. Simplicity and certainty in the legislation will boost the foreign investment and re-energize the economy. The Bill should steer away from multitude of tax regime such as AMT and MAT. The recharacterization of incomes (buy-back tax being recharacterised as dividend income) could defy the fundamental provisions of the statute. The empowering of legislative forums (ITAT, DRP CIT(A)) should be of utmost priority. Harmonisation of capital gains across various transactions will usher in uniformity. The Bill on proper execution could accelerate the country's run towards Saksham Bharat; Samrath Bharat; Naya Bharat.

Income - tax statute does not only address the needs of the exchequer. The construct of the Act is equally critical for the tax paying public; for administration of the industry; and for the judiciary. The present Act does not reflect the aspirations of all the segments. An exercise by one of them, professing to address concerns of all is bound to be short of the goals to be achieved.

Drafting an income-tax law for a country like India having a rich history of tax as a subject is herculean. The urge to draft such a law in short period reflects a prevalence of the time factor over quality. It seems to lack the intensity of effort to improve the law. The Bill does not reflect on whether a new draft was necessary when we have earlier drafts of 1998 and 2010. Could these have been used or improved upon?

Tax collection is important but building and winning the trust of the taxpayer is also of equal importance. However, the income - tax Bill, as it stands, is a drill that does not reflect the stated intent of the Parliament.

Some of the articles in the public domain echo this sentiment. The Bill should not cause aspersions on the intent of the Government. It could potentially be a heap of 'lost opportunities' which failed to plug the present anomalies, ambiguities and contradictions in the Act which indirectly would have ended several long standing litigative issues. Under the present dispensation, shorn of the redundant section(s) the statute would have become a manageable Act. The language may have remained complex, but familiarity would have eased the life.

II - Structural and Operational suggestions.

1. The savings clause which says that all the old provisions will continue consequent to the legislation of the new Act that will come into force on 01-04-2026. It is expected that all the old judgments and rulings interpretations by the judicial for a should be followed. Tax payers should not be subjected to fresh litigation all over again. This savings clause has been introduced with a view to reducing words. If the count of words could be compromised, it is desirable to capture the provisions in saving clauses as a separate section so that tax payers need not have to refer to two Acts.

2. In some sections, the existing word " where" have been replaced with "when" and "if". The impact, meaning and appropriateness of these inconsistent replacements in lieu of "where" may lead to unnecessary / divergent views on interpretation that may lead to uncalled for litigation.

3. There is a case to retain 'Notwithstanding' as against the proposed replacement viz. "Irrespective of" in view of the time -tested jurisprudence on the concept. The proposed change may lead to interpretational issues.

4. Replacing the words “According to’ by ‘As per’ in various sections may also lead to interpretational issues.

5. With regard to Funds that are eligible for deductions [S 80G of the it Act, 1961 clause 133 of the Bill, the list of funds may be taken to schedule so that it becomes easier for the legislature to add / delete funds.

II. Specific substantive suggestions.

1. Streamline tax regime - Remove the old regime

Current position: The coexistence of the of and new tax regimes causes significant complexity.

Suggestion:

To truly simplify the tax system, one of the primary objectives of the new Bill, it is recommended to completely phase out the old tax regime.

Many deductions (e.g., HRA [Section 10(13A)], LTA [Section 10(5)], political donations [Sections 80GGC] are sources of compliance issues and fake claims. Removing the old regime:

- Simplifies slabs and rates.
- Reduces manipulative tax planning.
- Decreases scrutiny and administrative burden.
- Enhances tax revenue by closing frequent loopholes.

Reference:

Old deductions allowed under Chapter VI-A and Section 10 exemptions; new Bill clauses referring to “eligible deductions and exemptions” can be pruned accordingly.

2. Simplify capital gains reinvestment exemptions.

Current position**:** Sections 54, 54EC, 54F etc contain multiple conditions (holding period, property type, timelines), creating significant litigation.

Suggestion: Retain reinvestment benefits but reduce the conditions and restrictions.

Possible steps**:**

- Standardize reinvestment period across sections.
- Allow broader reinvestment options (eg. Any residential property, not necessarily one).
- Simplify or merge multiple capital gain exemption sections under one clause in the Bill (Clauses 83-95) in the new Bill.

3. Revise Safe Harbour Margins

Current position**:** Safe Harbour Rules (SHR) under section 92CB and related CHBT notifications require high profit margins (e.g., 17% or more).

Suggestions:

Reduce safe harbour margins to around 12-14%, better aligned with typical transfer pricing margins derived from benchmarking studies.

- Encouraging more taxpayers to opt for SHR.
- Reduces transfer pricing litigation significantly.

Reference: Section 92CB of ITA 1961; Clause 15B (Transfer Pricing chapter) in the new Bill.

4. Rationalise TDS rates.

Current position:Multiple TDS rates across various sections (194C, 194J, 194H etc) create confusion and compliance errors.

Suggestion: Consolidate TDS rates to one or two standard service related rates. (eg. 2% and 5% or 10%), covering most payments.

- Simplifies the TDS schedules (now consolidated under Clauses 145-153 in the new Bill).
- Reduces errors and administrative overhead.

5. Extend deadline for revised and belated returns.

Current position: Revised returns deadline (currently December 31 of AY) applies equally to corporates and non- corporates, despite different original due dates (Section 139 (5))

Suggestion:

Extend deadline for filing revised and belated returns to March 41 of the assessment year, providing sufficient time to correct errors.

- Reduces pressure on tax payers and professionals.
- Improves voluntary compliance.

Reference: Section 139 (5) in ITA 1961; clause 260 (Return Filing Procedures) in the new Bill.

6.. **Simplify carry forward and set-off rules.**

Current position: Complex set-off rules across heads and for different types of losses (Sections 70 to 80).

Suggestion:

- Allow broader set-off across heads of income.
- Streamline loss carry forward provisions into a unified clause.

Reference : Sections 70-80 in ITA 1961; Clauses 105-115 in the new Bill.

7. Address double taxation on dividends.

Current position: Dividends are paid from post - tax profits and taxed again in shareholders hands (Section 115BBDA, post - abolition of DDT).

Suggestion:

- Permit dividend as a deductible expenditure for private limited companies.

- Tax dividends only in the hands of shareholders.

This change:

- Eliminates economic double taxation.

- Supports private business in distributing genuine profits without high tax cost.

Reference - Sections 115-0 and 115BBDA in ITA 1961, Clauses 96-102 in the new Bill.

8. Extend indexation benefit to NRIs.

Current position : NRIs cannot claim indexation on sale of immovable property (as per Section 48, proviso);

Suggestion: Reintroduce indexation benefit for NRIs, ensuring fair treatment and preventing forced work around strategies (e.g. gifting to residents)

- Aligns with equity principle.

- Reduces misuse and structuring.

Reference: Section 48 in ITA 1961; clauses 87-95 in the new Bill (Capital Gains).

9. Strengthen Advance Ruling mechanism.

Current position: Advance Ruling mechanism is slow and limited in scope.

Suggestion:

- Strenthen AAR with more manpower and resources.

-Allow any taxpayer (resident or non-resident, small or big) to seek ruling for future transactions.

- Charge only a nominal fee, making it more accessible.

Benefits:

- Significantly reduces future litigation.

- Provides certainty and confidence in tax positions.

Reference: Sections 245N to 245V in ITA 1961; clauses 290m- 295 in the new Bill.

10. Search and Seizure

Clause 247 (1) of the Income Tax Bill 2025 empowers the authorities to have access on the virtual digital platform of Assesse as

part of investigation. This provision is arbitrary and excess powers to the authorities and there is every chance of misuse of this provisions and ultimately infringing the Right of Privacy of an individual guaranteed in the Constitution and reiterated by the Supreme Court in Puttuswamy's case. The existing provision of the IT Bill is sufficient to achieve the purpose. Hence it is suggested that the said provisions may be retained as such in the existing Bill.

Conclusion:

Select Committee was constituted for scrutinizing the bill clause by clause. The Committee can study the Bill in depth and make recommendations to the Government, often after extensive research and expert consultation. The purpose of the Select Committee will not be served if the Committee is not submit a recommendation to the Government on the basis of their study, expert opinion, discussion and decisions. The Bill was referred to the Committee for full fledged debate, discussions and recommendations for effective and fruitful legislation

It is an undisputed fact that the select committee of Parliament is empowered to make structural and procedural amendment to the Government Bills as the Parliament is supreme authority in Legislative process. Therefore the aforesaid suggestion may be considered positively in due course.

Sincerely yours,

N.K. Premachandran

Shri. Baijayant Panda MP
Chairman, Income Tax Bill 2025
Select Committee, Loksabha.

THE SELECT COMMITTEE ON THE INCOME-TAX BILL, 2025

(AS REPORTED BY THE SELECT COMMITTEE)

THE INCOME-TAX BILL, 2025

[WORDS AND FIGURES UNDERLINED INDICATE THE AMENDMENTS AND (**) MARK INDICATES THE OMISSION SUGGESTED BY THE SELECT COMMITTEE]

Bill No. 24-B of 2025

THE INCOME-TAX BILL, 2025

A

BILL

to consolidate and amend the law relating to income-tax.

BE it enacted by Parliament in the Seventy-sixth Year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Income-tax Act, 2025.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall come into force on the 1st April, 2026.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "accountant" shall have the meaning assigned to it in section 515(*3*)(*b*);

(2) "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under section 237(*1*);

(3) "Additional Director" means a person appointed to be an Additional Director of Income-tax under section 237(*1*);

(4) "advance tax" means the advance tax payable as per Chapter XIX-C;

(5) "agricultural income" means—

(a) any rent or revenue derived from a land which is situated in India and is used for agricultural purposes;

(b) any income derived from such land by—

(i) agriculture; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (*ii*);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind of any such land with respect to which, or the produce of which, any process mentioned in sub-clause(*b*) (*ii*) or (b)(*iii*) is carried on, where such building—

(i) is on or in the immediate vicinity of such land and that land is assessed to land revenue in India, or is subject to a local rate assessed and collected by officers of the Government as such, or where the land is not so assessed to land revenue or subject to a local rate, it is not situated in any area as specified in clause (*22*)(*iii*)(*A*) or (*B*);and

(ii) is required as a dwelling house, or as a store-house, or other out-building, by the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land;

(d) any income derived from saplings or seedlings grown in a nursery,

but shall not include—

(i) the income derived from any building or land referred to in sub-clause (*c*) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (*a*) or (*b*); or

(*ii*) any income arising from the transfer of any land referred to in clause (*22*)(*iii*)(*A*) or (*B*);

(6) "amalgamation", in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the **(***)** **amalgamating company or companies** and the company with which they merge or which is formed as a result of such merger being referred to as the amalgamated company) in such a manner that—

(a) all the property of the amalgamating company or companies immediately before the amalgamation become the property of the amalgamated company by virtue of the amalgamation;

(b) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;

(c) the shareholders holding not less than three-fourths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company;

(7) "annual value", in relation to any property, means its annual value as determined under section 21;

(8) "Appellate Tribunal" means the Appellate Tribunal constituted under section 361;

(9) "approved gratuity fund" means a gratuity fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(10) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(11) "assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes—

(a) every person in respect of whom any proceeding under this Act has been taken—

(i) for the assessment of his income or of the loss sustained by him or refund due to him; or

(ii) for the assessment of the income of any other person in respect of which he is assessable, or of the loss sustained by such other person or refund due to such other person;

(b) every person who is deemed to be an assessee under this Act;

(c) every person who is deemed to be an assessee in default under this Act;

(12) "Assessing Officer" means—

(a) the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer, who is vested with the relevant jurisdiction by virtue of directions or orders issued under section 241(*1*) or (*2*) or (*3*), or any other provision of this Act; or

(b) the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, who is directed under section 241(*5*)(*b*) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

(13) "assessment" includes reassessment and recomputation;

(14) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax or a Deputy Commissioner of Income-tax under section 237(*1*);

(15) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax or a Deputy Director of Income-tax under section 237(*1*);

(16) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income;

(17) "block of assets" means a group of assets falling within a class of assets comprising of—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession,

in respect of which the same percentage of depreciation is prescribed;

(18) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(19) "books or books of account" includes ledgers, day-books, cash books, account-books or other books, whether kept—

(a) in written form; or

(b) in electronic or any digital form, or on cloud based storage, or on any electromagnetic data storage device, such as floppy, disc, tape, portable data storage device, external hard drives, or memory cards; or

(c) as print-outs of data stored in electronic or digital form or on storage devices mentioned in sub-clause (*b*);

(20) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(21) "business trust" means a trust registered as—

(a) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or

15 of 1992.

(b) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(22) "capital asset" means—

(*a*) property of any kind held by an assessee, whether or not connected with his business or profession;

(b) any securities held by—

(i) a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992; or

15 of 1992.

(ii) an investment fund specified in section 224(10)(a) which has invested such securities in accordance with the provisions of the regulations made under the Securities and Exchange Board of India Act, 1992 or under the International Financial Services Centres Authority Act, 2019;

15 of 1992.
50 of 2019.

11

(c) any unit linked insurance policy issued on or after 1st February, 2021 to which exemption under Schedule II (Table: Sl. No. 2) does not apply,

but does not include—

(*i*) any stock-in-trade, other than the securities referred to in sub-clause (*b*), consumable stores or raw materials held for business or profession;

(ii) personal effects;

(iii) agricultural land in India, not being a land situated—

(A) in any area comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(B) in any area within the distance as specified in column C of the following Table, measured aerially from the local limits of any municipality or cantonment board referred to in item (*A*) and having population as referred to in column B of the said Table:—

Table

Sl. No.	Population of municipality or cantonment board	Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than
A	B	C
1.	More than 10,000 but less than 1,00,000.	Two kilometres.
2.	1,00,000 and above, but less than 10,00,000.	Six kilometres.
3.	10,00,000 and above.	Eight kilometres.

(iv) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 as notified by the Central Government,

where,—

(A) "Foreign Institutional Investor" shall have the meaning assigned to it in section 210(*6*)(*a*);

(B) "personal effects" means any movable property (including wearing apparel and furniture) held for personal use by the assessee or any dependent family member, but excludes—

(I) jewellery, which includes—

(a) ornaments made of gold, silver, platinum, or any other precious metal or any alloy of such precious metals, with or without precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;

(II) archaeological collections;

(III) drawings;

(IV) paintings;

(V) sculptures; and

(VI) any work of art;

(C) "population" shall mean the population according to the last preceding census of which the relevant figures have been published before the first day of the tax year;

(D) "property" includes any rights in or in relation to an Indian company, including rights of management or control or any other rights; and

(E) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(23) "charitable purpose" includes—

(a) relief of the poor;

(b) education;

(c) yoga;

(d) medical relief;

(e) preservation of environment (including watersheds, forests and wildlife);

(f) preservation of monuments or places or objects of artistic or historic interest;

(g) the advancement of any other object of general public utility;

(24) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax or a Director General of Income-tax or a Principal Chief Commissioner of Income-tax or a Principal Director General of Income-tax under section 237(*1*);

(25) "child", in relation to an individual, includes a step-child and an adopted child of that individual;

(26) "Commissioner" means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under section 237(*1*);

(27) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Income-tax (Appeals) under section 237(*1*);

(28) "company" means—

(a) any Indian company; or

(b) any body corporate incorporated by or under the laws of a country outside India; or

(c) any institution, association or body which is or was assessable or was assessed as a company under the Income-tax Act, 1961, as it stood immediately before its repeal by this Act *(**)*; or

43 of 1961.

(d) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by order of the Board to be a company for such period as specified in such declaration;

(29) "company in which the public are substantially interested" means,—

(a) a company owned by the Government or the Reserve Bank of India or in which at least 40% of the shares of the company are held (individually or collectively) by the Government or the Reserve Bank of India or a corporation owned by that bank; or

(b) a company which is registered under section 8 of the Companies Act, 2013; or

18 of 2013.

(c) a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, the Board by order declares it to be such a company for the period as specified in the declaration; or

(d) a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 406 of the Companies Act, 2013, to be a *Nidhi* or Mutual Benefit Society; or

18 of 2013.

(e) a company, wherein shares (excluding those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by, one or more co-operative societies; or

(f) a company which is not a private company as defined in the Companies Act, 2013, and **either of** the following conditions are fulfilled:— 18 of 2013.

(i) shares in the company (not being shares entitled to a fixed rate of dividend, with or without a further right to participate in profits) were, as on the last day of the relevant tax year, listed in a recognised stock exchange in India as per the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder; 42 of 1956.

(ii) shares in the company (not being those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by—

(A) the Government; or

(B) a corporation established by a Central Act,State Act or Provincial Act; or

(C) any company to which this clause applies or any subsidiary company of such company, if the entire share capital of such subsidiary company has been held by the parent company or by its nominees throughout the tax year,

and in respect of an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, the expression "not less than 50%" shall be read as if the expression "not less than 40%" had been substituted;

(30) "convertible foreign exchange" means foreign exchange which is treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999, and any rules made thereunder or any other corresponding law; 42 of 1999.

(31) "co-operative bank" shall have the same meaning as specified in Part V of the Banking Regulation Act, 1949; 10 of 1949.

(32) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912, or under any other law in force in any State or Union territory for the registration of co-operative societies; 2 of 1912.

(33) "currency" shall have the same meaning as assigned to it in section 2(*h*) of the Foreign Exchange Management Act, 1999; 42 of 1999.

(34) "demerged company" means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;

(35) "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 230 to 232 of the Companies Act, 2013, by a demerged company of its one or more undertakings to any resulting company in such a manner that— 18 of 2013.

(a) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(b) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(c) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger, except in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013; 18 of 2013.

(d) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis, except where the resulting company itself is a shareholder of the demerged company;

(e) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger, otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(f) the transfer of the undertaking is on a going concern basis;

(g) the demerger is as per the conditions, if any, notified under section 116(*7*) by the Central Government,

where,—

(i) "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity;

(ii) "liabilities relatable to the undertaking", referred to in sub-clause (*b*), shall include—

(A) the liabilities which arise out of the activities or operations of the undertaking;

(B) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(C) the amount "N", as computed below, in cases other than those referred to in item (*A*) or (*B*),—

$$N = K \times \left(\frac{L}{M}\right)$$

where,—

K = the amount of general or multipurpose borrowings of demerged company;

L = the value of the assets transferred in a demerger; and

M = the total value of the assets of such demerged company immediately before the demerger;

(iii) any change in the value of assets consequent to their revaluation shall be ignored for determining the value of the property referred to in sub-clause (*c*);

(iv) the splitting up or the reconstruction of any authority or a body constituted or established under a Central Act or State Act or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if it fulfils such conditions as the Central Government may, by notification, specify;

(v) the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if it has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as the Central Government may, by notification, specify;

(vi) the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if it has been made to transfer any asset of the demerged company to the resulting company and the resulting company—

(A) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorised under the Companies Act, 2013 or any other applicable law governing such public sector companies; and 18 of 2013.

(B) fulfils such other conditions as the Central Government may, by notification, specify in this behalf;

(36) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under section 237(*1*);

(37) "Deputy Director" means a person appointed to be a Deputy Director of Income-tax under section 237(*1*);

(38) "director" and "manager", in relation to a company, shall have the same meanings as respectively assigned to them in sections 2(*34*) and (*53*) of the Companies Act, 2013; 18 of 2013.

(39) "Director General or Director" means a person appointed to be a Director General of Income-tax or a Director of Income-tax, under section 237(*1*), and includes a Principal Director General or a Principal Director or an Additional Director or a Joint Director or a Deputy Director or an Assistant Director;

(40) "dividend" includes—

(a) any distribution by a company of accumulated profits, capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

(d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits whether capitalised or not;

(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise),—

(i) as an advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, with or without a right to participate in profits) holding not less than 10% of the voting power; or

(ii) as an advance or loan to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (herein referred to as the said concern); or

(iii) made on behalf, or for the individual benefit, of any such shareholder,

to the extent to which the company in either case possesses accumulated profits;

(f) any payment by a company on purchase of its own shares from a shareholder as per section 68 of the Companies Act, 2013,

18 of 2013.

but does not include—

(i) a distribution made under sub-clause (*c*) or (*d*) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets;

(ii) any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (*e*), to the extent to which it is so set off;

(iv) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company);

(v) any advance or loan between two group entities, where,—

(A) one of the group entity is a "Finance Company" or a "Finance Unit"; and

(B) the parent entity or principal entity of such group is listed on stock exchange in a country or territory outside India other than the country or territory outside India as specified by the Board in this behalf,

where,—

(A) "accumulated profits" for the purposes of—

(I) sub-clauses (*a*), (*b*), (*d*) and (*e*), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses;

(II) sub-clause (*c*), shall include all profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law in force, include any profits of the company before three successive tax years immediately preceding the tax year in which such acquisition took place;

(B) in respect of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation;

(C) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company;

(D) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the tax year, beneficially entitled to not less than 20% of the income of such concern;

(E) for the purposes of sub-clause (*v*),—

(I) "Finance Company" and "Finance Unit" shall have the same meaning as respectively assigned to them in regulation 2(*1*)(*e*) and (*f*) of the International Financial Services Centres Authority (Finance Company) Regulations,2021 made under the International Financial Services Centres Authority Act, 2019, and is set up as a global or regional corporate treasury centre for undertaking treasury activities or treasury services as per the relevant regulations made by the International Financial Services Centres Authority established under section 4 of the said Act; 50 of 2019.

(II) "group entity", "parent entity" and "principal entity" shall be such entities which satisfy such conditions as prescribed in this behalf;

(41) "document" includes an electronic record as defined in section 2(*1*)(*t*) of the Information Technology Act, 2000; 21 of 2000.

(42) "domestic company" means an Indian company as defined in clause (*53*), or any other company, which for its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income;

(43) "electoral trust" means a trust so approved by the Board as per the scheme made by the Central Government;

(44) "fair market value", in relation to a capital asset, means—

(a) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and

(b) where the price referred to in sub-clause (*a*) is not ascertainable, such price as determined in the manner, as prescribed;

9 of 1932. (45) "firm" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932, and shall include a "limited liability partnership" as defined in section 2(*l*)(*n*) of the Limited Liability Partnership Act, 2008;

6 of 2009.

(46) "foreign company" means a company which is not a domestic company;

(47) "foreign currency" shall have the same meaning as assigned to it in section 2(*m*) of the Foreign Exchange Management Act, 1999;

42 of 1999.

(48) "hearing" includes communication of data and documents through electronic mode;

(49) "income" includes—

(a) profits and gains;

(b) dividend;

(c) voluntary contributions received by—

(i) a registered non-profit organisation; or

(ii) an association referred to in Schedule III (Table: Sl. No. 23); or

(iii) any University or other educational institution or any hospital or other institution referred to in Schedule **(***) VII** (Table: Sl. No. 19); or

(iv) an electoral trust;

(d) the value of any perquisite or profit *in lieu* of salary taxable under sections 17 and 18;

(e) any special allowance or benefit, other than perquisite included under sub-clause (*d*), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(f) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

(g) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company, either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or that person;

(h) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in section 303(*l*)(*c*) or (*d*) or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being herein referred to as the beneficiary) and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;

(i) any sum chargeable to income-tax under—

(A) section 26(*2*)(*b*) or (*c*) or (*d*) or section 38 or 95;

(B) section 26(*2*)(*e*) or (*g*);

(j) the value of any benefit or perquisite taxable under section 26(*2*)(*f*);

(k) any capital gains chargeable under section 67;

(l) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed as per section 55 or any surplus taken to be such profits and gains as per Schedule XIV;

(m) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;

(n) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(o) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees; 34 of 1948.

(p) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(q) any sum referred to in section 26(*2*)(*h*);

(r) the fair market value of inventory referred to in section 26(*2*)(*j*);

(s) any sum referred to in section 92(*2*)(*k*) or (*l*);

(t) any sum of money referred to in section 92(*2*)(*h*);

(u) any sum of money or value of property referred to in section 92(*2*)(*m*);

(v) any compensation or other payment referred to in section 92(*2*)(*j*);

(w) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, in cash or kind, to the assessee other than—

(i) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per sections 39(*1*)(*d*) and (*3*); or

(ii) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government;

(x) **(***)**

where,—

(A) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;

(B) "Keyman insurance policy" shall have the same meaning as assigned in Schedule II.(Table: Sl. No.2);

(C) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner, under any scheme or arrangement, called by any name;

(50) "Income Computation and Disclosure Standards" means such standards as notified under section 276(*2*);

(51) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 237(*1*);

(52) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;

80 of 1976.

(53) "Indian company" means a company formed and registered under the Companies Act, 2013 and includes—

18 of 2013.

(a) company formed and registered under any law relating to companies formerly or currently in force in any part of India; or

(b) corporation established by or under a Central Act or State Act or Provincial Act; or

(c) institution or association or body which is declared by the Board to be a company under clause (*28*),

the registered or principal office of which is in India;

(54) "Indian currency" shall have the same meaning as assigned to it in section 2(*q*) of the Foreign Exchange Management Act, 1999;

42 of 1999.

(55) "infrastructure capital company" means a company which makes investments by acquiring shares or providing long-term finance to—

(a) any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(*4*) or 80-IAB(*1*) of the Income-tax Act, 1961; or

43 of 1961.

(b) an undertaking developing and building—

(i) a housing project referred to in section 80-IB(*10*) of the Income-tax Act, 1961; or

43 of 1961.

(ii) a project for constructing a hotel of not less than three star category as classified by the Central Government; or

(iii) a project for constructing a hospital with at least one hundred beds for patients;

(56) "infrastructure capital fund" means a fund operating under a trust deed registered under the Registration Act, 1908 established to raise monies by the trustees for investment by acquiring shares or providing long-term finance to enterprises or undertakings referred to in clause (*55*); 16 of 1908.

(57) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under section 237(*1*);

43 of 1961.

(58) "insurer" means an insurer, being an Indian insurance company, as defined under section 2(*7A*) of the Insurance Act, 1938, which has been granted a certificate of registration under section 3 of that Act;

(59) "interest" means interest payable in any manner for moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes service fee or any other charges for the moneys borrowed or debt incurred or for any credit facility that has not been utilised; 43 of 1961.

(60) "interest on securities" means—

(a) interest on any security of the Central Government or a State Government;

4 of 1938.

(b) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central Act or State Act or Provincial Act;

(61) "International Financial Services Centre" shall have the same meaning as assigned to it in section 2(*q*) of the Special Economic Zones Act, 2005;

(62) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under section 237(*1*);

(63) "Joint Commissioner (Appeals)" means a person appointed to be a Joint Commissioner of Income-tax (Appeals) or an Additional Commissioner of Income-tax (Appeals) under section 237(*1*);

(64) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under section 237(*1*);

28 of 2005.

(65) "legal representative" shall have the same meaning as assigned to it in section 2(*11*) of the Code of Civil Procedure,1908;

(66) "liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;

(67) "long-term capital asset" means a capital asset which is not a short-term capital asset;

(68) "long-term capital gain" means capital gains arising from the transfer of a long-term capital asset; 5 of 1908.

(69) "manufacture", with its grammatical variations and cognate expressions, means a change in a non-living physical object or article or thing—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;

(70) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax) applicable in relation to the highest slab of income for an individual, association of persons or, as the case may be, body of individuals, as specified in the Finance Act of the relevant year;

(71) "non-banking financial company" shall have the same meaning as assigned to it in section 45-I(*f*) of the Reserve Bank of India Act, 1934; 2 of 1934.

(72) "non-resident" means a person who is not a "resident", and for the purposes of sections 161,174 and 312 includes a person who is not ordinarily resident as per section 6(*13*);

(73) "notification" means a notification published in the Official Gazette and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(74) "partner" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932, and shall include— 9 of 1932.

(a) any person who, being a minor, has been admitted to the benefits of partnership; and

(b) a partner of a limited liability partnership as defined in section 2(*1*)(*q*) of the Limited Liability Partnership Act, 2008; 6 of 2009.

(75) "partnership" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932, and shall include a "limited liability partnership" as defined in section 2(*1*)(*n*) of the Limited Liability Partnership Act, 2008; 9 of 1932. 6 of 2009.

(76) "Permanent Account Number (PAN)" means a unique number consisting of ten alphanumeric characters, allotted by the Assessing Officer to a person for the purpose of identification under this Act, and includes a Permanent Account Number allotted under the new series;

(77) "person" includes—

(a) an individual;

(b) a Hindu undivided family (HUF);

(c) a company;

(d) a firm;

(e) an association of persons or a body of individuals, whether incorporated or not;

(f) a local authority; and

(g) every artificial juridical person, not falling within any of the preceding sub-clauses,

whether or not such an association of persons or a body of individuals or a local authority or an artificial juridical person was formed or established or incorporated with the object of deriving income, profits, or gains;

(78) "person of Indian origin" means an individual who or either of his parents or any of his grand-parents, was born in undivided India;

(79) "person who has a substantial interest in the company", in relation to a company means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits, carrying not less than 20% of the voting power;

(80) "prescribed" means prescribed by rules made under this Act;

(81) "Principal Chief Commissioner" means a person appointed to be a Principal Chief Commissioner of Income-tax under section 237(*1*);

(82) "Principal Commissioner" means a person appointed to be a Principal Commissioner of Income-tax under section 237(*1*);

(83) "Principal Director" means a person appointed to be a Principal Director of Income-tax under section 237(*1*);

(84) "Principal Director General" means a person appointed to be a Principal Director General of Income-tax under section 237(*1*);

(85) "principal officer", with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body; or

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the Assessing Officer has served a notice of his intention of treating him as the principal officer thereof;

(86) "profession" includes vocation;

(87) "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and a bank included in the category "other public sector banks" by the Reserve Bank of India; 23 of 1955. 5 of 1970. 40 of 1980.

(88) "public sector company" means any corporation established by or under any Central Act or State Act or Provincial Act or a Government company as defined in section 2(*45*) of the Companies Act, 2013; 18 of 2013.

(89) "public servant" shall have the same meaning as assigned to it in section 2(*28*) of the Bharatiya Nyaya Sanhita, 2023; 45 of 2023.

(90) "rate or rates in force" or "rates in force", in relation to a tax year, for the purposes of—

(a) (*i*) computing the income-tax chargeable under section 316(*5*) or 317(*2*) or 319 or 320(*2*); or

(*ii*) deducting income-tax under sections 392(*1*) to (*6*) from income chargeable under the head "Salaries"; or under section 393(*1*) [Table: Sl. No.8(*iii*)]; or

(iii) computing the advance tax payable under Chapter XIX-C in a case not falling under section 207 or 194(*1*)(Table: Sl. No. 1) or 194(*1*)(Table: Sl. No. 6) or 214 or 307 or 308 or 311; or

(iv) deducting tax under section 393(*1*)[Table: Sl. No. 1(*i*)], [Table: Sl. No. 5(*i*)], [Table: Sl. No. 5(*ii*)], [Table: Sl. No. 5(*iii*)] and (Table: Sl. No. 7) or in section 393(*3*)(Table: Sl. No. 1), (Table: Sl. No. 2) and (Table: Sl. No. 3),

means the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year;

(b) computing the advance tax payable under Chapter XIX-C in a case falling under section 207 or 194(*1*)(Table: Sl. No. 1) or 194(*1*)(Table: Sl. No. 6) or 214 or 307 or 308 or 311 the rate or rates specified in the said respective section, or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year, whichever is applicable;

(c) deducting tax under section 393(*2*)(Table: Sl. No. 6), (Table: Sl.No. 7), (Table: Sl. No. 8), (Table: Sl. No. 9) and (Table: Sl. No. 17), the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 159(*1*), or an agreement notified by the Central Government under section 159(*2*), whichever is applicable;

(91) "recognised provident fund" means a provident fund which has been and continues to be recognised by the approving authority as per Part A of the Schedule XI, and includes a provident fund established under a scheme framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

19 of 1952.

(92) "recognised stock exchange" means a recognised stock exchange as referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956 and which fulfils such conditions, as prescribed, and notified by the Central Government for this purpose;

42 of 1956.

(93) "regular assessment" means the assessment made under section 270(*10*) or 271;

(94) "relative", in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual;

(95) "Reserve Bank of India" means the Bank constituted under section 3(*1*) of the Reserve Bank of India Act, 1934;

2 of 1934.

(96) "resident" means a person who is resident in India as per section 6;

(97) "resulting company" means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;

(98) "scheduled bank" shall have the same meaning as assigned to it in section 2(*e*) of the Reserve Bank of India Act, 1934; 2 of 1934.

(99) "Securities and Exchange Board of India" shall have the same meaning as assigned to it in section 2(*1*)(*a*) of the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(100) "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant tax year;

(*101*)(*a*) "short-term capital asset" means a capital asset held by an assessee for not more than twenty-four months immediately preceding the date of its transfer;

(b) **where the capital asset is a (**)** —

(i) security listed in a recognised stock exchange in India; or

(ii) unit of the Unit Trust of India; **or**

(iii) unit(**) of an equity-oriented fund; or

(iv) zero-coupon bond(**),

the provisions of sub-clause (*a*) shall have effect, as if for the words "twenty-four months", the words "twelve months" had been substituted;

(c) in determining the period for which capital asset is held by the assessee—

(A) **in the case of a share held in a company *in liquidation*,** there shall be excluded the period subsequent to the date on which the company goes into liquidation;

(B) there shall be included,—

(I) the period for which the asset was held by the previous owner referred to in section 73(*1*) (Table: Sl. No. 1), for a capital asset which becomes the property of the assessee in the circumstances mentioned in said section;

(II) the period for which the share or shares in the amalgamating company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*f*);

(III) the period for which the share or shares held in the demerged company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger;

(IV) the period for which the person was a member of a recognised stock exchange in India immediately before such demutualisation or corporatisation, for a capital asset, being trading or clearing rights of a recognised stock exchange in India, acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India;

(V) the period for which the person was a member of a recognised stock exchange in India immediately before such demutualisation or corporatisation, for a capital asset being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India;

(VI) the period for which the share or shares were held by the assessee, for a capital asset being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in section 70(*1*)(*zi*);

(VII) the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zj*);

(VIII) the period for which the preference shares were held by the assessee, for a capital asset being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zb*);

(IX) the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zk*);

(X) the period for which the original unit or units in the main portfolio were held by the assessee, for a capital asset being a unit or units in a segregated portfolio referred to in section 73(*1*) (Table: Sl. No. 11);

(XI) the period for which such gold was held by the assessee before conversion into the Electronic Gold Receipt, for a capital asset being Electronic Gold Receipt issued in respect of gold deposited as referred to in section 70(*1*)(*y*);

(XII) the period for which such Electronic Gold Receipt was held by the assessee before its conversion into gold for a capital asset being gold released in respect of an Electronic Gold Receipt as referred to in section 70(*1*)(*y*);

(C) there shall be reckoned,—

(I) the period from the date of its conversion or treatment, for a capital asset referred to in section 26(*2*)(*j*);

(II) the period from the date of allotment of a share or any other security (herein referred to as the financial asset), for a capital asset being such financial asset subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset;

(III) the period from the date of the offer of the right to subscribe to any financial asset which is renounced in favour of any other person by the company or institution, as the case may be, making such offer, for a capital asset, being such right;

(IV) the period from the date of the allotment of a financial asset allotted without any payment and on the basis of holding of any other financial asset, for a capital asset being such financial asset;

(V) the period from the date of allotment or transfer of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), for a capital asset being such specified security or sweat equity shares;

(VI) the period from the date on which a request for the redemption was made, for a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in section 209(*1*)(Table: Sl. No. 2) held by such assessee;

(*D*) for capital assets other than those mentioned in items (*A*) to (*C*), the period for which any capital asset is held by the assessee shall be determined in such manner, as prescribed,

where,—

(A) "equity oriented fund" shall have the meaning assigned to it in section198(*8*);

(B) "security" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(C) "specified security" means the securities as defined in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme; 42 of 1956.

(D) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(102) "short-term capital gain" means capital gains arising from the transfer of a short-term capital asset;

(103) (*a*) "slump sale" means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer;

(b) for the purpose of sub-clause (*a*)—

(i) "undertaking" shall have the meaning assigned to it in clause (*35*)(*i*); and

(ii) the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities;

(104) "Special Economic Zone" shall have the same meaning as assigned to it in section 2(*za*) of the Special Economic Zones Act, 2005; 28 of 2005.

(104A) "Specified Banking or online mode" shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed;

(105) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or State Government for the payment of stamp duty in respect of an immovable property;

(106) "tax" means income-tax chargeable under this Act;

(107) "Tax Recovery Officer" means an Income-tax Officer authorised in writing by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, to exercise—

(a) the powers of a Tax Recovery Officer; and

(b) the powers and functions conferred on, or assigned to, an Assessing Officer under this Act, or as prescribed;

(108) "total income" means the total amount of income referred to in section 5, computed in the manner as laid down in this Act;

(109) "transfer" in relation to a capital asset, includes—

(a) the sale, exchange or relinquishment of the asset; or

(b) the extinguishment of any rights therein; or

(c) the compulsory acquisition thereof under any law in force; or

(d) where the asset is converted by the owner into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment; or

(e) the maturity or redemption of a zero coupon bond; or

(f) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner) which has the effect of transferring, or enabling the enjoyment of, any immovable property; or

(g) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882; or

4 of 1882.

(h) disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India,

where, the expression "immovable property" means—

(i) any land or any building or part of a building, and includes, where any land or any building or part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also, such that the land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

(*ii*) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein), which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building;

(110) "Valuation Officer" means a person appointed by the Central Government as a Valuation Officer who shall exercise powers as specified in section 269(*3*), and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer;

(111) "virtual digital asset" means—

(a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, called by any name, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(b) a non-fungible token or any other token of similar nature, by whatever name called;

(c) any other digital asset, as the Central Government may, by notification, specify,

(d) any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such asset is included in sub-clause (*a*) or (*b*) or (*c*), where,–

–

(i) "non-fungible token" means such digital asset as the Central Government may, by notification, specify;

(ii) the Central Government may, by notification, exclude any digital asset from this definition, subject to such conditions as specified therein;

(112) "zero coupon bond" means a bond—

(a) issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank on or after the 1st June, 2005;

(b) for which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank; and

(c) which the Central Government may, by notification, specify,

where, the expression "infrastructure debt fund" means the infrastructure debt fund notified by the Central Government under Schedule VII (Table: Sl. No. 46).

Definition of "tax year".

3. (*1*) For the purposes of this Act, "tax year" means the twelve months period of the financial year commencing on the 1st April.

(2) In the case of a business or profession newly set up, or a source of income newly coming into existence in any financial year, the tax year shall be the period beginning with—

(a) the date of setting up of such business or profession; or

(b) the date on which such source of income newly comes into existence, and,

ending with the said financial year.

CHAPTER II

BASIS OF CHARGE

Charge of income-tax.

4. ***(1)*** **Subject to the provisions of this Act,** the income-tax for any tax year shall be charged **(**)** at the rate or rates which are enacted by a Central Act for such tax year.

(2) The charge of income-tax under sub-section (*1*) shall be on the total income of the tax year of every person as per the provisions of this Act.

(3) Income-tax shall also include any additional income-tax, by whatever name called, levied under this Act.

(4) If this Act provides that income-tax is to be charged in respect of income of a period other than the tax year, it shall be charged accordingly.

(5) For the income chargeable under **(**)** **this section**, income-tax shall be deducted or collected at source or paid in advance as provided under this Act.

Scope of total income.

5. (*1*) Subject to the provisions of this Act, the total income of any tax year of a person, who is a resident, includes all income from whatever source derived, which—

(a) is received or deemed to be received in India in that year by or on behalf of the person; or

(b) accrues or arises, or is deemed to accrue or arise, to the person in India in that year; or

(c) accrues or arises to the person outside India in that year, but when such person is "not ordinarily resident" in India under section 6(*13*), it shall be included only when it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of a tax year of a person, who is a non-resident, includes all income from whatever source derived, which—

(a) is received or deemed to be received in India in that year by or on behalf of the person; or

(b) accrues or arises, or is deemed to accrue or arise, to the person in India in that year.

(3) Income accruing or arising outside India shall not be deemed to be received in India under this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

(4) If an income has been included in a person's total income on the basis that it—

(a) has accrued or arisen; or

(b) is deemed to have accrued or arisen,

to the person, it shall not again be included on the basis that it is received or deemed to be received by the person in India.

Residence in India.

6. (*1*) For the purposes of this Act, residence **in India** of a person (**) shall be determined as per this section.

(2) An individual shall be resident in India in a tax year, if he—

(a) is in India for a total period of one hundred and eighty-two days or more in that tax year; or

(b) is in India cumulatively for sixty days or more during that year and has been in India cumulatively for three hundred and sixty-five days or more in the four years preceding such tax year.

(3) The provisions of sub-section (*2*)(*b*) shall not apply in the case of an individual who is a citizen of India and leaves India in any tax year—

(a) as a member of the crew of an Indian ship, as defined in section 3(*18*) of the Merchant Shipping Act, 1958; or

44 of 1958.

(b) (**) **for the purpose of employment** outside India.

(4) The provisions of sub-section (*2*)(*b*) shall not apply in the case of an individual—

(a) who is a citizen of India or a person of Indian origin; and

(b) who being outside India, comes on a visit to India in any tax year;

(5) Where the person referred to in sub-section (*4*) has a total income exceeding fifteen lakh rupees during that tax year (other than the income from foreign sources), sub-section (*2*)(*b*) shall apply as if the words "sixty days" had been substituted with "one hundred and twenty days" for that year;

(6) For the purposes of sub-section (*2*), if the individual is—

(a) a citizen of India; and

(b) a member of the crew of a foreign-bound ship leaving India,

the total number of days in India, in respect of that voyage, shall be determined in such manner and subject to such conditions, as prescribed.

(7) Irrespective of the provisions of sub-sections (*2*) to (*6*), an individual shall be deemed to be resident in India for a tax year, if he—

(a) is a citizen of India;

(b) is not liable to tax in any other country or territory due to domicile, residence, or similar criteria; and

(c) has total income exceeding fifteen lakh rupees during the tax year (other than the income from foreign sources).

(8) sub-section (*7*) shall not apply to an individual, who is resident in India for a tax year under sub-sections (*2*) to (*6*).

(9) A Hindu undivided family, firm or other association of persons shall be resident in India in any tax year unless the control and management of its affairs is situated wholly outside India during such tax year.

(*10*)(*a*) A company is resident in India in any tax year, if—

(i) it is an Indian company; or

(ii) its place of effective management is in India in that tax year; and

(*b*) for the purposes of this sub-section, "place of effective management" means a place where key management and commercial decisions necessary for the conduct of business of the company as a whole are, in substance, made.

(11) Every other person is resident in India in any tax year unless the control and management of its affairs is situated wholly outside India in that year.

(12) If a person is resident in India in a tax year for any source of income, he shall be deemed to be resident in India in that tax year for each of the other sources of income.

(13) A person is not ordinarily resident in India in any tax year, if that person is—

(a) an individual who has been, or a Hindu undivided family, whose manager has been—

(i) a non-resident in India in nine out of the ten tax years preceding that year; or

(ii) has been in India cumulatively for seven hundred and twenty-nine days or less in seven tax years preceding that year; or

(b) a citizen of India or a person of Indian origin,—

(i) whose total income excluding income from foreign sources exceeds fifteen lakh rupees during the tax year, as mentioned in sub-section (*5*); and

(ii) who has been in India cumulatively for one hundred and twenty days or more but less than one hundred and eighty-two days **during the tax year**; or

(c) a citizen of India who is deemed to be resident in India under sub-section (*7*).

(14) In this section, "income from foreign sources" means the income, which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

Income deemed to be received **and deemed to be dividend income for a year**.

7. (*1*) The following incomes shall be deemed to be received in the tax year:—

(a) the annual accretion in that year to the balance at the credit of an employee participating in a recognised provident fund, to the extent **(***) provided** in paragraph 6 of Part A of (**) Schedule XI;

(b) the transferred balance in a recognised provident fund, to the extent provided in paragraph 11(*4*) and (*5*) of Part A of (**) Schedule XI;

(c) the contribution made by the Central Government or any other employer in that year to the account of an employee under a pension scheme mentioned in section 124.

(*2*) For inclusion in the total income of an assessee,—

(*a*) any dividend declared by a company or distributed or paid by it within the meaning of section 2(*40*)(*a*) or (*b*) or (*c*) or (*d*) or (*e*) or (*f*) shall be deemed to be the income of the tax year in which it is so declared, distributed or paid, as the case may be;

(*b*) any interim dividend shall be deemed to be the income of the tax year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.

Income on receipt of capital asset or stock in trade by specified person from specified entity.

8. (*1*) Where a specified person receives during the tax year any capital asset or stock-in-trade or both from a specified entity in connection with the dissolution or reconstitution of such specified entity, then the specified entity shall be deemed to have transferred such capital asset or stock-in-trade, or both, to the specified person in the year in which such capital asset or stock-in-trade, or both, are received by the specified person.

(2) Any profits and gains arising from the deemed transfer mentioned in sub-section (*1*) by the specified entity shall be—

(i) deemed to be the income of such specified entity of the tax year in which such capital asset or stock-in-trade or both were received by the specified person; and

(ii) chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", as per this Act.

(3) In this section, fair market value of the capital asset or stock-in-trade, or both, on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer mentioned in sub-section (*1*).

(4) If any difficulty arises in giving effect to the provisions of this section and section 67(*10*), the Board may, with the previous approval of the Central Government issue guidelines for removing the difficulty.

(5) No guideline under sub-section (*4*) shall be issued after the expiration of two years from the 1st April, 2026.

(6) Every guideline issued by the Board under sub-section (*4*) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(7) In this section,—

(a) "specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);

(b) "specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any tax year;

(c) "reconstitution of the specified entity" means, where—

(i) one or more of its partners or members, of such specified entity ceases to be partners or members; or

(ii) one or more new partners or members are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, of the specified entity, before the change, continue as partner or partners or member or members after the change; or

(iii) all the partners or members, of such specified entity continue with a change in their respective share or in the shares of some of them.

Income deemed to accrue or arise in India.

9. (*1*) Income deemed to accrue or arise in India shall be the incomes mentioned in sub-sections (*2*) to (*10*).

(2) Any income accruing or arising, directly or indirectly, through or from—

(a) any asset or source of income in India;

(b) any property in India;

(c) any business connection in India; or

(d) the transfer of a capital asset situated in India,

shall be deemed to accrue or arise in India.

(3) Any income falling under the head "Salaries", if it is payable,—

(a) for services rendered in India; or

(b) for the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment; or

(c) by the Government to an Indian citizen for services rendered outside India,

shall be deemed to accrue or arise in India.

(4) Any dividend paid by an Indian company outside India shall be deemed to accrue or arise in India.

(*5*)(*a*) Income by way of interest payable by—

(i) the Government;

(ii) a resident, except where it is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of—

(A) a business or profession carried on by that person outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if it is in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by that non-resident in India,

shall be deemed to accrue or arise in India;

(b) for the purposes of clause (*a*)**(**)**,—

(i) any interest payable by the permanent establishment in India of a non-resident person engaged in the business of banking, to the head office or any other permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India; and

(ii) the permanent establishment in India shall—

(A) be deemed to be a person separate from, and independent of, the non-resident person of which it is a permanent establishment; and

(B) the provisions of this Act relating to computation of total income, determination of tax and collection and recovery shall apply, accordingly;

(iii) "permanent establishment" shall have the meaning assigned to it in section 173(*c*).

(*6*)(*a*) Income by way of royalty payable by—

(i) the Government;

(ii) a resident, except where the royalty is payable for—

(A) a business or profession carried on by the resident outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if the royalty is payable in respect of any right, property or information used or services utilised for the purposes of—

(A) a business or profession carried on by the non-resident in India; or

(B) making or earning any income from any source (******) **in** India,

shall be deemed to accrue or arise in India;

(b) in this sub-section, "royalty" means consideration (including any lump-sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for the following—

(i) the transfer or grant of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property;

(iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(v) the use or right to use any industrial, commercial or scientific equipment except the amounts referred in section 61(*2*) (Table: Sl. No. 5);

(vi) the transfer or grant of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including—

(A) films or video tapes for use in connection with television; or

(B) tapes for use in connection with radio broadcasting;

(vii) the rendering of services in connection with the activities referred to in sub-clauses (*i*) to (*vi*);

(c) for the purposes of clause (*b*),—

(i) the transfer or grant of all or any rights in respect of any right, property or information includes transfer or grant of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which that right is transferred;

(ii) royalty includes consideration in respect of any right, property or information, whether or not—

(A) the possession or control of that right, property or information is with the payer;

(B) that right, property or information is used directly by the payer;

(C) the location of that right, property or information is in India;

(iii) the expression "process" includes transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not that process is secret;

(iv) the expression "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customised electronic data.

(*7*)(*a*) Income by way of fees for technical services payable by—

(i) the Government;

(ii) a resident, except where it is payable for—

(A) a business or profession carried on by the resident outside India; or

(B) making or earning any income from any source outside India; or

(iii) a non-resident, if it is payable in respect of services utilised for—

(A) a business or a profession carried on by that non-resident in India; or

(B) making or earning any income from any source in India,

shall be deemed to accrue or arise in India;

(b) in this sub-section, "fees for technical services"—

(i) means any consideration (including any lump sum consideration) payable, for rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel);

(ii) does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries".

(*8*)(*a*) In of this section, a "business connection" in India shall include—

(i) any business carried out in India; or

(ii) a significant economic presence in India;

(b) in clause (*a*), a business carried out in India shall include—

(i) business activity carried out through a person who, acting on behalf of the non-resident,—

(A) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(I) in the name of the non-resident; or

(II) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or

(III) for the provision of services by the non-resident; or

(B) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(C) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident;

(ii) a business activity carried out through a person who is a broker, general commission agent or any other agent, through whom such activity is carried out, and who is working mainly or wholly on behalf of—

(A) a non-resident (referred to as the principal non-resident); or

(B) such non-resident and other non-residents who—

(I) are controlled by the principal non-resident; or

(II) have a controlling interest in the principal non-resident; or

(III) are subject to the same common control as the principal non-resident,

and such person shall not be deemed as having an independent status;

(c) in clause (*a*), a business carried out in India shall not include any business activity or operations—

(i) carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent is acting in the ordinary course of his business;

(ii) which are confined to—

(A) the purchase of goods in India for the purposes of export out of India **in case of non-resident**; or

(B) the collection of news and views in India for transmission out of India, in the case of a person who is engaged in the business of running a news agency or of publishing newspapers, magazines or journals **in case of non-resident**; or

(C) the display of uncut and unassorted diamond in any special zone notified by the Central Government, in the case of a foreign company engaged in the business of mining of diamonds; or

(D) the shooting of any cinematographic film in India, in the case of that person being—

(I) an individual who is not an Indian citizen; or

(II) a firm which does not have a partner who is an Indian citizen or who is resident in India; or

(III) a company which does not have a shareholder who is an Indian citizen or who is resident in India;

(d) a non-resident shall have a significant economic presence in India, where there is—

(i) transaction in respect of any goods, services or property carried out by such non-resident with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the tax year exceeds such amount as prescribed; or

(ii) systematic and continuous soliciting of business activities or engaging in interaction with such number of users in India, as prescribed,

irrespective of whether the agreement for such transactions or activities is entered in India, or the non-resident has a residence or place of business in India, or the non-resident renders any services in India;

(e) the provisions of clause (*d*) shall not apply to the transactions or activities which are confined to the purchase of goods in India for the purpose of export;

(f) in this sub-section, only the income which is attributable to—

(i) operations carried out in India, when all operations of the business are not carried out in India;

(ii) transactions or activities referred to in sub-section (*8*)(*d*),

shall be deemed to accrue or arise in India from any business connection;

(g) the income attributable to operations of any business or significant economic presence in this sub-section shall also include income from—

(i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

(9) In sub-section (*2*)(*d*)—

(a) an asset or a capital asset, being any share of, or interest in, a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets (whether tangible or intangible) located in India;

(b) the share or interest, referred to in clause (*a*), shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of such assets,—

(i) exceeds the amount of ten crore rupees; and

(ii) represents at least 50% of the value of all the assets owned by the company or entity, as the case may be;

(c) the value of an asset shall be the fair market value on the specified date of such asset without reduction of liabilities, if any, in respect of the asset, determined in the manner, as prescribed;

(d) the expression "specified date" in clause (*c*) means—

(i) the date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or

(ii) the date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (*i*), by 15%;

(e) the expression "accounting period" in clause (*d*) means—

(i) each period of twelve months ending with the 31st March;

(ii) each period of twelve months ending with a date other than the 31st March, in a case where a company or an entity, referred to in clause (*a*), regularly adopts a period of twelve months ending on a day other than the 31st March for—

(A) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

(B) reporting to persons holding the share or interest;

(iii) the period beginning with the date of registration or incorporation of a company or entity and ending with the 31st March or such other day referred to in sub-clause (*ii*), in a case where a company or entity comes into existence and the later accounting period shall be the successive periods of twelve months; or

(iv) the period beginning with the 1st April or such other day referred to in sub-clause (*ii*) and ending with the date immediately preceding the date on which the company or entity ceases to exist, in a case where the company or the entity ceases to exist before the end of the accounting period;

(f) in case of assets mentioned in clause (*a*), if—

(i) there is a transfer outside India of any share of, or interest in, a company or an entity registered or incorporated outside India by a non-resident transferor; and

(*ii*) all the assets owned by that company or entity are not located in India,

then the income referred to in sub-section (*2*)(*d*) shall be only such part of the income attributable to assets located in India and determined in the manner, as prescribed;

(g) the income referred to in sub-section (*2*)(*d*) shall not include income from transfer, outside India, of any share of, or interest in, a company or an entity registered or incorporated outside India,—

(i) if such share of, or interest in, a company or an entity registered or incorporated outside India is held by a non-resident by way of investment, directly or indirectly,—

(A) in Category I or Category II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, prior to their repeal, made under the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(B) in Category I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(ii) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—

(A) does not hold the right of management or control in relation to such company or the entity; and

(B) does not hold voting power or share capital or interest exceeding 5%, of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

(iii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—

(A) does not hold the right of management or control in relation to such company or the entity;

(B) does not hold any right in, or in relation to, such company or entity which would entitle it to the right of management or control in the company or entity which directly owns the assets situated in India; and

(C) does not hold such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of the company or entity, which directly owns the assets situated in India;

(iv) in sub-clause (*iii*), "associated enterprises" shall have the meaning assigned to it in section 159.

(10) Income arising outside India, in the nature of a sum referred to in section 2(*49*)(*u*), paid by a person resident in India,—

(a) to a non-resident, not being a company, or to a foreign company; or

(b) to a person not ordinarily resident in India under section 6(*13*),

shall be deemed to (**) **accrue** or arise in India.

(11) In sub-sections (*5*), (*6*) and (*7*), income of a non-resident shall be deemed to accrue or arise in India and shall be included in his total income, whether or not,—

(a) the non-resident has a residence or place of business or business connection in India; or

(b) the non-resident has rendered services in India.

(*12*)(*a*) In this section, the fund management activity carried out by an eligible investment fund through an eligible fund manager acting on behalf of such fund, shall not constitute business connection in India of that fund;

(b) the eligible investment fund mentioned in clause (*a*) shall not be said to be resident in India under section 6 merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India;

(c) nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not;

(d) nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager;

(e) the conditions for being an eligible investment fund or an eligible fund manager, or furnishing of requisite statements shall be subject to the provision of Schedule I;

(f) the Central Government may, by notification, specify that any one or more of the conditions shall not apply, or shall apply, with such modifications, as specified, in case of an eligible investment fund and its eligible fund manager, if—

(i) the eligible fund manager is located in an International Financial Services Centre; and

(ii) has commenced its operations on or before the 31st March, 2030.

(*13*) In sub-section (*2*), the expression "through" shall mean and include "by means of", "in consequence of" or "by reason of".

Apportionment of income between spouses governed by Portuguese Civil Code.

10. If a husband and wife are governed by the community of property system (known as "*COMMUNIAO DOS BENS*" under the Portuguese Civil Code of 1860) in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, then—

(a) their income under any head of income shall not be assessed together as that of community of property;

(b) the income mentioned in clause (*a*) under each head of income other than "Salaries" shall be divided equally between the husband and the wife;

(c) the income so divided shall be included separately in the total income of the husband and the wife, and the remaining provisions of this Act shall apply accordingly; and

(d) where either the husband or the wife, has any income under the head "Salaries", that income shall be included in the total income of the spouse who has actually earned it.

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

A.—Incomes not to be included in total income

Incomes not included in total income.

11. (*1*) In computing the total income of any person for a tax year under this Act, any income enumerated in Schedules II, III, IV, V, and VI shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in the Schedules referred in sub-section (*1*) are not satisfied in any tax year in respect of any income enumerated in the said Schedules, such income shall be charged to tax under this Act for that tax year.

(3) The persons enumerated in Schedule VII shall, subject to fulfilment of the conditions specified therein, not be chargeable to tax under this Act for a tax year.

(4) Wherever the conditions referred to in Schedule VII are not satisfied in respect of the persons enumerated in the said Schedule, the income of such person shall be charged to tax under the provisions of this Act **for that tax year**.

(5) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedules II, III, IV, V, VI and VII.

B.—Incomes not to be included in total income of political parties and electoral trusts

Incomes not included in total income of political parties and electoral trusts.

12. (*1*) In computing the total income of any political party or an electoral trust for a tax year under this Act, any income enumerated in Schedule VIII shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in Schedule VIII are not satisfied in any tax year in respect of any income enumerated in the said Schedule, such income shall be charged to tax under this Act for that tax year.

(3) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedule VIII.

CHAPTER IV

COMPUTATION OF TOTAL INCOME

A.—Heads of income

Heads of income.

13. Save as otherwise provided in this Act, all incomes shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

(a) Salaries;

(b) Income from house property;

(c) Profits and gains of business or profession;

(d) Capital gains; and

(e) Income from other sources.

Income not forming part of total income and expenditure in relation to such income.

14. (*1*) Irrespective of anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income.

(2) Where the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with—

(a) the correctness of the claim of expenditure incurred by the assessee; or

(b) the claim made by the assessee that no expenditure has been incurred,

in relation to income which does not form part of the total income under this Act, he shall determine such amount of expenditure in accordance with any method, as prescribed.

(3) Irrespective of anything to the contrary contained in this Act, the provisions of this section shall apply in a case where any expenditure has been incurred during any tax year in relation to income which does not form part of the total income under this Act, but such income has not accrued or arisen or has not been received during that tax year.

B.—Salaries

Salaries.

15. (*1*) The following income shall be chargeable to income-tax under the head "Salaries":—

(a) any salary due from an employer to an assessee in the tax year, whether paid or not;

(b) any salary paid or allowed to him in the tax year by or on behalf of an employer though not due or before it became due to him;

(c) any arrears of salary paid or allowed to him in the tax year by or on behalf of an employer, if not charged to income-tax for any earlier tax year.

(2) For the purposes of sub-section (*1*), employer includes former employer.

(3) If any salary paid in advance is included in the total income of any person for any tax year, it shall not be included again in the total income of such person when the salary becomes due.

(4) Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as salary for the purposes of this section.

Income from salary.

16. For the purposes of this Part, "salary" includes—

(a) wages;

(b) any annuity or pension;

(c) any gratuity;

(d) any fees or commission;

(e) perquisites;

(f) profits *in lieu* of, or in addition to, any salary or wages;

(g) any advance of salary;

(h) any payment received by an employee in respect of any period of leave not availed of by him;

(i) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax as per paragraph 6 of Part A of Schedule XI;

(j) the aggregate of all sums that are comprised in the transferred balance as referred to in paragraph 11(*2*) of Part A of Schedule XI of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-paragraphs (*4*) and (*5*) thereof;

(k) the contribution made by the Central Government or any other employer in any tax year, to the account of an employee under a pension scheme referred to in section 124; and

(l) the contribution made by the Central Government in any tax year, to the *Agniveer* Corpus Fund account of an individual enrolled in the *Agnipath* Scheme referred to in section 125.

Perquisite.

17. (*1*) For the purposes of this Part, "perquisite" includes—

(a) the value of rent-free accommodation provided to the assessee by his employer computed in such manner, as prescribed;

(b) the value of any accommodation, **computed in such manner as prescribed,** provided to the assessee by his employer at a concessional rate which is in excess of rent recoverable from or payable by(**) the assessee(**);

(c) the value of any benefit or amenity granted or provided free of cost or at concessional rate in the following cases:—

(i) by a company to an employee, who is a director thereof or who has a substantial interest in the company;

(ii) by any employer (including a company) to an employee whose income under the head "Salaries" by way of monetary payment (from one or more employers) exceeds such amount as prescribed;

(d) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the current employer, or former employer, free of cost or at concessional rate to the assessee;

(e) the value of any other benefit or amenity, as prescribed;

(f) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee;

(g) any sum payable by the employer to effect an assurance on the life of the assessee or to effect a contract for an annuity, whether directly or through a fund, other than—

(i) a recognised provident fund; or

(ii) an approved superannuation fund; or

(iii) a Deposit-linked Insurance Fund established under—

(A) section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948; or 46 of 1948.

(B) section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

(h) aggregate amount of any contribution, in excess of seven lakh and fifty thousand rupees in a tax year, made to the account of the assessee by the employer—

(i) in a recognised provident fund;

(ii) in the scheme referred to in section 124(*1*); and

(iii) in an approved superannuation fund;

(*i*) the annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the fund or scheme referred to in clause (*h*), computed in such manner, as prescribed (to the extent it relates to the contribution referred to in the said clause in any tax year).

(2) Nothing in sub-section (*1*) shall apply to—

(a) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(b) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(i) in any hospital maintained by the Government, or any local authority, or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(ii) in respect of the prescribed diseases or ailments, in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to such guidelines as specified;

(c) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved, for the purposes of section 30(*c*), by the—

(i) Central Government; or

(ii) Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(d) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme, approved for the purposes of section 126, by the—

(i) Central Government; or

(ii) Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(e) any expenditure incurred by the employer for the use of any vehicle for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence;

(f) any expenditure incurred by the employer, or any sum paid by the employer in respect of any expenditure actually incurred by the employee, on—

(i) medical treatment of the employee or any family member of such employee outside India;

(ii) travel and stay abroad for the employee or any member of the family of such employee for medical treatment;

(iii) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment.

(3) For the purposes of sub-section (*2*)(*f*),—

(a) the expenditure on medical treatment and stay abroad shall be excluded from the perquisite only to the extent permitted by the Reserve Bank of India; and

(b) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed such amount as prescribed.

(4) In this section,—

(a) "fair market value" means the value determined in accordance with the method, as prescribed;

(b) "family", in relation to an individual, shall have the meaning assigned to it in Schedule III (Note 2);

(c) "gross total income" shall have the meaning assigned to it in section 122(*10*);

(d) "hospital" includes a dispensary or a clinic or a nursing home;

(e) "option" means a right but not an obligation, granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(f) "specified security" means the securities as defined in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme, includes the securities offered under such plan or scheme; 42 of 1956.

(g) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(h) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, on the date on which the option is exercised by the assessee, as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares.

Profits in lieu of salary.

18. (*1*) For the purposes of this Part, "profits *in lieu* of salary" includes,—

(a) any amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the—

(i) termination of his employment; or

(ii) modification of the terms and conditions relating thereto;

(b) any amount due to or received, whether in lump-sum or otherwise, by any assessee from any person—

(i) before his joining any employment with that person; or

(ii) after cessation of his employment with that person;

(c) any payment due to or received by an assessee—

(i) from an employer or a former employer; or

(ii) from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions; or

(*iii*) any sum received under a Keyman insurance policy as defined in Schedule II (Note 1), including the sum allocated by way of bonus on such policy.

(*2*) The payment referred in sub-section (*1*)(*c*) shall not include any payment referred to in—

(*a*) Schedule II (Table: Sl. No. 3);

(b) Schedule II (Table: Sl. No. 4);

(c) Schedule II (Table: Sl. No. 8); and

(d) Schedule III (Table: Sl. No. 11).

Deductions from salaries.

19. (*1*) The income chargeable under the head "Salaries" shall be computed after making the deductions of the nature as mentioned in column B of the following Table, to the extent as mentioned in column C of the said Table:—

Table

Sl. No.	Nature of sum	Amount of deduction
A	B	C
1.	Sum paid by the assessee as a tax on employment as per article 276(*2*) of the Constitution, leviable by or under any law.	Entire amount.
2.	Standard deduction.	(a) ₹ 75,000 or the salary, whichever is less, where income-tax is computed under section 202(*1*); (b) ₹ 50,000 or the salary, whichever is less, in any other case.
3.	Death-cum-retirement gratuity received as referred to in sub-section (*2*)(*g*).	Entire amount.
4.	Payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services.	Entire amount.
5.	Gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972).	Amount received, as restricted to the amount calculated as per the provisions of section 4(*2*) and (*3*) of that Act.
6.	Any other gratuity received by an employee— (i) on his retirement; or (ii) on his becoming incapacitated before such retirement; or (iii) on termination of his employment.	Amount being minimum of— (a) actual gratuity received; (b) amount specified by the Central Government, by notification, having regard to the limit applicable in this behalf to the employees of the Central Government; and

A	B	C
		(*c*) half month's salary for each completed year of service, calculated as under:— $\text{Amount} = \frac{1}{2}(\text{A x B})$ where,— A = average salary for ten months immediately preceding the month when event occurs; B = number of such completed years.
7.	Payment in commutation of pension received— (a) under the Civil Pensions (Commutation) Rules of the Central Government; or (b) under any similar scheme applicable to— (i) the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union, [such members or holders not covered under (*a*)]; (ii) the members of the all-India services; (iii) the members of the defence services; (iv) the members of the civil services of a State, or the holders of civil posts under a State; or (v) the employees of a local authority or a corporation established by a Central Act or State Act or Provincial Act.	Entire amount.
8.	Payment in commutation of pension is received under any scheme from any other employer.	(a) If the employee has received gratuity, the commuted value of one-third of the pension, which he is normally entitled to receive; (b) in any other case, the commuted value of one-half of such pension;

A	B	C
		(*c*) such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality.
9.	Payment in commutation of pension received from a fund as specified in Schedule VII (Table: Sl. No. 3).	Entire amount.
10.	Compensation received by a workman at the time of his retrenchment— (a) under the Industrial Disputes Act, 1947 (14 of 1947); or (b) under any other Act or rules, orders or notifications issued thereunder; or (c) under any standing orders; or (d) under any award, contract of service or otherwise.	Minimum of— (a) compensation received; (b) amount calculated as per provisions of section 25F(*b*) of the Industrial Disputes Act, 1947 (14 of 1947); (c) such amount, not being less than ₹ 50,000 as notified by the Central Government.
11.	Compensation received by a workman in accordance with any scheme which the Central Government may approve in this behalf, having regard to— (a) the need for extending special protection to the workmen in the undertaking to which such scheme applies; and (b) other relevant circumstances.	Compensation received.
12.	Amount received or receivable on voluntary retirement or termination of service under a scheme or schemes of voluntary retirement, by an employee as referred to in sub-section (*2*)(*h*).	Minimum of— (a) compensation received; and (b) ₹ 5,00,000.
13.	Payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise.	Entire amount.

A	B	C
14.	Payment of the nature referred against serial number 13 received by an employee who is not a Central Government or State Government employee.	Amount being minimum of — (a) the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement, whether on superannuation or otherwise (entitlement of earned leave shall not exceed thirty days for every year of actual service); (b) amount "A", where,— A =10×B; B = average monthly salary for the ten months immediately preceding his retirement whether on superannuation or otherwise; (c) amount as the Central Government may, by notification, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government; and (d) actual payment received.

(2) For the purposes of the Table referred to in sub-section (*1*),—

(a) in respect of the entries against serial number 6 thereof, if gratuity or gratuities was or were received from one or more than one employer in the same tax year (whether or not any gratuity or gratuities was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of gratuity or gratuities which was or were received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from the total income of any such tax year or years;

(b) in respect of the entries against serial numbers 6 and 14 thereof, "Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(c) in respect of the entries against serial numbers 10 and 11 thereof, the following amounts shall be deemed to be compensation received at the time of retrenchment:—

(i) compensation received by a workman at the time of the closing down of the undertaking in which he is employed;

(ii) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, if—

(A) the service of the workman has been interrupted by such transfer; or

(B) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer; or

(C) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer;

(d) in respect of the entries against serial numbers 10 and 11 thereof, the expressions "employer" and "workman" shall have the same meanings as respectively assigned to them in the Industrial Disputes Act, 1947; 14 of 1947.

(e) the provisions of the entries against serial number 12 thereof shall be subject to the following conditions:—

(i) the applicable schemes of the said companies or authorities or societies or Universities or the institutes referred to in clauses (*h*)(*vii*)(*x*) and (*j*) in column B of the said serial number, governing the payment of such amount are made as per such guidelines (including, *inter alia*, criteria of economic viability) as prescribed;

(ii) where deduction has been allowed to an employee in respect of the said item for any tax year, no deduction thereunder shall be allowed to him in relation to any other tax year; and

(iii) where any relief under section 157 has been allowed to an assessee for any tax year in respect of any amount referred to in the said item, such amount shall not be allowed as a deduction from the compensation received or receivable in any tax year;

(f) in respect of the entries against serial number 14 thereof, if any payment on account of cash equivalent to leave salary is received from one or more than one employer in the same tax year (whether or not any such payment or payments was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

Where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of payment or payments which was received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from total income of any such tax year or years;

(g) the death-cum-retirement gratuity referred to in sub-section (*1*) (Table: Sl. No. 3) shall be—

(A) received under the revised pension rules of the Central Government, or the Central Civil Services (Pension) Rules, 2021; or

(B) received under any similar scheme applicable—

(i) to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said rules);

(ii) to the members of the All-India services;

(iii) to the members of the civil services of a State or holders of civil posts under a State; or

(iv) to the employees of a local authority;

(h) the schemes of voluntary retirement or termination of service as referred to in sub-section (*1*)(Table: Sl. No. 12) shall be for the employees of—

(i) a public sector company (under a scheme of voluntary separation); or

(ii) any other company; or

(iii) an authority established under a Central Act or State Act or Provincial Act; or

(iv) a local authority; or

(v) a co-operative society; or

(vi) a University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956; or 3 of 1956.

(vii) an Indian Institute of Technology within the meaning of section 3(*g*) of the Institutes of Technology Act, 1961; or 59 of 1961.

(viii) the Central or any State Government; or

(ix) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification, specify in this behalf; or

(x) such institute of management, as the Central Government may, by notification, specify in this behalf.

C.— Income from house property

Income from house property.

20. (*1*) The annual value of property consisting of any buildings or lands appurtenant thereto, owned by the assessee shall be chargeable to income-tax under the head "Income from house property".

(2) The provisions of sub-section (1) shall not apply to such portions of the property, (**) **as the assessee may occupy** for his business or profession, the profits of which are chargeable to income-tax.

Determination of annual value.

21. (*1*) For the purposes of section 20, the annual value of any property shall be deemed to be the higher of the following:—

(a) the sum for which it might reasonably be expected to let from year to year; or

(b) the actual rent received or receivable by the owner, if the property or any part of it is let.

(*2*) In case the property or any part of it is let **(**)** and was vacant for the whole or any part of the tax year ***and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in sub-section (1)(a),*** the annual value of such property shall be ***deemed to be the amount so received or receivable*** **(**)**.

(3) The annual value of the property shall be reduced by the taxes (including service taxes) levied by a local authority in respect of such property, actually paid during the tax year by the owner, irrespective of when such taxes became payable.

(4) The rent which cannot be realised by the owner shall not be included in computing the actual rent received or receivable, subject to the rules as may be made in this behalf.

(5) **(**)** ***Where*** a property or its part ***is*** held as stock-in-trade and ***is*** not let wholly or partly at any time during the tax year, the annual value ***in respect thereof*** shall be *nil* for two years from the end of the financial year in which **(**)** ***the*** certificate ***for completion of construction*** is obtained from the competent authority.

(6) The annual value of the property consisting of a house or any part thereof shall be taken as *nil*, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.

(7) The provisions of sub-section (*6*)—

(a) shall apply only in respect of two of such houses as specified by the assessee in this behalf;

Deductions from income from house property.

(b) shall not apply, if the house or any part thereof is actually let during any time of the tax year, or if the owner derives any other benefit from it.

22. (*1*) The income under the head "Income from house property" shall be computed after **(**)** ***making*** the following deductions:—

(a) 30% of the annual value **of the property before computing municipal tax;**

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital**;**

(c) where the capital referred in clause (b) is borrowed during any period prior to the tax year in which the property has been acquired or constructed, the amount of any interest payable for the said prior period in five equal installments for the said tax year and for each of the four immediately succeeding tax years.

(2) In case of property or properties referred to in section 21(*6*), the aggregate amount of deduction under sub-section (*1*)(*b*) shall not exceed—

(a) two lakh rupees, subject to the following conditions:—

(i) the property has been acquired or constructed with borrowed capital and such acquisition or construction is completed within five years from the end of tax year in which capital was borrowed;

(**)

(ii) the assessee furnishes a certificate from the person to whom interest is payable on such capital; and

(b) thirty thousand rupees in any other case.

(3) The deduction under **(**)** ***section 22(1)(c)*** shall be computed after reducing ***the interest referred to in the said section by*** any amount already allowed as a deduction under any other provisions of this Act.

(4) The certificate referred to in sub-section (*2*) shall specify—

(a) the amount of interest payable on capital borrowed; and

(b) the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital.

(5) The aggregate of the amounts of deduction under sub-section (*2*) in respect of properties of the nature referred to in section 21(*6*) shall not exceed two lakh rupees.

(6) Any interest chargeable under this Act which is payable outside India shall not be allowed as a deduction under this section, if—

(a) tax has not been paid or deducted on such interest under Chapter XIX-B; and

(b) in respect of such interest, there is no agent in India as per section 306.

Arrears of rent and unrealised rent received subsequently.

23. (*1*) The amount of arrears of rent received by an assessee from a tenant or the unrealised rent realised subsequently from a tenant shall be deemed to be the income from house property in respect of the tax year in which such rent is received or realised.

(2) The amount deemed to be income from house property under sub-section (*1*) shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that tax year.

(3) A sum equal to 30% of the arrears of rent or the unrealised rent referred to in sub-section (*1*) shall be allowed as deduction.

Property owned by co-owners.

24. (*1*) For property co-owned with definite and ascertainable share, the co-owners shall not be assessed as an association of persons and their income computed separately under this Part of Chapter IV as per their respective share shall be included in their total income.

(*2*) The relief available under section 21(*6*) shall be provided as if each co-owner is individually entitled to the said relief.

Interpretation.

25. For the purposes of sections 20 to 24, the "owner" in relation to a property shall include—

(a) an individual who transfers without adequate consideration, any property to the spouse (except under an agreement to live apart), or to a minor child (other than a married daughter);

(b) the holder of an impartible estate;

(c) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association;

(d) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882; 4 of 1882.

(e) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or its part—

(i) by virtue of transfer of such property by way of sale or exchange or original or extendible lease for a term of not less than twelve years; or

(ii) accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

D.— Profits and gains of business or profession

26. (*1*) The income from any business or profession carried on by the assessee at any time during the tax year shall be chargeable to income-tax under the head "Profits and gains of business or profession".

(*2*) The income under sub-section (*1*) shall include—

(a) the profits and gains of any business or profession carried on by the assessee at any time during the tax year;

(b) any compensation or other payment, due to, or received, by any person by whatever **name** called,—

(i) wholly or substantially managing the affairs —

(A) of an Indian company; or

(B) in India, of any other company; or

(ii) holding any agency in India for any part of business activities of any other person; or

(iii) for any contract relating to business,

in connection with termination of management, office or agency or contract, as the case may be, or modification of terms and conditions relating thereto;

(c) any compensation or payment, due to, or received by, any person for vesting of the management of any property or business in the Government, including any corporation owned or controlled by the Government under any law in force;

(d) income derived by a trade, professional or similar association from specific services performed for its members;

(e) the amount of any profit on sale of (**) **import** licence, cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable;

(f) the value of any benefit or perquisite arising from business or the exercise of a profession, whether—

(i) convertible into money or not; or

(ii) in cash or in kind or partly in cash and partly in kind;

(g) an amount being interest, salary, bonus, commission or remuneration, by whatever name called, which is due to, or received by, a partner of a firm from such firm to the extent allowed under Chapter IV-D as a deduction in computing the income of the firm;

(h) any sum, received or receivable, in cash or in kind—

(i) under an agreement for not carrying out any activity in relation to any business or profession, not being–

(A) a consideration received on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession which is chargeable under the head "Capital gains";

(B) any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, as per the terms of agreement entered into with the Government of India; or

Income under head "Profits and gains of business or profession".

(ii) under an agreement for not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature, or information or technical know-how likely to assist in the manufacture or processing of goods or provision for services;

(i) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(j) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the manner, as prescribed; and

(k) any sum which is received or receivable in cash or kind, when—

(i) a capital asset other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred; **(**)**

(ii) the whole of the expenditure on it has been allowed as a deduction under section 46; **and**

(iii) **the amount from the sale of acapital asset acquired and used for the purpose of a sepcified business for which 100% deduction was claimed under section 35AD of the Income-tax Act, 1961 shall be taxed as business income if such asset is sold on or after the date on which the commencement of this Act.**

(3) Where speculative transactions carried on by an assessee are of such nature to constitute a business, the business (herein referred to as speculation business) shall be deemed to be distinct and separate from any other business.

(4) Any income from letting out of a residential house or a part of it by the owner shall not be included in income under sub-section (*1*) and shall be chargeable only under the head "Income from house property".

27. The income referred to in section 26 shall be computed as per the provisions of sections 28 to 60, except section 58.

Manner of computing profits and gains of business or profession.

Rent, rates, taxes, repairs and insurance.

28. (*1*) The following amounts shall be allowed as deduction in respect of premises, machinery, plant or furniture, (**) used for the purposes of the business or profession:—

(a) any premium paid in respect of insurance against risk of damage or destruction thereof;

(b) land revenue, local rates or municipal taxes paid;

(c) rent paid, when the premises are occupied by the assessee as a tenant;

(d) amount paid on account of current repairs, not being capital expenditure, when the premises are occupied by the assessee otherwise than as a tenant; (**)

(e) cost of repairs, not being ***in the nature of*** capital expenditure, when the premises **are** occupied (**) by the assessee as a tenant; **and**

(f) **the amount paid on account of current repairs to machinery, plant or furniture.**

(*2*) In case where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, the deduction allowable under sub-section (*1*) shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession.

Deductions related to employee welfare.

29. (*1*) The following sums, when paid by the assessee as an employer, shall be allowed as deduction in computing income chargeable under section 26:—

(a) any contribution towards a recognised provident fund or an approved superannuation fund, subject to—

(i) the limits as prescribed for recognising the provident fund or approving the superannuation fund; and

(ii) the conditions, as the Board may specify, for cases where the contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or the contributions or to the number of members of the fund;

(b) any contribution towards a pension scheme referred to in section 124, for an employee up to 14% of the salary of the employee in the tax year, where such salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(c) any contribution towards an approved gratuity fund created by the assessee for the exclusive benefit of his employees under an irrevocable trust;

(d) any provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year;

(*e*)(*i*) the amount of contribution received by the assessee from an employee to which the provisions of section 2(*49*)(*o*) apply, if it is credited by the assessee to the account of the employee in the relevant fund or funds by the due date;

(*ii*) for the purposes of sub-clause (*i*), "due date" means the date by which the assessee is required as an employer to credit employee contribution to the account of an employee in the relevant fund under any Act, rule, order or notification issued under it or under any standing order, award, contract of service or otherwise and the provisions of section 37 shall not apply for determining the "due date" under this clause.

(2) (*a*) For the purposes of sub-section (*1*)(*d*), no deduction shall be allowed for any provision made for the payment of gratuity to the employees on their retirement or termination for any reason; and

(*b*) in case deduction has been allowed for any provision made under sub-section (*1*)(*d*), then no deduction shall be allowed on actual payment made from such provision.

(3) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860, or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under sub-section (*1*)(*a*) or (*b*) or (*c*), or as required by or under any other law in force.

21 of 1860.

Deduction on certain premium.

30. The following sums shall be allowed as deduction in computing income chargeable under section 26, being premium paid:—

(a) by any assessee in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of business or profession;

(b) by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(a) by the assessee, as an employer, through any mode of payment other than cash, to effect or to keep in force an insurance on the health of its employees under a scheme framed in this behalf by—

(i) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government; or 57 of 1972.

(ii) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999. 41 of 1999.

Deduction for bad debt and provision for bad and doubtful debt.

31. (*1*) The amount mentioned in column C of the Table below, in respect of any provision for bad and doubtful debts made by the assessee specified in column B thereof, shall be allowed as a deduction in computation of income chargeable under section 26.

Table

Sl No.	Specified assessee	Amount of deduction
A	B	C
1.	(a) A scheduled bank, other than a bank incorporated by or under the laws of a country outside India; or (b) a non-scheduled bank; or (c) a co-operative bank, other than— (i) a primary agricultural credit society; or (ii) a primary co-operative agricultural and rural development bank.	(a) not more than 8.5% of the total income of the tax year computed before making any deduction under this clause and Chapter VIII, and an additional amount up to 10% of the aggregate average advances made by rural branches computed in the manner as prescribed; (b) for an assessee mentioned in clauses (*a*) and (*b*) of column B, at its option, an additional amount in excess of clause (*a*) of this column but not more than the income from redemption of securities as per a scheme framed by the Central Government, when such income has been disclosed in the return of income under the head "Profits and gains of business or profession".
2.	(a) A bank incorporated by or under the laws of a country outside India; or (b) a public financial institution or a State Financial Corporation or a State Industrial Investment Corporation; or (c) a non-banking financial company.	Not more than 5% of the total income of a tax year computed before making any deduction under this clause and Chapter VIII.

(2) Any amount of bad debt, or part of it, in the tax year in which such amount is written off as irrecoverable in the accounts of the assessee, shall be allowed as deduction in computation of income chargeable under section 26, subject to the following conditions:—

(a) it has been taken into account in computing the income of the assessee of the tax year in which it is written off, or any earlier tax year, or represents the money lent in the ordinary course of the business of banking or money lending which is carried on by the assessee;

(b) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the tax year in which the ultimate recovery is made;

(c) where it relates to an assessee to which sub-section (*1*) applies,—

(i) only that amount which exceeds the credit balance in the provision for bad and doubtful debts account made under that sub-section shall be allowed as deduction;

(ii) it shall be allowed only when the assessee has debited such amount in that tax year to the provision for bad and doubtful debts account made under that sub-section; and

(d) the account referred to in clause (*c*) shall be only one such account under sub-section (*1*) and such account shall be related to all types of advances, including advances made by rural branches.

(3) For the purposes of **(***)** sub-section (*2*),—

(a) any bad debt or part of it written off as irrecoverable shall not include any provision for bad and doubtful debt;

(b) any amount of bad debt or part of it, which has been taken into account in computing the income of the assessee of the tax year in which the amount of bad debt or part of it becomes (**) **irrecoverable** or of an earlier tax year, as per income computation and disclosure standards notified under section 276(*2*) without recording it in the accounts, shall be allowed as a deduction in computing the income of the assessee of the tax year in which it becomes irrecoverable and such bad debt or part of it shall be deemed to be written off as (**) **irrecoverable** in the accounts for the purposes of sub-section (*2*).

Other deductions.

32. (***) The following amounts shall be allowed as deduction in computing income chargeable under section 26:—

(a) bonus or commission paid to an employee for services rendered, but only when such sum would not have been payable to the employee as profits or dividend if it had not been paid as bonus or commission;

(b) interest paid in respect of capital borrowed for the purposes of business or profession, where—

(i) interest shall not include interest on capital borrowed for acquisition of an asset, whether capitalised in the books of account or not, for any period beginning from the date the capital was borrowed for acquisition of the asset till the date that asset was first put to use;

(ii) recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies fulfilling the conditions as prescribed, shall be deemed to be capital borrowed;

(c) contribution paid by a public financial institution to the credit guarantee fund trust for small industries as the Central Government may, by notification, specify;

(d) the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner, as prescribed, where—

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond, and the amount payable on maturity or redemption of such bond;

(ii) "period of life of bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(e) the amount carried to a special reserve created and maintained by a specified entity, subject to the following conditions:—

(i) the deduction shall not exceed 20% of the profits derived from an eligible business computed under the head "Profits and gains of business or profession" before any deductions under this clause; and

(ii) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of general reserves of the specified entity, no deduction shall be allowable on such excess,

and for the purposes of this clause,—

(A) "specified entity" means—

(I) a (**) **public financial institution** as specified in section 2(*72*) of the Companies Act, 2013; 18 of 2013.

(II) a financial corporation which is a public sector company;

(III) a banking company;

(IV) a co-operative bank other than a primary agricultural credit society or aprimary co-operative agricultural and rural developmentbank;

(V) a housing finance company; and

(VI) any other financial corporation including a public company;

(B) "eligible business" means,—

(I) in respect of any of the specified entities referred to in clauses (*e*)(*A*)(*I*) to (*IV*), the business of providing long-term finance for—

(a) industrial or agricultural development;

(b) development of infrastructure facility in India; or

(c) development of housing in India;

(II) in respect of the specified entity referred to in clause (*e*)(*A*)(*V*), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(III) in respect of the specified entity referred to in clause (*e*)(*A*)(*VI*), the business of providing long-term finance for development of infrastructure facility in India;

(C) "infrastructure facility" means—

(I) an infrastructure facility as defined in *Explanation* to section 80-IA(4)(i) of the Income-tax Act, 1961 or any other public facility of a similar nature as notified by the Board in this behalf and which fulfils the conditions as prescribed; 43 of 1961.

(II) an undertaking referred to in section 80-IA(4)(ii) or (iii) or (iv) or (vi) of the Income-tax Act, 1961; and

(III) an undertaking referred to in section *(**)* ***80-IB(10) of the Income-tax Act, 1961***;

43 of 1961.

(f) any expenditure, not being capital expenditure, incurred by a corporation or a body corporate, by whatever name called, if,—

(i) it is constituted or established by a Central Act or State Act or Provincial Act;

(ii) it is notified by the Central Government for the purposes of this clause having regard to the objects and purposes of the Act referred to in sub-clause (*i*); and

(iii) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(g) the expenditure incurred by a co-operative society engaged in the business of manufacture of sugar, on purchase of sugarcane at a price equal to or less than the price fixed or approved by the Government;

(h) marked to market loss or other expected loss as computed as per the income computation and disclosure standards notified under section 276(*2*) *(**)*;

(i) any expenditure *bona fide* incurred by a company for the purpose of promoting family planning amongst its employees, subject to the following conditions:—

(A) if such expenditure or any part of it is of capital nature, one-fifth of it shall be deducted for the tax year in which it was incurred and the balance shall be deducted in equal instalments for each of the four immediately succeeding tax years;

(B) the provisions of sections 33(*11*) and 112(*3*) shall apply to deduction under this clause as they apply in relation to deductions allowable in respect of depreciation;

(C) the provisions of sections 38(*1*)(*c*), 39(*4*) (Table: Sl. No. 9) and 45(*6*), shall apply to an asset representing capital expenditure for promoting family planning, to the extent they apply to an asset representing capital expenditure on scientific research;

(j) the amount being difference between the cost of animals used for the purposes of the business or profession otherwise than as stock-in-trade, as reduced by the amount realised from the carcasses or animals, where such animals have died or become permanently useless; and

(k) the amount paid as securities transaction tax or commodities transaction tax, if—

(i) the taxable securities transactions or taxable commodities transactions are entered into the course of the business during the tax year; and

(ii) the income arising from such taxable securities transactions or taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

Deduction for depreciation.

33. (*1*) A deduction in respect of depreciation of—

(a) buildings, machinery, plant or furniture, being tangible assets;

(b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired **on or after the 1st day of April, 1998**, not being goodwill of a business or profession,

owned wholly or partly by the assessee and used wholly and exclusively for the purposes of the business or profession, shall be allowed, as per the provisions of this section.

(2) In case of assets referred to in sub-section (*1*) of an undertaking engaged in generation or generation and distribution of power, the depreciation shall be a percentage of its actual cost to the assessee, as prescribed.

(3) (*a*) In case of any block of assets, depreciation shall be a percentage of its written down value, as prescribed;

(b) when any *(**)* ***building, machinery, plant or furniture*** is partly, or not wholly and exclusively, used for the purposes of the business or profession, the deduction allowable shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage ***of such building, machinery, plant or furniture*** for the purposes of the business or profession;

(c) when deduction of actual cost in respect of any machinery or plant has been allowed under section 54, no deduction under this sub-section shall be allowed.

(4) The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in sub-sections *(**)* (*2*) and **(3)** (**) is––

(a) acquired by the assessee during the tax year; and

(b) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.

(5) The allowable deduction calculated at the prescribed rates under this section shall be allowed on *pro rata* basis based on number of days for which assets were used by the following:—

(a) predecessor and successor, in case of a succession under section 70(*1*)(*zd*) or (*ze*) or (*zf*), or section 313; or

(b) amalgamating company and the amalgamated company in case of an amalgamation; or

(c) demerged company and the resulting company in case of a demerger.

(6) Where a building, not owned by the assessee, is held on lease or by any other right of occupancy is used for the purposes of business or profession, and if any capital expenditure is incurred by the assessee for the purposes of business or profession on construction of any structure or any work by way of renovation, extension or improvement to such building, then such structure or work shall be treated as a building owned by the assessee for the purposes of this section.

(7) The provisions of this section shall apply even when the assessee has not claimed deduction for depreciation in computing the total income.

(8) In addition to deduction under sub-section (*3*) shall be allowed, when–

(a) the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power;

(b) the assessee acquires and installs any new machinery or plant;

(c) the new machinery or plant is first put to use by the assessee for the purposes of business; and

(d) the new machinery or plant—

(i) is not a ship or an aircraft;

(ii) was not used either within or outside India by any other person before its installation by the assessee;

(iii) is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iv) is not in the nature of any office appliances or road transport vehicle; and

(v) is not an asset on which the whole of the actual cost is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income under the head "Profits and gains of business or profession" of any tax year.

(9) The additional deduction referred to in sub-section (*8*) shall be,—

(a) **if the new plant and machinery is acquired and put to use for one hundred and eighty days or more in the relevant tax year,** 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; (**) **and**

(b) **in other cases,** 10% of the actual cost, **and the remaining 10%** (**) shall be allowed in the immediately succeeding tax year.

(10) The difference between the written down value and the moneys payable including the scrap value, if any, shall be allowed as deduction when any tangible asset in respect of which depreciation is claimed and allowed under sub-section (*2*)—

(a) is sold, discarded, demolished or destroyed in the tax year not being the tax year in which it is first put into use;

(b) the moneys payable including the scrap value, if any, is less than its written down value; and

(c) such deficiency is actually written off in the books of account of the assessee.

(11) (*a*) Where the profits and gains chargeable for the tax year before allowing the deduction under sub-section (*1*) is less than the allowable deduction under that sub-section, then—

(i) if such profits and gains is not a loss, the deduction under sub-section (*1*) shall be allowed to the extent of the available profits and gains;

(ii) if such profits and gains is a loss, no deduction under sub-section (*1*) shall be allowed;

(b) the amount of deduction which has not been allowed under clause (*a*) shall be added to the allowable deduction under this section, whether available or not, for the succeeding tax year and the total amount shall be deemed to be eligible for deduction in that year, and so on for the succeeding tax years;

(c) the provisions of this sub-section shall be subject to the provisions of sections 112(*3*) and 113(*4*); and

(d) any deduction in respect of any depreciation carried forward to the succeeding tax year under this sub-section shall be deemed to be depreciation "actually allowed".

(12) In this section,—

(a) "assets" mean—

(i) tangible assets, being buildings, machinery, plant or furniture;

(ii) intangible assets being—

(A) know-how;

(B) patents;

(C) copyrights;

(D) trademarks;

(E) licences;

(F) franchises; or

(G) any other similar business or commercial rights, but not being goodwill of a business or profession;

(b) "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(c) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of a banking company, as referred to in section 5(*c*) of the Banking Regulation Act, 1949 with a banking institution as referred to in section 45(*15*) of the said Act, sanctioned and brought into force by the Central Government under section 45(*7*) of that Act, of any asset by the banking company to the banking institution; 10 of 1949.

(d) "written down value of the block of assets" shall have the same meaning as in section 41(*1*)(Table: Sl. No. 3)

General conditions for allowable deductions.

34 (*1*) Any expenditure (not being an expenditure of the nature specified in sections 28 to 33 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(2) For the purposes of sub-section (*1*), an expenditure laid out or expended wholly and exclusively for business or profession by the assessee shall not include any of the following:—

(a) an expenditure incurred for any purpose which is an offence or is prohibited by law; or

(b) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013; or 18 of 2013.

(c) an expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet or the like, published by a political party.

(3) The expenditure mentioned in sub-section (*2*)(*a*) shall include expenditure incurred for—

(a) any purpose which is an offence under, or is prohibited by, any law in force in or outside India; or

(b) providing a benefit or perquisite in any form to a person, who may or may not be carrying on a business or exercising a profession, when its acceptance by the person is in violation of any law or rule or regulation or guideline governing the conduct of that person; or

(c) compounding an offence under any law in force in or outside India; or

(d) settling proceedings initiated in relation to contravention under any law notified by the Central Government in this behalf.

Amounts not deductible in certain circumstances.

35. Irrespective of any other provision of Chapter IV-D, the following amounts shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession":—

(a) any amount on account of—

(i) tax paid on income; or

(ii) tax paid by employer referred to in Schedule III (Table: Sl. No. 10); or

(iii) tax paid in any other country for which relief is eligible under section 159 or 160,

and shall include any surcharge or cess on such tax, by whatever name called;

(*b*)(*i*) 30% of any sum payable to a resident on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax has not been deducted or after deduction, has not been paid up to the due date specified in section 263(*1*), where—

(A) ***in respect of any such sum,*** tax is deducted *(**)* ***in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), 30% of*** such sum shall be allowed as a deduction in computing the income *(**)* ***of the*** tax year, in which such tax has been paid***;***

(B) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(*2*), then for the purposes of this sub-clause, the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee referred to in section 398(*2*);

(ii) any interest, royalty, fees for technical services or other sum chargeable under this Act which is payable—

(A) outside India; or

(B) in India to a non-resident (which is not a company) or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax, has not been deducted or after deduction, has not been paid up to the due date specified in section 263(*1*), where—

(I) tax is deducted and paid during any subsequent tax year, deduction of such sum shall be allowed as a deduction in computing the income in any subsequent tax year, in which such tax has been paid;

(II) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(*2*), then for the purposes of this sub-clause the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee as referred to in section 398(*2*);

(iii) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source under Chapter XIX-B from any payments made from the fund which are chargeable to tax under the head "Salaries";

(c) any payment chargeable under the head "Salaries", payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction, has not been paid;

(**)

(d) any amount—

(i) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(ii) which is appropriated, directly or indirectly from

a State Government undertaking by the State Government;

(e) the expenditure incurred by a firm, assessable as such—

(i) in the nature of salary, bonus, commission or remuneration, by whatever name called (herein referred as remuneration) to a partner, who is not a working partner; or

(ii) on the remuneration to a working partner and interest to any partner, if it is—

(A) not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid; or

(B) authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed; or

(iii) on the aggregate remuneration to all working partners as authorised by the partnership deed, exceeding the amount computed as under:—

(A) on the first six lakh rupees of the book profit or in case of a loss, three lakh rupees or 90% of the book profit, whichever is higher;

(B) on the balance of the book profit at the rate of 60%; or

(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, ***so, however, that--***

(A) ***(**)*** where an individual is a partner in a firm, on behalf, *(**)* or for the benefit, of any other person (such partner and ***the*** *(**)* other person shall be referred ***to*** as *(**)* "***partner in a*** representative (**) ***capacity***" and the "person so represented", respectively,

(I) interest paid by the firm to such individual otherwise than as partner in a representative capacity shall not be taken into account for the purposes of this clause;(**)

(II) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause;

(B) ***(**) where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person***

(C) ***(**)***

(D) *(**)*

(v) In this clause—

(A) "book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IV-D as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(B) "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(f) the expenditure incurred by an association of persons or a body of individuals (other than a company, or a co-operative society or society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India)—

21 of 1860.

(i) in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, made to a member of such association or body;

(ii) where the interest has been paid by the association or the body to its member and such member has also paid interest to the association or the body, then only such excess interest, if any, paid by the association or body shall not be allowed under sub-clause (*i*);

(iii) where an individual is a member of an association or a body on behalf, or for benefit of any other person, such member and any other person shall be referred as "representative member" and "person so represented", respectively, then, the provisions of this clause—

(A) shall not be applicable in respect of interest paid to or received from such individual not being a representative member;

(B) shall be applicable in respect of interest paid to or received from an individual as a representative member and the person so represented;

(C) shall not be applicable in respect of interest paid to a member, otherwise than as representative member, on behalf or for the benefit of any other person.

Expenses or payments not deductible in certain (**)**circumstances**.

36. (*1*) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other provision of this Act relating to computation of income under the head "Profits and gains of business or profession".

(2) If the assessee incurs any expenditure for which payment has been or is to be made to any "specified person", which in the opinion of the Assessing Officer is excessive or unreasonable having regard to the—

(a) fair market value of the goods, services or facilities; or

(b) legitimate needs of the business or profession of the assessee; or

(c) benefit derived by or accruing to the assessee therefrom,

so much of the expenditure as considered excessive or unreasonable by him shall not be allowed as a deduction.

(2) For the purposes of sub-section (*2*),—

(a) "specified person",—

(i) in relation to an assessee mentioned in column B of the Table below, shall be the person referred to in column C thereof:—

Table

Sl. No.	Assessee	Specified person
A	B	C
1.	Individual.	Any relative of the assessee.
2.	Company.	Any director of the company or his relative.
3.	Firm.	Partner of the firm or his relative.
4.	Association of persons.	Member of the association or his relative.
5.	Hindu undivided family.	Member of the family or his relative.

(ii) shall mean any person being an individual or company or firm or association of persons or Hindu undivided family having substantial interest in the business or profession of the assessee, or any director, partner, member thereof or any relatives of such individual, director, partner, member or any other company in which the first mentioned company has substantial interest;

(iii) shall mean a company, firm, association of persons, or Hindu undivided family whose director, partner or member has substantial interest in the business or profession of the assessee, or any director, partner or member thereof and their relatives, as the case may be;

(iv) shall mean any person carrying on a business or profession, in which assessee, being—

(A) an individual or his relative; or

(B) a company, its directors or their relatives; or

(C) a firm, its partners or their relatives; or

(D) an association of persons, its members or their relatives; or

(E) a Hindu undivided family, its members or their relatives,

has substantial interest in the business or profession of such person;

(b) a person is deemed to have "substantial interest in the business or profession" if, at any time during the tax year, such person is—

(i) the beneficial owner of shares (not being shares entitled to fixed rate of dividend with or without a right to participate in profits) carrying at least 20% of the voting power, in case of assessee being a company; and

(*ii*) entitled to at least 20% of the profits of the business or profession in any other case, at any time during the tax year.

(4) Where any expenditure incurred by the assessee and payment or aggregate of payments made in a day to a person is exceeding ten thousand rupees and is not made through specified banking or online mode, then the expenditure by way of such payments shall not be allowed as a deduction.

(5) Where any deduction was made in any preceding tax year for a liability incurred for any expenditure and payment in respect of such liability is made during a subsequent tax year and if such payment or aggregate of payments made in a day to a person exceeds ten thousand rupees and is not made through specified banking or online mode, such payment shall be deemed to be the income under the head "Profits and gains of business or profession" in such subsequent tax year.

(6) For the purposes of sub-sections (*4*) and (*5*), the figure "ten thousand rupees" shall be read as "thirty-five thousand rupees" in case the payment is made for plying, hiring or leasing of goods carriages.

(7) The provisions of sub-sections (*4*) and (*5*) shall not be applicable in cases and circumstances, as prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

(8) Nothing (with reference to mode of payment) contained in any other law in force or in any contract, shall apply in respect of any payment which has been made through specified banking or online mode, in compliance of sub-sections (*4*) to (*7*), and no plea shall be allowed to be raised, in any suit or other proceeding on the ground that the payment was not made or tendered in cash or in mode other than through specified banking or online mode.

(9) No deduction or allowance shall be allowed in respect of marked to market laws or other expected loss, except as allowable under section 32(1)(h).

Certain deductions allowed on actual payment basis only.

37. (*1*) The *(**)* sums payable, as specified in sub-section (*2*), ***which are otherwise allowable as a deduction under this Act,*** shall be allowed as ***a*** deduction while computing the income chargeable under section 26 only in the tax year in which such sums are actually paid irrespective of—

(a) any provision to the contrary in this Act; or

(b) method of accounting regularly followed; or

(c) the tax year in which the liability was incurred.

(*2*) The sums payable by an assessee referred to in sub-section (*1*), shall be—

(a) tax, duty, cess, surcharge or fee, by whatever named called, levied under any law in force;

(b) contribution of the employer to a provident fund or superannuation fund or gratuity fund or any fund for the welfare of employees;

(c) amount payable by employer *in lieu* of any leave at the credit of the employee;

(d) any sum referred to in section 32(*a*);

(e) interest on loans ***or advances*** or borrowings from specified financial entities as per the terms and conditions of the agreement governing such loans or advances ***or borrowings***;

(f) amount payable to the Indian Railways for use of railway assets; or

(g) amount payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006. 27 of 2006.

(3) In case the amounts specified in sub-section (*2*), except the sum referred to in clause (*g*) thereof, are paid after the end of the tax year in which the liability was incurred, but on or before the due date of filing of return of income under section 263(*1*) for such tax year, the deduction towards such sum shall be allowed in such tax year.

(4) If interest on loans or advances or borrowings specified in sub-section (*2*)(*e*) is converted into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, then it shall not be deemed to have been actually paid.

(5) If a deduction in respect of any sum payable under sub-section (*2*) has already been allowed in any tax year when such liability was incurred, it shall not be allowed again in any subsequent tax year when paid.

(6) The provisions of this section shall not apply to a sum received by the assessee from any employee as contribution towards any of the funds referred to in section 2(*49*)(o).

(7) For the purposes of this section, "specified financial entities" means a public financial institution or State Finance Corporation or State Industrial Investment Corporation or such class of non-banking financial companies as may be notified by the Central Government or scheduled banks or co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank);

Certain sums deemed as profits and gains of business or profession.

(8) For the purposes of sub-section (2)(a), as in force at all material times, **"the sum payable" means a sum for which the assessee incurred liability in the tax year even though such sum might not have been payable within that year under the relevant law.**

38. (*1*) The following sums shall be deemed to be profit and gains of business or profession and shall be chargeable to income-tax, in the manner specified below, subject to the provisions of sub-section (*2*):—

(a) where an allowance or deduction has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year, then,—

(i) the value of any benefit accruing to the assessee by way of cessation or remission of such trading liability, including a unilateral act of write-off of such liability in his accounts, in the tax year in which such benefit accrues; or

(ii) any amount obtained by the assessee, whether in cash or otherwise, in respect of such loss or expenditure incurred, in the tax year in which the amount is obtained,

whether the business or profession in respect of which the allowance or deduction was made is in existence in that year or not;

(b) in a case where any tangible asset, which is owned by assessee, is sold, discarded, demolished or destroyed, and the money payable for the asset, together with the scrap value [A] exceeds the written down value of the assets [C], the sum as computed below, in the tax year in which the money payable for the tangible asset becomes due—

(i) where the money payable for the asset together with the scrap value [A] is less than the actual cost of the asset [B], then—

[A] – [C]; or

(ii) in any other case,

[B] – [C];

(c) in a case where an asset representing expenditure of a capital nature on scientific research, referred to in section 45(*1*)(*a*) or (*c*) is sold, without having been used for other purposes, and the sale proceeds together with the total deductions allowed under that section exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, in the tax year in which the asset was sold;

(d) in a case where a deduction has been allowed for a bad debt (or part of it) under the provisions of section 31(*2*), and any amount subsequently recovered exceeds the difference between such debt and the amount allowed, then the amount in excess, in the tax year in which recovery is made;

(e) in a case where a deduction has been allowed for any special reserve created and maintained under the provisions of section 32(*e*), any amount subsequently withdrawn from such reserve, in the tax year in which the amount is withdrawn.

(2) The provisions of sub-section (*1*) shall apply subject to fulfilment of the following conditions:—

(a) in respect of sub-section (*1*)(*a*), only when an allowance or deduction has been made in assessment for any **(**)** tax year towards the trading liability, loss or expenditure incurred;

(b) in respect of sub-section (*1*)(*b*), only when the asset owned by the assessee, has been used for the purpose of business, and depreciation has been claimed and allowed thereon under section 33**(2)**;

(c) in respect of sub-section (*1*)(*c*) of the said sub-section, only when the assets has not been used for other purposes.

(3) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (*1*)(*a*), (*c*), (*d*) and (*e*), in respect of that business or profession, any loss, not being a loss sustained in speculation business, which arose in that business or profession during the tax year in which it ceased to exist and which could not be set off against any other income of that tax year shall, so far as may be, be set off against the income chargeable to tax under the said clauses of that sub-section.

(4) In respect of sums referred to in sub-section (*1*)(*a*), if the benefit accrues to, or amount is obtained, by the successor in business, the value of benefit or the amount shall be chargeable to income-tax as income in the hands of successor in business.

(5) The provisions of sub-section (*1*)(*b*), (*c*), (*d*) and (*e*) shall apply in a tax year even if the business is no longer in existence.

(6) In this section,—

(a) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(b) "successor in business"means and includes—

(i) the amalgamated company, where there has been an amalgamation;

(ii) the resulting company, where there has been a demerger;

(iii) where the assessee is succeeded by any other person in that business or profession, that other person;

(iv) where a firm carrying on a business or profession is succeeded by another firm, that other firm.

Computation of actual cost.

39. (*1*) The actual cost of an asset used for the purposes of the business or profession shall be the actual cost to the assessee as, reduced by the following amounts:—

(a) part of cost of asset, if any, met by any other person or authority, directly or indirectly;

(b) goods and services tax paid in respect of which input tax credit has been claimed and allowed under the relevant law;

(c) additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944; 51 of 1975.

(d) subsidy, grant or reimbursement, by whatever name called, if any, relatable to the acquisition of the asset, received**, directly or indirectly,** by the assessee from—

(i) the Central Government;

(ii) a State Government;

(iii) any authority established under any law; or

(iv) any other person.

(2) The payment or aggregate of payments exceeding ten thousand rupees in a day for acquisition of an asset, made to a person in a mode otherwise than by specified banking or online mode, shall be excluded from the actual cost of the asset.

(3) In a case where the subsidy, grant or reimbursement referred to in sub-section (*1*)(*d*) is not directly relatable to the asset acquired, the amount of reduction under sub-section (*1*)(*d*) shall be determined as under:

$$A \times \left(\frac{B}{C}\right)$$

Where,—

A = total amount of subsidy, grant or reimbursement not directly relatable to the asset;

B = cost of the asset acquired for which actual cost is to be determined;

C = cost of all the assets in respect of or in reference to which the subsidy or grant or reimbursement is so received.

(4) In circumstances specified under column B of the Table below, the actual cost of the capital asset shall be as specified in column C thereof.

Table

Sl. No.	Specified circumstances	Determination of actual cost
A	B	C
1.	Where capital asset is transferred by an amalgamating company to an amalgamated company being an Indian company in a scheme of amalgamation.	Actual cost to amalgamated company shall be the same as it would have been if the amalgamating company had continued to hold such capital asset for the purpose of its own business.
2.	Where capital asset is transferred by a demerged company to a resulting company being an Indian company in a demerger.	Actual cost to resulting company shall be the same as it would have been, if the demerged company had continued to hold such asset for the purpose of its own business, which shall not exceed the written down value of such capital asset in the hands of demerged company.

A	B	C
3.	Where inventory is converted into capital asset.	Fair Market Value as on date of conversion, as determined in the manner as prescribed.
4.	Where capital asset is acquired by the assessee by way of gift or inheritance.	Actual cost to previous owner as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset.
5.	Where a building, being the property of the assessee, is put to use for the purpose of business or profession during the tax year.	Actual cost of the building as reduced by the depreciation— (a) that would have been allowable had the building been used for the purpose of business from the date of acquisition; and (b) calculated at the rate in force on the date on which such asset was put to use for business.
6.	Where capital asset is transferred by— (a) a holding company to its subsidiary company; or (b) a subsidiary company to its holding company, and the conditions of section 70(*1*)(*c*) and (*d*) are satisfied.	Actual cost to the transferee-company shall be the same as it would have been, if the transferor company had continued to hold such asset for the purpose of its own business.
7.	Where a capital asset, which previously belonged to the assessee, is reacquired by the assessee.	(a) Actual cost of the asset in the hands of assessee, when it was first acquired, as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset; or (b) actual price for which such asset is reacquired by the assesse, whichever is lower.
8.	Where the capital asset is acquired by the assessee from previous owner and subsequently asset is given back to the previous owner by way of lease, hire or otherwise, and— (a) the asset was being used for the purpose of business by the previous owner; and (b) depreciation has been claimed by the previous owner.	Actual cost of asset to the assessee shall be the written down value of the asset in the hands of the previous owner at the time of transfer by the previous owner.

A	B	C
9.	Where the capital asset is used in business after it ceases to be used for scientific research related to that business and a deduction is allowable under section 33(*3*).	Actual cost of asset as reduced by deduction allowed for the capital asset under section 45(*1*)(*a*) or (*c*) or under any corresponding provision of the Income-tax Act, 1961(43 of 1961).
10.	Where the assessee had acquired an asset outside India, as a non-resident, and the asset is brought by him to India and put to use in business or profession in India.	Actual cost of the asset as reduced by the depreciation— (a) that would have been allowable had the asset been used for the purpose of business or profession in India since the date of its acquisition; and (b) calculated at the rate in force.
11.	Where capital asset is acquired under the scheme of corporatisation of a recognised stock exchange approved by the Securities and Exchange Board of India.	Actual cost of the asset, as if there was no corporatisation.
12.	(a) Where deduction under section 46 was allowed or allowable in respect of the capital asset— (i) to the assessee; or (ii) to any person and the assessee acquires or receives such asset through special modes of acquisition from such person.	Actual cost shall be deemed to be *nil*.
	(b) Where deduction allowed under section 46 in respect of a capital asset becomes deemed income as per section 46(*9*)(*b*).	Actual cost of the asset as reduced by the depreciation,— (a) that would have been allowable had the asset been used for the purpose of business since date of acquisition; and (b) calculated at the rate in force.
13.	Where any amount is paid or payable as interest in connection with the acquisition of an asset.	Actual cost shall not include so much of such amount as is relatable to any period after such asset is first put to use.

(5) Irrespective of anything contained in sub-section (*4*), in a case where the asset is acquired by the assessee, its actual cost shall be determined by the Assessing Officer having regard to all the circumstances of the case, subject to the following conditions:—

(a) the asset was used by any other person for the purposes of his business, before such acquisition; and

(b) the Assessing Officer is satisfied that the main purpose of the transfer of the asset was to reduce tax liability (by claiming depreciation on enhanced actual cost) **directly or indirectly**.

(6) The determination of actual cost under sub-section (*5*) shall be made with the prior approval of the Joint Commissioner.

(7) In this section, "special modes of acquisition" means acquisition—

(a) by way of a gift or will or an irrevocable trust; or

(*b*) upon distribution on the liquidation of a company; or

(*c*) by such mode of transfer as is referred to in section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*j*), (*zd*), (*ze*) and (*zf*).

Special provision for computation of cost of acquisition of certain assets.

40. (*1*) For the purposes of computation of income under the head "Profits and gains of business or profession", cost of acquisition of an asset acquired by—

(*a*) an amalgamated company under a scheme of amalgamation; or

(b) an assessee, under a gift, or will, or an irrevocable trust, or on total or partial partition of a Hindu undivided family,

when sold as stock-in-trade shall be the sum of—

(i) cost of acquisition of the said asset in the hands of the amalgamating company in case of clause (*a*), or the transferor or donor in case of clause (*b*);

(ii) any cost of improvement made;

(iii) any expenditure incurred by the amalgamating company or transferor or donor wholly and exclusively in connection with such transfer.

(2) This section shall not apply to an asset referred to in section 67(*6*).

Written down value of depreciable asset.

41. (*1*) For the purposes of different provisions for computation of income under the head "Profits and gains of business or profession", written down value for the tax year shall be as mentioned in column C of the Table below:—

Table

Sl. No.	Circumstances	Written down value
A	B	C
1.	In case the asset is acquired in the tax year.	Actual cost to the assessee.
2.	In case the asset is acquired before the tax year.	Actual cost to the assessee less depreciation actually allowed under this Act or the Income-tax Act, 1961.
3.	In case of block of assets.	[(A-D)+ B-C]-E.

43 of 1961.

Note:— For serial No.3, column C,—

A = the written down value of the block of assets in the immediately preceding tax year;

B = actual cost of any asset falling within that block, acquired during the tax year;

C = moneys payable together with scrap value, if any, in respect of any asset falling within the block, which is sold, transferred, demolished, destroyed or discarded during the tax year, where "C" shall not exceed (A-D)+B;

D = depreciation actually allowed in respect of block of assets in relation to the said immediately preceding tax year;

E = in the case of a slump sale, the actual cost of the asset falling within that block as reduced by depreciation allowable from the tax year 1988-1989 onwards, as if the asset was the only asset in the relevant block of assets, which shall not exceed [(A-D)+B-C].

A	B	C
	(***)	
4.	Where any asset, forming part of a block of assets is transferred by a demerged company to a resulting company.	Written down value of block of assets— (a) for demerged company (**), shall be the written down value in the immediately preceding tax year as reduced by the written down value of the assets transferred to the resulting company pursuant to such demerger; (b) for resulting company, shall be the written down value of the assets transferred from the demerged company immediately before such demerger.
5.	Where any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions in section 70(*1*)(*ze*) are satisfied.	Written down value in the hands of limited liability partnership shall be written down value in the hands of said company as on the date of conversion of the company into limited liability partnership.
6.	Where any asset forming part of the block of assets is transferred to a company under the scheme of corporatisation of a recognised stock exchange in India approved by the Securities and Exchange Board of India.	Written down value of the block of assets in the hands of resulting company, shall be the written down value of the assets transferred immediately before such transfer.

A	B	C
8.	In a case of succession in business or profession under section 313, where an assessment is made in the hands of successor under section 313 (*2*).	Written down value of any asset or block of assets shall be the amount which would have been taken as its written down value, if the assessment had been made directly on the person succeeded to.

(1A)Where any block of assets is transferred by—

(a) a holding company to its subsidiary company and the conditions of section 70(1)(c) are satisfied;

(b) a subsidiary company to its holding company and the conditions of section 70(1)(a) are satisfied; or

(c) amalgamating company to the amalgamated company, in a scheme of amalgamation, being an Indian company

then the actual cost of the block of assets, irrespective of anything contained in section 39, in the hands of transferee company or amalgamated company, as the case may be, shall be the same as written down value of the block of asset as in the case of the transferor company or the amalgamating company in the immediately preceding tax year as reduced by depreciation actually allowed in respect of that block of assets in relating to that tax year.

(2) Any allowance in respect of any depreciation carried forward under section 33(*11*) shall be deemed to be the depreciation actually allowed.

(3) Where an assessee was not required to compute his total income for the purposes of this Act for any tax year or tax years preceding the tax year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset provided in the books of account of the assessee in respect of such tax year or tax years preceding the tax year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(*c*) the depreciation actually allowed under clause (*b*) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

(4) For the purposes of this section, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act or under the Income-tax Act, 1961.

43 of 1961.

(5) In this section, "sold" shall have the meaning assigned to it in section 38(*6*)(*a*).

Capitalising the impact of foreign exchange fluctuation.

42. (1) Irrespective of anything contained in any other provision of this Act, where at the time of making payment during the tax year, there is a variation in liability of an assessee as expressed in Indian currency, due to change in rate of exchange, in relation to an asset acquired for the purpose of business or profession in foreign currency from a country outside India, it shall be dealt with in the manner specified in sub-sections (*2*) and (*3*).

(2) For this section, the liability shall exclude any part met directly or indirectly by any other person or authority and the "variation in liability" shall be computed as— A = B-C

where,—

A = variation in *(**)* liability;

B = (**) ***payment*** **expressed in Indian currency** ***at the time when it is made (**)***—

(*a*) ***towards*** the whole or part of the cost of asset; or

(*b*) ***towards*** repayment ***of the whole or part*** of the moneys borrowed, ***directly or indirectly***, along with interest in foreign currency, specifically for acquiring such asset;

C = liability, corresponding to the amount referred in B, in Indian currency at the time of acquisition of such asset.

(3) The variation in liability shall be added or reduced from the—

(a) actual cost of the asset as referred in section 39; or

(b) expenditure of capital nature referred to in section 45(*1*)(*a*) or (*c*) or 32(*i*); or

(c) cost of acquisition of a capital asset (not being capital asset referred to in section 74) for the purpose of section 72,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset.

(4) Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999, for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the said liability, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the said liability, be computed with reference to the rate of exchange specified therein. 42 of 1999.

Taxation of foreign exchange fluctuation.

43. (*1*) Subject to the provisions of section 42 any gain or loss arising on account of change in foreign exchange rates on foreign currency transactions shall be treated as income or loss, and shall be computed as per the income computation and disclosure standards notified under section 276(*2*).

(*2*) The provisions of sub-section (*1*) shall be applicable to all foreign currency transactions including—

(a) monetary items and non-monetary items;

(b) translation of financial statements of foreign operations;

(c) forward exchange contracts; and

(d) foreign currency translation reserves.

Amortisation of certain preliminary expenses.

44. (*1*) If an assessee, being an Indian company or a person (other than a company), who is resident in India, incurs any expenditure specified in sub-section (*2*)—

(a) before the commencement of its business; or

(b) after the commencement of its business, in connection with the extension of its undertaking or in connection with its setting up a new unit,

the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive tax years beginning with—

(i) the tax year in which the business commences, for clause (*a*); or

(ii) the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, for clause (*b*).

(*2*) The expenditure referred to in sub-section (*1*) shall be—

(a) the expenditure in connection with—

(i) preparation of feasibility report;

(ii) preparation of project report;

(iii) conducting market survey or any other survey necessary for the business;

(iv) engineering services relating to the business;

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business;

(c) ***in addition to expenditure in (a) and (b),*** if the assessee is a company,—

(i) legal charges for drafting and printing of the Memorandum and Articles of Association of the company;

18 of 2013. (ii) fees for registering the company under the provisions of the Companies Act, 2013;

(iii) expenditure in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus; and

(d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act), as prescribed.

(3) In relation to expenditure specified in sub-section (*2*)(*a*), the assessee shall furnish a statement containing the particulars of the expenditure in such form and manner, as prescribed.

(4) The total expenditure referred to in sub-section (*2*) shall be restricted to 5%—

(a) of the cost of the project; or

(b) of the capital employed in the business of the company, where the assessee is an Indian company, at its option.

(5) In this section,—

(a) "cost of the project" means the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings) and—

(i) for cases under sub-section (*1*)(*a*), the cost is calculated as of the last day of the tax year when the business commences;

(ii) for cases under sub-section (*1*)(*b*), the cost is calculated as of the last day of the tax year when either the extension of the undertaking is completed, or the new unit commences production or operations, which only includes fixed assets acquired or developed in connection with the extension of the undertaking or setting up of new unit;

(b) "capital employed in the business of the company" means—

(i) in cases under sub-section (*1*)(*a*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the business of the company commences;

(ii) in a case under sub-section (*1*)(*b*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new unit of the company;

(c) "long-term borrowings" means—

(i) any moneys borrowed by the company from Government or Industrial Finance Corporation of India Ltd., (**), or any other financial institution which is eligible for deduction under section 32(*e*) or any banking institution (not being a financial institution referred to above); or

(ii) any loan or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the tenure of loan or debt is not less than seven years.

(6) If the assessee is a person, other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless,—

(a) the accounts of the assessee for the year or years in which the expenditure specified in sub-section (*2*) is incurred have been audited by an accountant before the specified date referred to in section 63; and

(b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by such accountant and setting forth such particulars, as prescribed.

(7) If an undertaking of Indian company entitled for deduction under sub-section (*1*) is transferred before expiry of five years specified in the said sub-section, in a scheme of amalgamation, to another Indian company, then—

(a) no deduction under sub-section (*1*) shall be allowed to the amalgamating company for the tax year in which amalgamation takes place; and

(b) all provisions of this section shall continue to apply to the amalgamated company as they would have applied to the amalgamating company, as if the amalgamation has not taken place.

(8) If an undertaking of Indian company entitled for deduction under sub-section (*1*) is transferred before five years specified in the said sub-section, in a scheme of demerger to another company, then—

(a) no deduction under sub-section (*1*) shall be allowed to the demerged company for the tax year in which demerger takes place; and

(b) all provisions of this section shall continue to apply to the resulting company as they would have applied to the demerged company, as if the demerger has not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (*2*), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

Expenditure on scientific research.

45. (*1*) A deduction shall be allowed for any expenditure, being in the nature of—

(a) capital expenditure, but not on acquisition of land, as such or as part of any property; or

(b) revenue expenditure; or

(c) both,

incurred on scientific research related to the business of the assessee subject to provisions of this section.

(*2*)(*a*) A deduction shall be allowed under sub-section (*1*) in respect of the aggregate of expenditure (not being in the nature of capital expenditure), related to business, incurred on—

(i) salary to an employee engaged in such scientific research; or

(ii) purchase of materials used in such scientific research,

where such expenditure is incurred within three years immediately preceding the commencement of business, to the extent certified by the prescribed authority as incurred on such research, expenditure shall be deemed to have been incurred in the tax year in which the business is commenced.

(b) For the purposes of sub-section (*1*), the aggregate of capital expenditure incurred within three years immediately preceding the commencement of business shall be deemed to have been incurred in the tax year in which the business is commenced.

(*c*)(*i*) A deduction shall be allowed **(**)**, in respect of any expenditure ***on scientific research*** incurred (not being expenditure in the nature of cost of any land or building) by a company engaged in the business of—

(A) bio-technology; or

(B) manufacture or production of any article or thing, which is not specified in Schedule XIII,

on in-house research and development facility as approved by the prescribed authority, subject to the conditions and manner, as prescribed;

(ii) No deduction shall be allowed under this clause to a company approved under sub-section (*3*)(*b*)(ii);

(iii) No deduction shall be allowed in respect of the expenditure mentioned in sub-clause (*i*) under any other provision of this Act;

(iv) The expenditure under sub-clause (*i*) shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed;

(*d*) For the purposes of clause (*c*), **"*expenditure on*** scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central Act or State Act or Provincial Act and filing an application for a patent under the Patents Act, 1970.

39 of 1970.

(3) A deduction shall be allowed for any sum, paid to—

(*a*)(*i*) a research association having the object of undertaking scientific research or to a University, college or institution to be used for scientific research; or

(*ii*) a research association having the object of undertaking research in social science or statistical research or to a University, college or institution to be used for research in social science or statistical research;

(b) a company which is—

(i) registered in India having the main object of scientific research and development; and

(ii) approved by such authority, in such manner and subject to such conditions, as prescribed;

(*c*)(*i*) a national laboratory; or

(ii) a University; or

(iii) an Indian Institute of Technology; or

(iv) a specified person,

with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority.

(4) For the purposes of sub-section (*3*),—

(a) the expenditure shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed; and

(b) in respect of clause (*a*) of the said sub-section, only such association, University, college or other institution shall be eligible for deduction, which for the time being is approved in the manner and subject to such conditions, as prescribed, and is specified by the Central Government, by notification.

(5) The deduction for any sum under sub-section (*3*) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such entities or the programme undertaken by entities as mentioned in sub-section(*3*)(*c*), has been withdrawn.

(6) Where a deduction is allowed for any tax year under this section in respect of expenditure, represented wholly or partly by an asset, no deduction shall be allowed under section 33(*3*) for the same or any other tax year in respect of that asset.

(7) The provisions of section 33(*11*) in respect of depreciation shall apply in relation to deductions allowable for capital expenditure under sub-section (*1*).

(8) No deduction in respect of the sum mentioned in sub-section (*3*)(*c*) shall be allowed under any other provision of this Act.

(9) If any question arises under this section as to whether, and if so, to what extent any activity constitutes or constituted scientific research, or any asset is or was being used, for scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under sub-section (*3*)(*a*), and its decision shall be final;

(b) the prescribed authority, when such question relates to any other activity, whose decision shall be final.

(10) When an amalgamating company, in a scheme of amalgamation, sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing capital expenditure on scientific research, the provisions of this section shall apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.

(11) In this section,—

(a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by such authority and in such manner, as prescribed;

(b) "specified person" means such person approved by the prescribed authority;

(c) "land" includes any interest in land.

Capital expenditure of specified business.

46. (*1*) An assessee, at his option, shall be allowed a deduction of the whole of the capital expenditure incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the tax year in which such expenditure is incurred.

(2) Where the expenditure referred to in sub-section (*1*) is incurred prior to the commencement of its operations and such expenditure is capitalised in the books of account as on the date of commencement of its operations, it shall be allowed during the tax year in which such business is commenced.

(3) This section shall apply to the specified business fulfilling the following conditions:—

(a) it is not set up by splitting up, or the reconstruction, of an already existing business;

(b) it is not set up by the transfer of machinery or plant previously used for any purpose to the specified business;

(c) if the business is of the nature referred to in sub-section (*11*)(*d*)(*iii*) and such business—

(*i*) is owned by a company formed and registered in India under the Companies Act, 2013 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central Act or State Act; 18 of 2013.

(*ii*) has been approved by the Petroleum and Natural Gas Regulatory Board established under section 3(*1*) of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in this behalf; 19 of 2006.

(*iii*) has made not less than such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under section 3(*1*) of the Petroleum and Natural Gas Regulatory Board Act, 2006 available for use on common carrier basis by any person other than the assessee or an associated person; and 19 of 2006.

(*iv*) fulfils any other condition as prescribed;

(d) if the business is of the nature referred to in sub-section (*11*)(*d*)(*xiv*), such business,—

(i) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central Act or State Act;

(ii) entity referred to in sub-clause (*i*) has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility.

(*4*) No deduction shall be allowed under the provisions of section 144 and Chapter VIII-C in relation to such specified business for the same or any other tax year, if a deduction under sub-section (*1*) is claimed and allowed.

(5) No deduction in respect of the expenditure referred to in sub-section (*1*) shall be allowed to the assessee under any other section in any tax year or under this section in any other tax year, if the deduction has been claimed and allowed to him under this section.

(6) The provisions of this section shall apply to the specified business referred to in column B of the Table below if it commences its operations as specified in column C thereof.

Table

Sl. No.	Nature of specified business	Date of commencement of operations being on or after
A	B	C
1.	Laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network.	1st April, 2007.
2.	Building and operating a new hotel of two-star or above category as classified by the Central Government.	1st April, 2010.
3.	Building and operating a new hospital with at least 100 beds for patients.	1st April, 2010.

A	B	C
4.	Developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as notified by the Board, as per the guidelines as notified by the Board.	1st April, 2010.
5.	Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as notified by the Board, as per the guidelines notified by the Board.	1st April, 2011.
6.	A new plant or a newly installed capacity in an existing plant for production of fertilizer.	1st April, 2011.
7.	Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962).	1st April, 2012.
8.	Bee-keeping and production of honey and beeswax.	1st April, 2012.
9.	Setting up and operating a warehousing facility for storage of sugar.	1st April, 2012.
10.	Laying and operating a slurry pipeline for the transportation of iron ore.	1st April, 2014.
11.	Setting up and operating a semi-conductor wafer fabrication manufacturing unit, as notified by the Board, and as per such guidelines as notified by the Board.	1st April, 2014.
12.	Developing, or operating and maintaining, or developing, operating and maintaining, any infrastructure facility.	1st April, 2017.
13.	In all other cases.	1st April, 2009.

(7) Where the assessee builds a hotel of two star or above category as classified by the Central Government and subsequently, transfers the hotel operation thereof to another person while retaining its ownership, the assessee shall be deemed to be carrying on the specified business referred to in sub-section (*11*)(*d*)(*iv*).

(8) The provisions contained in sections 122(*6*) (**), **140(8) and (13)** shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(9) Any asset for which a deduction is claimed and allowed under this section—

(a) shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed;

(b) is used for a purpose other than the specified business during the period specified in clause (a) and is not chargeable to tax under section 26(2)(k), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.

(10) The provisions of sub-section (*9*)(*b*) shall not apply to a company which has become a sick industrial company under section 17(*1*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 during the period specified in sub-section (*9*)(*a*).

1 of 1986.
1 of 2004.

(11) In this section,—

(a) "associated person", in relation to the assessee, means a person,—

(i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying at least 26% of the voting power in the capital of the assessee;

(iii) who appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees at least 10% of the total borrowings of the assessee;

(b) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(c) **(**)**

43 of 1961.

(d) "specified business" means any one or more of the following businesses:—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;

(iv) building and operating, anywhere in India, a hotel of two star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a hospital with at least 100 beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government as per the guidelines notified by the Board;

(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government as per the guidelines notified by the Board;

(viii) production of fertilizer in India;

(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962; 52 of 1962.

(x) bee-keeping and production of honey and beeswax;

(xi) setting up and operating a warehousing facility for storage of sugar;

(xii) laying and operating a slurry pipeline for the transportation of iron ore;

(xiii) setting up and operating a semiconductor wafer fabrication manufacturing unit as per the guidelines notified by the Board;

(xiv) developing, or maintaining and operating, or developing, maintaining and operating, a new infrastructure facility;

(e) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time before the date of the installation by the assessee, used in India;

(ii) such machinery or plant is imported into India; and

(iii) no deduction of depreciation for such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of the machinery or plant by the assessee;

(f) if any machinery or plant or its part previously used for any purpose is transferred to the specified business and its total value does not exceed 20% of the total value of the machinery or plant used in such business, then the conditions specified in sub-section (*3*)(*b*) shall be deemed to be complied with;

(g) any expenditure of capital nature shall not include any expenditure—

(i) for which the payment or aggregate of payments made to a person in a day, is not through specified banking or online mode, exceeds ten thousand rupees; or

(ii) incurred on the acquisition of any land or goodwill or financial instrument.

Expenditure on agricultural extension project and skill development project.

47. (*1*) Any expenditure (excluding cost of any land or building) incurred, on—

(a) agricultural extension project by any assessee; or

(b) any skill development project by a company,

shall be allowed as a deduction, in the tax year in which such expenditure is incurred provided such project is (**) **notified by the Board** ***as per the guidelines prescribed by it.***

(*2*) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

Tea development account, coffee development account and rubber development account.

48. (*1*) Where an assessee is carrying on business of growing and manufacturing tea or coffee or rubber in India, such assessee shall be allowed a deduction on the basis of deposits into the tea development account, coffee development account or rubber development account or any other designated account and computed as per the provisions of the Schedule IX.

(2) ***(**)***

(3) ***(**)***

49. (*1*) An assessee carrying on a business of prospecting, extracting, or producing petroleum or natural gas, or both, in India, and who has an agreement with the Central Government for this business, shall be allowed a deduction on the basis of deposit to special account or the site restoration account, computed as per the provisions of the Schedule X.

(2) ***(**)***

(3) ***(**)***

Site Restoration Fund.

50. (*1*) Irrespective of anything to the contrary contained in this Act, if, during the tax year, the amount received by a specified association from its members falls short of the expenditure incurred by such association solely for the protection or advancement of common interest of its members, then the amount so falling short shall be allowed as deduction from the income of such association under the head "Profits and gains of business or profession" and the remaining amount, if any, from its income under any other head.

(2) For the purposes of sub-section (*1*),—

(a) "specified association" means any trade, professional or similar association, not covered in Schedule III (Table: Sl. No. 24), whose income or its part is not distributed to its members (other than as grants to any associations or institutions affiliated to it);

(b) the amount received by the specified association from its members shall include amount by way of subscription or otherwise, and shall not include any remuneration received by the association for rendering any specific services to such members;

Special provision in case of trade, profession or similar association.

(c) expenditure incurred by specified association shall not include—

(i) expenditure deductible under any other provision of this Act; and

(ii) any capital expenditure.

(3) The effect of other provisions of this Act relating to carry forward and set off of brought forward losses or allowances shall be given before allowing deduction under sub-section (*1*).

(4) The maximum allowable deduction under this section shall not exceed 50% of the total income as computed before allowing deduction under this section.

Amortisation of expenditure for prospecting certain minerals.

51. (*1*) An assessee, being an Indian company or a person (other than a company) who is resident in India, who is engaged in any operations relating to prospecting for, or extraction or production of, any mineral, shall be allowed a deduction of an amount equal to one-tenth of the amount of expenditure referred to in sub-section (*2*), in each of the relevant tax years.

(2) The expenditure referred to in sub-section (*1*) is the expenditure incurred by the assessee at any time during the year of commercial production and any one or more of the four tax years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Schedule XII or on the development of a mine or other natural deposit of any such mineral or group of associated minerals.

(3) The expenditure under sub-section (*2*) shall be reduced by such expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(4) For the purposes of sub-sections (*2*) and (*3*), the following expenditure shall be excluded:—

(a) any expenditure on the acquisition of the site of the source of any mineral or group of associated minerals referred to in the said sub-sections or of any rights in or over such site; or

(b) any expenditure on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(c) any expenditure of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 33.

(5) The deduction to be allowed under sub-section (*1*) for any relevant tax year shall be—

(a) an amount equal to one-tenth of the expenditure specified in sub-sections (*2*) and (*3*) (such one-tenth being herein referred to as the instalment); or

(b) such amount as is sufficient to reduce to *nil* the income (as computed before making the deduction under this section) of that tax year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-sections (*2*) and (*3*)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals under this section in respect of which the expenditure was incurred,

whichever is less.

(6) If any part of the instalment for a relevant tax year is not fully allowed, it shall be carried forward to the next year, becoming part of the instalment of that tax year and such carrying forward may continue for each following year, but no instalment shall be carried forward beyond the tenth year from the year in which commercial production began.

(7) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless,—

(a) the accounts of the assessee for the year or years in which the expenditure specified in sub-sections (*2*) and (*3*) are incurred have been audited by an accountant, before the specified date referred to in section 63; and

(b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit, by such date, in such form and duly signed and verified by such accountant, as prescribed.

(8) If an undertaking of an Indian company, entitled for deduction under sub-section (*1*), is transferred before ten years specified in the said sub-section in a scheme of amalgamation or demerger, to another Indian company, then,—

(*a*) no deduction shall be allowed to the amalgamating or demerged company for the year in which such amalgamation or demerger takes place; and

(*b*) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the amalgamation or demerger has not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-sections (*2*) and (*3*), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

(*10*) In this section,—

(a) "operation relating to prospecting" means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral and includes any such operation which proves to be infructuous or abortive;

(b) "year of commercial production" means the tax year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of Schedule XII, commences;

(c) "relevant tax years" means the ten tax years beginning with the year of commercial production.

Amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme ofvoluntary retirement, etc.

52. (*1*) Where an expenditure of the nature specified in column B of the Table given below is incurred during the tax year, a deduction or part thereof shall be allowed in equal instalments in each of the tax years as mentioned in column D of the said Table, beginning from the initial tax year specified in column C thereof.

Table

Sl. No.	Nature of expenditure	Initial tax year	Number of tax years over which deduction of expenditure is allowable in equal instalments
A	B	C	D
1.	Expenditure incurred by an Indian company, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking.	Tax year in which such amalgamation or demerger takes place.	Five tax years.

A	B	C	D
2.	Amount paid to an employee in connection with his voluntary retirement as per any scheme of voluntary retirement.	Tax year in which such payment is made.	Five tax years.
3.	Capital expenditure incurred and actually paid for acquiring any right to use spectrum for telecommunication services (spectrum fee).	Tax year in which,— (a) the business to operate telecom services is commenced; or (b) spectrum fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the spectrum for which the fee is paid remains in force.
4.	Capital expenditure incurred and actually paid for acquiring any right to operate telecommunication services (herein referred to as licence fee).	Tax year in which,— (a) the business to operate telecom services is commenced; or (b) licence fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the licence for which the fee is paid remains in force.

(2) Where the rights referred to in sub-section (*1*) (Table: Sl. No. 3 or 4) are transferred and—

(a) where the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure though incurred, but remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the tax year in which the licence is transferred;

(b) where the whole or part of the right is transferred, the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure though incurred, but remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence **or spectrum** and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the tax year in which the licence **or spectrum** has been transferred;

(c) where the rights under clause (*b*) is transferred in a tax year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that tax year;

(d) where the whole or part of the right is transferred, the proceeds of the transfer (so far as they consist of capital sums) are equal or greater than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (*1*) in respect of the tax year in which the licence is transferred or in respect of any subsequent tax year or years;

(e) such transfer is in a scheme of amalgamation or demerger to the amalgamated company or resulting company, being an Indian company,—

(i) the provisions of clauses (*a*), (*b*), (*c*) and (*d*) shall not apply to the amalgamating or demerged company; and

(ii) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the transfer has not taken place.

(3) Where a part of the rights is transferred in a tax year and sub-section (*2*)(*b*) and (*c*) does not apply, the deduction to be allowed under sub-section (*1*) for the expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant tax years which have not expired at the beginning of the tax year during which the licence is transferred.

(4) No deduction shall be allowed—

(a) for depreciation under section 33(*1*) to (*10*) in respect of expenditure mentioned in sub-section (*1*) (Table: Sl. No. 3 or 4), where deduction under this section is claimed and allowed for any tax year;

(b) under any other provision of this Act in respect of the expenditure mentioned in sub-section (*1*) (Table: Sl. No. 1 or 2).

(5) In case any deduction has been claimed and granted in respect of an expenditure referred in sub-section (*1*) (Table: Sl. No. 3) and there is subsequent failure on part of the assessee to comply with any of the provisions of this section, then,—

(a) the deduction shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of any other provisions of this Act, recompute the total income of the assessee for the said tax year by making necessary rectification;

(c) the provisions of section 287 shall, so far as may be, apply; and

(d) the period of four years specified in section 287(*8*) shall be counted from the end of the tax year in which such failure takes place.

(6) Where a specified business reorganisation takes place before the expiry of the period specified in sub-section (*1*) (Table: Sl. No. 2 Col.D), in case of an expenditure referred against serial number 2 thereof, then,—

(a) the provisions of this section shall continue to apply to the successor entity for the tax year in which the business reorganisation took place and subsequent tax years; and

(b) no deduction shall be allowed to the predecessor entity under this section for the tax year in which such reorganisation takes place.

(*7*) In this section,—

(a) "actually paid" means the actual payment of expenditure irrespective of the tax year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner, as prescribed;

(b) "equal installments" shall be calculated by taking numerator as 1 and denominator as the tax years mentioned in column D of the Table in sub-section (*1*);

(c) "specified business reorgnisation" means—

(i) amalgamation of an Indian company and its undertaking with another Indian company; or

(ii) demerger of an undertaking of an Indian company to another company; or

(iii) succession of a firm or proprietorship concern to a company fulfilling conditions as laid down in section 70(*1*)(*zd*); or

(iv) conversion of a private company or unlisted public company to a limited liability partnership fulfilling conditions laid down in section 70(*1*)(*ze*).

Full value of consideration for transfer of assets other than capital assets in certain cases.

53. (*1*) In case of transfer of an asset (other than a capital asset), being land or building or both, if the consideration received or accrued from such transfer is less than the stamp duty **value**, then such stamp duty value for computing profits and gains from transfer of such asset shall be deemed to be the full value of consideration.

(2) The provisions of sub-section (*1*) shall not apply if the stamp duty value does not exceed 110% of the consideration received or accrued and in such a case, the consideration received or accrued shall be deemed to be the full value of consideration.

(3) If the date of agreement fixing the value of consideration for transfer of asset and date of registration for transfer of such asset are different, then the stamp duty value as on date of agreement may be taken to be the full value of consideration under sub-section (*1*).

(4) The provisions of sub-section (*3*) shall apply only in a case where the amount of consideration or a part thereof has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.

(5) For the determination of the value adopted or assessed or assessable under sub-section (*1*), the provisions of section 78(*2*) and (*4*) shall apply.

Business of prospecting for mineral oils.

54. (*1*) Where the assessee undertakes specified oil exploration business, then deduction specified in sub-sections (*3*) and (*4*) shall be allowed while computing the income under the head "Profits and gains of business or profession".

(2) In this section, "specified oil exploration business" means business consisting of prospecting for or extraction or production of mineral oils where the following conditions are fulfilled:—

(a) the assessee has entered into an agreement with the Central Government;

(b) such agreement is entered for association or participation of the Central Government or any person authorised by it; and

(c) such agreement is laid before each House of Parliament.

(3) The deduction referred to in sub-section (*1*) shall be—

(a) for the period before the beginning of commercial production, expenditure towards infructuous or abortive exploration incurred in respect of any surrendered area;

(b) for the period after the commencement of commercial production, expenditure (whether before or after such production) in respect of drilling or exploration activities or services or in respect of physical assets used in that connection;

(c) for the tax year of commencement of commercial production and such succeeding tax years as specified in the agreement, towards depletion of mineral oil in the mining area.

(4) The deductions referred to in sub-section (*1*) shall be—

(a) either *in lieu* of, or in addition to, any allowance admissible under this Act as specified in the agreement; and

(b) computed and made in the manner specified in the agreement and the other provisions of this Act shall be deemed to have been modified to such extent.

(5) Where the business or any interest therein as referred to in sub-section (*1*) is wholly or partly transferred as per the provisions of the agreement, the profit shall be charged to tax or deduction shall be allowed in the following manner:—

(a) where A is less than C, then (C-A) shall be allowed as deduction in the tax year in which such business or interest is transferred;

(b) where A is greater than C,—

(i) but less than B, then (A-C) shall be the profit chargeable under the head "Profits and gains of business or profession" for the tax year in which such transfer takes place;

(ii) in any other case, only (B-C) shall be the profit chargeable under the said head for the tax year in which such transfer takes place; and

(iii) no deduction shall be allowed for the expenditure incurred remaining unallowed in the tax year in which such transfer takes place or any subsequent tax year,

where,—

A = proceeds of the transfer (so far as they consist of capital sums);

B = total amount of expenditure incurred in connection with the business or to obtain interest therein;

C = amount of expenditure incurred remaining unallowed.

(6) If the business or interest therein is no longer in existence in the year of transfer, the provisions of sub-section (*5*) shall apply as if such business is in existence during the said year.

(7) Where the business or interest therein is transferred in a scheme of amalgamation or demerger and the resulting entity is an Indian company, then the provisions of sub-section (*5*) shall—

(a) not apply to the amalgamating or demerged company; and

(b) continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company as if the transfer has not taken place.

(8) (**)

Insurance business.

55. Irrespective of anything to the contrary contained in the provisions of this Act for computing income under the head "Income from house property", "Capital gains" or "Income from other sources", or in section 390(*5*) and (*6*), or in sections 26 to 54, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed as per the provisions of Schedule XIV.

Special provision in case of interest income of specified financial institutions.

56. (*1*) Irrespective of anything to the contrary contained in this Act, the interest income in relation to bad or doubtful debts of a specified financial institution shall be chargeable to tax under the head "Profits and gains of business or profession" in the tax year in which such interest is—

(a) credited to the profit and loss account; or

(b) actually received,

whichever is earlier.

(*2*) In this section,—

(a) "specified financial institution" means—

(i) a public financial institution; or

(ii) a scheduled bank; or

(iii) a co-operative bank, other than—

(A) a primary agricultural credit society; or

(B) a primary co-operative agricultural and rural development bank; or

(iv) a State Financial Corporation; or

(v) a State Industrial Investment Corporation; or

(vi) any such class of non-banking financial companies, as notified by the Central Government;

(b) "bad or doubtful debts" shall be such categories of debts, as prescribed, having regard to the guidelines issued in relation to such debts by the Reserve Bank of India.

Revenue recognition for construction and service contracts.

57. (*1*) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method , ***subject to the provisions of sub-section (2),*** as per the income computation and disclosure standards notified under section 276(*2*).

(2) **For the purposes of sub-section (1), the** profits and gains arising from a contract for providing services **(**)** shall be determined—

(a) on the basis of project completion method, if the duration of such contract is not more than ninety days;

(b) on the basis of straight line method, if the contract involves indeterminate number of acts over a specified period of time.

(3) For the purposes of percentage of completion method, project completion method or straight line method under this section,—

(a) the contract revenue shall include retention money;

(b) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

Special provision for computing profits and gains of business or profession on presumptive basis in case of certain residents.

58. (*1*) The provisions of sections 26 to 54, to the extent contrary to this section shall not apply to the specified business or profession mentioned in column B of the Table in sub-section (*2*).

(2) The profits and gains of any specified business or profession as mentioned in column B of the Table below, carried on by an assessee specified in column C of the said Table, having total turnover or gross receipts of business or profession during the tax year specified in column D and computed in the manner specified in column E thereof, shall be deemed to be the profits and gains of such business or profession chargeable to tax under the head "Profits and gains of business or profession".

Table

Sl. No.	Specified business or profession	Assessee	Total turnover or gross receipts of business or profession during tax year	Manner of computation
A	B	C	D	E
1.	Any business other than the business specified against serial number 2.	Eligible assessee.	(a) Does not exceed ₹2,00,00,000; or (b) does not exceed ₹3,00,00,000, where the amount or aggregate of amounts received, in cash, does not exceed 5% of the total turnover or gross receipts.	(A) ***The aggregate of—*** (i) 6% of total turnover or gross receipts **(**)** ***which is received by*** **(**)** specified banking or online mode ***during the tax year or before the due date specified in section 263(1) in respect of that tax year***; and (ii) 8% of total turnover or gross receipts **(**)** ***other than those covered in serial number (i)***; or (*B*) profit claimed to have been actually earned, whichever is higher.
2.	Business of plying, hiring or leasing goods carriage.	An assessee, who owns not more than ten goods carriages at any time during the tax year.		(a) The aggregate of income from goods carriage:— (i) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight**, *as the case may be,* for each vehicle for every month or part of a month during which the heavy goods vehicle is owned by the assessee *in the tax year*;** or (ii) being a vehicle other than heavy goods vehicle, calculated at the

(1)	(2)	(3)	(4)	(5)
				rate of ₹ 7,500 for each goods carriage for every month or part of a month during which the vehicle is owned by the assessee in the tax year; or (*b*) income claimed to have been actually earned, whichever is higher.
3.	Any profession as referred to in section 62(*1*)(*a*).	Specified assessee.	(a) Does not exceed ₹50,00,000; or (b) does not exceed ₹75,00,000, where the amount or aggregate of amounts received in cash does not exceed 5% of the total turnover or gross receipts.	50% of the gross receipts or profit claimed to have been actually earned, whichever is higher.

(3) Any assessee mentioned in column C of the Table in sub-section (*2*), who claims that—

(a) the profits or gains actually earned from the specified business or profession are lower than the profits or gains computed in the manner mentioned in column E of the said Table; and

(b) whose total income exceeds the maximum amount which is not chargeable to tax,

shall be required to—

(i) keep and maintain such books of account and other documents as required under section 62; and

(ii) get the accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against the income computed in the manner specified in sub-section (*1*).

(5) For the purposes of sub-section (*2*) (Table: Sl. No. 2), where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (*1*) subject to the conditions and limits specified in section 35(*f*).

(6) The written down value of any asset used for the purposes of specified business or profession shall be computed as if the assessee mentioned in column C of the Table in sub-section (*2*) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(7) Where an eligible assessee declares profit for any tax year as per the provisions of sub-section (*2*) (Table: Sl. No. 1) and he declares profit for any of the five tax years succeeding such tax year in contravention of the provisions of sub-section (*1*), then he shall not be eligible to claim the benefit of the provisions of this section for five tax years subsequent to the tax year in which the profit has not been declared as per the provisions of the said sub-section.

(8) Irrespective of anything contained in foregoing provision of this section, where provisions of sub-section (*7*) are applicable to an eligible assessee and his total income exceeds the maximum amount which is not chargeable to income-tax, he shall be required to keep and maintain such books of account and other documents as required under section 62(*2*) and get them audited and furnish a report of such audit as required under section 63.

(9) For the purposes of sub-section (*2*) (Table: Sl. Nos. 1 and 3), the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

(10) In this section,—

(a) "eligible assessee" means an individual, a Hindu undivided family, or a firm other than a limited liability partnership, who is resident in India, who—

(i) has not claimed any deduction under section 141; or

(ii) has not claimed any deduction under Chapter VIII-C for the relevant tax year; or

(iii) does not carry on specified profession as defined in sections 62(*1*)(*a*) and (*c*); or

(iv) does not earn any income in the nature of commission or brokerage; or

(v) does not carry on any agency business;

(b) "specified assessee" means an individual or a firm, other than a limited liability partnership, who is a resident in India;

(c) "limited liability partnership" shall have the same meaning as assigned to it in section 2(*n*) of the Limited Liability Partnership Act, 2008; 6 of 2009.

(d) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the same meaning as respectively assigned to them in section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(e) "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms; and

(f) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

Chargeability of royalty and fee for technical services in hands of non-residents.

59. (*1*) Income in the nature of royalty or fees for technical services received by a specified assessee during a tax year, shall be charged to income-tax under the head "Profits and gains of business or profession" under this Act, if the following conditions are satisfied:—

(a) income is received from the Government or an Indian concern;

(b) income is in pursuance to an agreement made by the specified assessee with the Government or the Indian concern;

(c) the specified assessee carries on business in India through a permanent establishment, or performs professional services from a fixed place of profession, situated in India; and

(d) the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession.

(2) No deduction shall be allowed against the income chargeable under sub-section (*1*) in respect of the following amounts:—

(a) any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(b) amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(3) The provisions of section 61 in so far as it relates to business referred to in section 61(*2*) (Table: Sl. No. 5), shall not apply in respect of the income referred to in this section.

(4) The specified assessee shall keep and maintain books of account and other documents as per the provisions of section 62, get his accounts audited on or before the specified date referred to in section 63 by an accountant, and furnish report of audit in the prescribed form, duly signed and verified by the accountant.

(5) In this section, "specified assessee" means a non-resident (not being a company) or a foreign company.

Deduction of head office expenditure in case of non-residents.

60. (*1*) Irrespective of anything to the contrary contained in sections 26 to 54, in the case of a non-resident assessee, deduction of head office expenditure incurred by such assessee as is attributable to his business or profession in India, shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" subject to provisions of sub-section (*2*).

(2) The deduction allowable under sub-section (*1*) shall be restricted to—

(a) if the adjusted total income of the assessee is a loss, to an upper monetary limit of 5% of the average adjusted total income of the assessee; or

(b) in any other case, to an upper monetary limit of 5% of the adjusted total income of the assessee.

(3) In this section,—

(a) "adjusted total income" means the total income computed under this Act, without giving effect to the allowance referred to in this section or in section 33(*11*) or the deduction referred to in section 32***(1)***(*i*)***(A)*****(**)** or any loss carried forward under section 112(*1*) or 113(*2*) or 115(*1*) or the deductions under Chapter VIII;

(b) "average adjusted total income" means,—

(i) if the assessee is assessable for each of the three tax years immediately preceding the relevant tax year, the arithmetic mean of his adjusted total income over those three tax years;

(*ii*) if the assessee is assessable only for two of the said three tax years, the arithmetic mean of his adjusted total income over those two tax years;

(*iii*) if the assessee is assessable only for one of the said three tax years, his adjusted total income for that tax year;

(*c*) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(i) rent, rates, taxes, repairs or insurance of any premises outside India used for the business or profession;

(*ii*) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits *in lieu* of, or in addition to, salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(iii) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(iv) such other matters connected with executive and general administration, as prescribed.

Special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents.

61. (*1*) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the specified business mentioned in column B of the Table in sub-section (*2*).

(2) The profits and gains of any specified business as mentioned in column B of the Table below, carried on by a specified assessee as mentioned in column C of the said Table during a tax year, shall be computed in the manner specified in column D thereof, and charged to income-tax for the said tax year under the head "Profits and gains of business or profession".

Table

Sl No.	Specified business	Specified assessee	Profits and gains of business or profession
A	B	C	D
1.	Business of operation of ships, other than cruise ships referred to in Serial number 2.	Non-resident.	7.5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods shipped at any port in India, whether paid or payable, in or outside India, to the assessee or any other person on his behalf (including demurrage, handling or other similar charges);

A	B	C	D
			B = sum on account of carriage of passenger, livestock, mail or goods shipped at any port outside India, whether received or deemed to be received in India, by the assessee or any other person on his behalf (including demurrage, handling or other similar charges).
2.	Business of operation of cruise ships (subject to the conditions as prescribed).	Non-resident.	20% of (A+B), where,— A = sum on account of carriage of passenger, paid or payable to the assessee or any other person on his behalf; B = sum on account of carriage of passenger received or deemed to be received by the assessee or any other person on his behalf.
3.	Business of operation of aircraft.	Non-resident.	5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods from any place in India, paid or payable (in or outside India) to the assessee or any other person on his behalf; B = sum on account of carriage of passenger, livestock, mail or goods from any place outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
4.	Business of civil construction or erection or testing or commissioning, of plant or machinery, in connection with a turnkey power project, approved by the Central Government.	Foreign company.	10% of the amount towards such civil construction, erection, testing, or commissioning, paid or payable, to the assessee or to any other person on his behalf, whether in or outside India.

A	B	C	D
5.	Business of providing services or facilities (including supply of plant and machinery on hire) for prospecting, extraction or production of mineral oils.	Non-resident.	10% of (A+B), where,— A = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils in India, paid or payable (in or outside India), to the assessee or any other person on his behalf; B = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
6.	Business of providing services or technology in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India to a resident company.	Non-resident.	25% of (A+B), where,— A = the amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; B = the amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing services or technology.

(3) For the purposes of (Table: Sl. Nos. 1 to 5) of sub-section (*2*), the specified assessee may claim that the profits actually earned from the specified business are lower than the business profits computed under sub-section (*2*), if,—

(a) he keeps and maintains such books of account and other documents as required under section 62; and

(b) gets his accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act shall not be allowed against the income computed in the manner specified in sub-section (*2*).

(5) The written down value of any asset used for the purposes of specified business or profession shall be computed, as if the assessee mentioned in column C of the Table in sub-section (*2*) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(6) For the purposes of sub-section (*2*) (Table: Sl. No. 5) the provisions of this section shall not apply where the provisions of section 54 or 59 or 207 or 527 apply for the purposes of computing profits and gains or any other income referred to in the said sections.

(7) In this section, "plant" includes ships, aircrafts, vehicles, drilling units, scientific apparatuses and equipments, used for the purposes of the specified business as mentioned in sub-section (*2*) (Table: Sl. No. 5).

(8) For the purposes of sub-section (*2*) (Table: Sl. No. 6), resident company shall satisfy the following:—

(a) it is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and

(b) it satisfies the conditions prescribed in this behalf.

Maintenance of books of account.

62. (*1*) (*a*) Any person carrying on specified profession; or

(b) any person carrying on, business; or any profession [not being a profession referred to in clause (*a*)] and satisfying the conditions referred to in sub-section (*2*).(**)

(c) (**)

(2) The conditions in respect of persons referred to in sub-section (*1*)(*b*) shall be the following:—

(a) where the income from business or profession exceeds one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession exceeds ten lakh rupees in any one of the three years immediately preceding the tax year; or

(b) where business or profession is newly set up in the tax year, the income from business or profession is likely to exceed one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession is likely to exceed ten lakh rupees during such tax year; or

(c) where during the tax year, the assessee, other than the assessee referred to in section 61(*2*) (Table: Sl. No. 6), has claimed income from business or profession to be lower than the deemed profits as referred to in section 58(*2*) or section 61(*2*); or

(d) in case of an individual or Hindu undivided family, clauses (*a*) and (*b*) shall be modified to the extent of income from such business or profession exceeding two lakh and fifty thousand rupees and its total sales, turnover or gross receipts from such business or profession exceeding **(**)** ***twenty-five lakh*** rupees.

(3) For the purposes of this section, the Board may prescribe—

(a) the books of account and other documents (including inventories, wherever necessary) to be kept and maintained;

(b) particulars to be contained therein;

(c) the form, manner and place at which they shall be kept and maintained; and

(d) the period for which such books of account and other documents are to be retained.

(4) In this section, "specified profession" means—

(a) legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary; or

(b) any other profession, as notified by the Board.

Tax audit.

63. (*1*) Every person, carrying on the business or profession fulfilling the conditions specified in column B of the Table below, shall get his accounts of the tax year audited by an accountant, before the specified date.

Table

Sl. No.	Conditions for getting books of account audited
A	B
1.	Where the total sales, turnover or gross receipts from business or profession during the tax year of any person who— (*a*) is carrying on business and at least 95% of aggregate of all the receipts and payments from the business during the tax year are through specified banking or online mode, is more than ₹10,00,00,000; (*b*) is carrying on business and not covered under serial number 1, is more than ₹1,00,00,000; (*c*) is carrying on profession, is more than ₹50,00,000.
2.	If the person is carrying on business or profession, referred to in section 58(*2*) or 61(*2*) (other than that referred to in section 61(*2*) [Table: Sl. No. 6]) and the profits and gains from such business or profession are claimed to be lower than the deemed profits as referred to in these sections.

(2) The provisions of this section shall not apply,—

(a) where profits and gains of business or profession, declared by the assessee are as per section 58(*2*);

(b) where the person, other than that referred in section 61(*2*) (Table: Sl. No. 6), is deriving income of the nature referred to in section 61(*2*).

(3) The assessee shall furnish by the specified date, the report of such audit in such form, duly signed and verified by the accountant and setting forth such particulars, as prescribed.

(4) Where a person is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of this section, if such person—

(a) gets the accounts of such business or profession audited under such law before the specified date; and

(*b*) furnishes by that specified date the report of such audit along with the report of the accountant in the form as prescribed.

(5) In this section, "specified date" in relation to the accounts of the assessee of the tax year, means the date one month prior to the due date for furnishing the return of income under section 263(*1*).

64.(**) (**)

Special provision for computing deductions in case of business reorganisation of co-operative banks.

65. (*1*) The deduction under section 33 or 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall, in a case where business reorganisation of a co-operative bank has taken place during the tax year, be allowed as per provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank or to the successor co-operative bank or to the converted banking company under section 33 or 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall be determined as per the formula—

(i) for predecessor co-operative bank:—

$$\frac{A \times B}{C}$$

(ii) for successor co-operative bank or converted banking company:—

$$\frac{A \times D}{C}$$

where,—

A = the amount of deduction allowable to the predecessor co-operative bank, if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the tax year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the tax year in which the business reorganisation has taken place.

D = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the tax year.

(3) The provisions of section 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank or to a converted banking company on account of business reorganisation, apply to the successor co-operative bank or to the converted banking company in the tax years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(4) In this section,—

(a) "amalgamation" means the merger of an amalgamating co-operative bank with an amalgamated co-operative bank, if—

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding 75% or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding 75% or more in value of the shares in the amalgamating co-operative bank (other than the shares held by

the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(b) "amalgamating co-operative bank" means—

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

(c) "amalgamated co-operative bank" means—

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(d) "business reorganisation" means reorganisation of business involving the amalgamation or demerger of a co-operative bank or conversion of a primary co-operative bank;

(e) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated 27th September, 2018;

(f) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank;

(g) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(iv) the shareholders holding 75% or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting cooperative bank, otherwise than as a result of the acquisition of the assets of the demerged cooperative bank or any undertaking thereof by the resulting co-operative bank;

(v) the transfer of the undertaking is on a going concern basis; and

(vi) the transfer is as per the conditions specified by the Central Government, by notification, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(h) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(i) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, or the primary co-operative bank, which has been succeeded as a result of conversion;

(j) "resulting co-operative bank" means—

(i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(ii) any co-operative bank formed as a result of demerger;

(k) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank.

Interpretation.

66. In sections 26 to 66,—

(1) "agreement", for the purposes of section 26(*2*)(*h*), includes any arrangement or understanding or action in concert,—

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(2) "banking company" means a company to which the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act; 10 of 1949.

(3) "commission or brokerage" shall have the meaning assigned to it in section 402(*7*);

(4) (**)

.

(5) "commodities transaction tax" shall have the same meaning as assigned to it under Chapter VII of the Finance Act, 2013; 17 of 2013.

(6) "fees for technical services" shall have the meaning assigned to it in section 9(*7*)(*b*);

(7) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(8) "Indian Institute of Technology" shall have the same meaning as that of "Institute" defined in section 3(*g*) of the Institutes of Technology Act, 1961;

(9) "Keyman insurance policy" shall have the meaning assigned to it in Schedule II (Note 1); 59 of 1961.

(10) "limited liability partnership" shall have the same meaning as assigned to it in section 2(*1*)(*n*) of the Limited Liability Partnership Act, 2008; 6 of 2009.

(11) "long-term finance", for the purposes of section 32(*e*), means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(12) "micro enterprise" shall have the same meaning as assigned to it in section 2(*h*) of the Micro, Small and Medium Enterprises Development Act, 2006; 27 of 2006.

(13) "mineral oil" includes petroleum and natural gas;

(14) "moneys payable" in respect of any tangible asset includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the asset is sold, the price for which it is sold;

(15) (**)

(16) "non-scheduled bank" means a banking company as defined in section 5(*c*) of the Banking Regulation Act, 1949, which is not a scheduled bank;

10 of 1949.

(17) "paid" means, except for section 37, actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";

(18) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(19) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings;

(20) "predecessor entity" means—

(a) the amalgamating Indian company in the case of amalgamation;

(b) the demerged Indian company, in the case of demerger;

(c) a firm, in the case of a succession of a firm by a company as referred to in section 70(*1*)(*zd*);

(d) a private company or unlisted public company, in case of conversion as referred to in section 70(*1*)(*ze*);

(e) a sole proprietary concern, in the case of succession of sole proprietorship concern by a company, as referred to in section 70(*1*)(*zf*);

(21) "primary agricultural credit society" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;

10 of 1949.

(22) "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a *taluk* and the principal object of which is to provide for long-term credit for agricultural and rural development activities;

(23) "professional services" shall have the meaning assigned to it in section 402(*28*);

(24) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013;

18 of 2013.

(25) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013;

18 of 2013.

(26) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(27) "recognised commodity exchange" means a recognised association as defined in section 2(*j*) of the Forward Contracts (Regulation) Act, 1952 and which fulfils such conditions, as prescribed, and is notified by the Central Government for this purpose; 17 of 1952.

(28) (**)

(29) "royalty" shall have the same meaning as assigned to it in section 9(*6*)(*b*);

(30) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census, of which the relevant figures have been published before the first day of the tax year;

(31) "scientific research" means—

(a) any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries; and

(b) the references to expenditure incurred on scientific research shall include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

and the references to scientific research related to a business or class of business shall include any scientific research—

(i) which may lead to or facilitate an extension of that business or, all businesses of that class;

(ii) of a medical nature which has a special relation to the welfare of workers employed in that business or, all businesses of that class;

(32) "securities transaction tax" shall have the meaning assigned to it under Chapter VII of the Finance (No. 2) Act, 2004; 23 of 2004.

(33) "service", for the purposes of section 26(*2*)(*h*), means a service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as—

(a) accounting;

(b) banking;

(c) communication;

(d) conveying of news or information;

(e) advertising;

(f) entertainment;

(g) amusement;

(h) education;

(i) financing;

(j) insurance;

(k) chit funds;

(l) real estate;

(m) construction;

(n) transport;

(o) storage;

(p) processing;

(q) supply of electrical or other energy; and

(r) boarding and lodging;

(34) ""small enterprise" shall have the same meaning as assigned to it in section 2(*m*) of the Micro, Small and Medium Enterprises Development Act, 2006; 27 of 2006.

(35) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips, other than the following transactions:—

(a) a specified derivative transaction as defined in clause (*37*);

(b) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;

(c) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;

(d) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member;

(36) (**)

(37) "specified derivative transaction" means any transaction in derivatives, if—

(a) it is carried out electronically on screen-based systems of a recognised stock exchange or a recognised commodity exchange;

(b) it is carried out by a bank or mutual fund or any other person, through a broker, member or such other intermediary; and

(c) it is supported by a time stamped contract note issued by the intermediary to every client indicating in the contract note—

(i) the unique client identity number allotted under any law in force; and

(ii) the Permanent Account Number allotted under this Act;

(38) "State Government undertaking" includes—

(a) a corporation established by or under any State Act;

(b) a company in which more than 50% of the paid-up equity share capital is held by the State Government;

(c) a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in clause (*a*) or (*b*) (whether singly or taken together);

(d) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(e) an authority, a board or an institution or a body established or constituted by or under any State Act, or owned or controlled by the State Government;

(39) "State Industrial Investment Corporation" means a Government company within the meaning of section 2(*45*) of the Companies Act, 2013, engaged in the business of providing long-term finance for industrial projects; 18 of 2013.

(40) "State Financial Corporation" means a Financial Corporation established under section 3 or 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951; 63 of 1951.

(41) "successor entity" means—

(a) the amalgamated Indian company, in the case of amalgamation;

(b) the resulting Indian company, in the case of demerger;

(c) a company, in case of a succession of a firm by a company as referred to in section 70(*1*)(*zd*);

(d) a limited liability partnership, in case of conversion of private company or unlisted public company to a limited liability partnership, as referred to in section 70(*1*)(*ze*);

(e) company, in case of succession of sole proprietorship concern by a company, as referred to in section 70(*1*)(*zf*);

(42) "taxable commodities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2013; 17 of 2013.

(43) "taxable securities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2004; 13 of 2004.

(44) "University" shall have the meaning assigned to it in section 70(*2*) (Table: Sl. No. 7); and

(45) (**)

E.—Capital gains

Capital gains.

67. (*1*) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place.

(*2*) Irrespective of anything contained in sub-section (*1*), if a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of circumstances mentioned in sub-section (*3*), then,—

(a) any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the tax year in which such money or other asset was received; and

(b) for the purposes of section 72, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(3) The following shall be the circumstances referred to in sub-section (*2*):—

(a) flood, typhoon, hurricane, cyclone, earthquake or any other convulsion of nature; or

(b) riot or civil disturbance; or

(c) accidental fire or explosion; or

(d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war).

(4) In sub-section (*2*), "insurer" shall have the same meaning as assigned to it in section 2(*9*) of the Insurance Act, 1938. 4 of 1938.

(5) Irrespective of anything contained in sub-section (*1*), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II (Table: Sl. No. 2) does not apply, then,—

(a) such profits and gains shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(b) the income taxable shall be calculated in such manner, as prescribed.

(6) Irrespective of anything contained in sub-section (*1*), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,—

(a) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold (or otherwise transferred by any other means); and

(b) for the purposes of section 72, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(7) If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,—

(a) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;

(b) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(*1*) of the Depositories Act, 1996; and 22 of 1996.

(c) for the purposes of section 72 and section 2**(***) (101)** (*b*), the cost of acquisition and the period of holding of any securities shall be determined on
the basis of the first-in-first-out method.

(8) In sub-section (*7*), "beneficial owner", "depository" and "security" shall have the same meanings as respectively assigned to them in section 2(*1*)(*a*), (*e*) and (*l*) of the Depositories Act, 1996. 22 of 1996.

(9) If any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,—

(a) such profits and gains shall be chargeable to tax as his income **under the head "Capital gains"** in the tax year of such transfer; and

(b) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(10) Irrespective of anything contained in sub-section (*1*), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,—

(a) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head "Capital gains"; and

(b) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—

A = B + C – D,

where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head "Capital gains";

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;

(c) for the purposes of the formula in clause (*b*),—

(i) if the value of "A" in the said formula is negative, its value shall be deemed to be zero;

(ii) the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and

(*d*) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity.

(11) In sub-section (*10*),—

(a) "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 8;

(b) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

(12) Irrespective of anything contained in sub-section (*1*), if the capital gain arises from the transfer of a capital asset by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the capital gain shall be dealt with in the following manner:—

(a) the capital gains computed with reference to the compensation awarded in the first instance or as the case may be, consideration determined or approved by the Central Government or the Reserve Bank of India in the first instance, shall be chargeable as income under the head "Capital gains" of the tax year in which such compensation or part thereof, or such consideration or part thereof, was first received;

(b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the tax year in which such amount is received;

(c) any compensation as referred to in clause (*b*) received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head "Capital gains" of the tax year in which the final order of such court, tribunal or other authority is made; and

(d) the capital gain assessed for any tax year under clause (*a*) or (*b*) shall be recomputed where the compensation or consideration referred to in clauses (*a*) to (*c*) is reduced by any court, tribunal or other authority and such reduced value shall be taken to be the full value of the consideration.

(13) In relation to the amount referred to in sub-section (*12*)(*b*) and (*c*),—

(a) the cost of acquisition and the cost of improvement shall be taken as *nil*; and

(b) in a case, where the enhanced compensation or consideration is received by any other person due to the death of the person who made the transfer, or for any other reason, such amount shall be deemed as the income chargeable to tax under the head "Capital gains" in the hands of such other person.

(14) Irrespective of anything contained in sub-section (*1*), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,—

(a) such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(b) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building, or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(15) In sub-section (*14*),—

(a) "competent authority" means the authority empowered to approve the building plan under any law;

(b) "specified agreement" means a registered agreement in which a person owning land or building, or both, agrees to allow another person to develop a real estate project on such land or building, or both, in consideration of a share, being land or building, or both, in such project, whether with or without payment of part of the consideration in cash.

(16) The provisions of sub-section (*14*) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,—

(a) the capital gains shall be deemed to be the income of the tax year of such transfer; and

(b) the provisions of this Act, other than sub-section (*14*), shall apply for the purpose of determination of full value of consideration.

(17) Irrespective of anything contained in sub-section (*1*), the difference between the repurchase price of the units referred to in section 80CCB(*2*) of the Income-tax Act, 1961 and the capital value of such units shall be taxed considering it to be the capital gains arising to the assessee in the tax year in which— 43 of 1961.

(a) such repurchase takes place; or

(b) the plan referred to in that section is terminated.

(18) For the purposes of sub-section (*17*), "capital value of such units" means any amount invested by the assessee in the units referred to in section 80CCB(*2*) of the Income-tax Act, 1961. 43 of 1961.

Capital gains on distribution of assets by companies in liquidation.

68. (*1*) Irrespective of anything contained in section 67, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of the said section.

(*2*) If a shareholder, on the liquidation of a company, receives any money or other assets from the company, then,—

(a) such shareholder shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of section 2(*40*)(*c*); and

(b) the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

Capital gains on purchase by company of its own shares or other specified securities.

69. (*1*) If a shareholder or a holder of other specified securities receives any consideration from any company for the purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 72, the difference between the cost of acquisition and the value of consideration so received shall be deemed to be the "Capital gains" arising to such shareholder or the holder ***of other specified securities, as the case may be,*** in the year in which the company purchases the shares or other specified securities.

(2) If the shareholder receives any consideration of the nature referred to in section 2(*40*)(*f*), from any company in respect of buy-back of shares, then for the purposes of this section, the value of such consideration shall be deemed to be *nil*.

18 of 2013.

(3) For the purposes of this section, "specified securities" shall have the same meaning as assigned to it in *Explanation* 1 to section 68 of the Companies Act, 2013.

Transactions not regarded as transfer.

70. (*1*) The provisions of section 67 shall not apply to transfer—

(a) **by way** of distribution of capital assets on the total or partial partition of a Hindu undivided family;

(b) of a capital asset by an individual or a Hindu undivided family, under a will or a gift or an irrevocable trust;

(c) of a capital asset, not being stock-in-trade, by a company to its subsidiary company, if—

(i) the parent company or its nominees hold the whole of the share capital of the subsidiary company; and

(ii) the subsidiary company is an Indian company;

(d) of a capital asset, not being stock-in-trade, by a subsidiary company to the holding company, if—

(i) the whole of the share capital of the subsidiary company is held by the holding company; and

(ii) the holding company is an Indian company;

(e) in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company, if the amalgamated company is an Indian company;

(f) by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held in the amalgamating company, if—

(i) the transfer is made in consideration of allotment of any share or shares in the amalgamated company, except when the shareholder itself is the amalgamated company; and

(ii) the amalgamated company is an Indian company;

(g) in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(ii) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;

(h) in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in section 9(*9*)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(ii) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;

(i) of a capital asset by a banking company to a banking institution under a scheme of amalgamation sanctioned and brought into force by the Central Government under section 45(*7*) of the Banking Regulation Act, 1949; 10 of 1949.

(j) in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(k) of shares by the resulting company or issue of shares by such company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking;

(l) in a demerger ***(**)***, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if— 18 of 2013.

(i) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(ii) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated,

and in such a case the provisions of section 230 to 232 of the Companies Act, 2013 shall not apply;

(m) in a demerger ***(**)***, of a capital asset, being a share of a foreign company, referred to in section 9(*9*)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if— 18 of 2013.

(i) the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(ii) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated,

and in such a case the provisions of section 230 to 232 of the Companies Act, 2013 shall not apply;

(n) in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company;

(o) by a shareholder, in a business reorganisation, of capital asset being share or shares held in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to the shareholder of share or shares in the successor co-operative bank or the converted banking company;

(p) of a capital asset, being bonds or Global Depository Receipts as referred to in section 209(*1*), made outside India by a non-resident to another non-resident;

(q) made outside India, of a capital asset, being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;

(r) of a capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency, and such capital asset is—

(i) bond or Global Depository Receipt referred to in section 209(*1*); or

(ii) rupee denominated bond of an Indian company; or

(iii) derivative; or

(iv) such other securities as notified by the Central Government;

(s) of a capital asset, being a Government security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident;

(t) in a relocation, of a capital asset by the original fund to the resulting fund**, if made on or before the 31st March, 2030**;

(u) by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being share or unit or interest held in the original fund in consideration for the share or unit or interest in the resultant fund;

(v) of a capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;

(w) of a capital asset, under a plan approved by the Central Government, by a public sector company, to—

(i) another public sector company notified by the Central Government for the purposes of this clause; or

(ii) the Central Government; or

(iii) a State Government;

(x) of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an individual;

(y) of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold;

(z) by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

(*za*) by way of conversion of bonds referred to in section 209(*1*) (Table: Sl. No. 1) into shares or debentures of any company;

(*zb*) by way of conversion of preference shares of a company into equity shares of that company;

(*zc*) of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to—

(i) the Government; or

(ii) a University; or

(iii) the National Museum, National Art Gallery or National Archives; or

(iv) such other public museum or institution as notified by the Central Government to be of national importance or of renown throughout any State;

(*zd*) of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, if—

(i) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(ii) all the partners of the firm, immediately before the succession, become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;

(iii) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(iv) the aggregate of the shareholding of the partners in the company is at least 50% of the total voting power and such shareholding ***continues to be at least 50% (**)*** for five years from the date of succession;

(*ze*) of a capital asset or intangible asset by a private company or unlisted public company (herein referred to as the company) to a limited liability partnership or transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership under the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008, if— 6 of 2009.

(i) all the assets and liabilities of the company, immediately before the conversion, become the assets and liabilities of the limited liability partnership;

(ii) all the shareholders of the company, immediately before the conversion, become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(iii) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution in the limited liability partnership;

(iv) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than 50% at any time during five years from the date of conversion;

(v) the total sales, turnover or gross receipts in the business of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed sixty lakh rupees;

(vi) the total value of the assets, as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed five crore rupees; and

(vii) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for three years from the date of conversion;

(*zf*) of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if—

(i) all the assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, become the assets and liabilities of the company;

(ii) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company and this shareholding ***continues to be not less than 50%*** ***(**)*** for five years from the date of the succession; and

(iii) the sole proprietor does not receive any consideration or benefit, directly or indirectly, except through allotment of shares in the company;

(*zg*) in a scheme for lending of any securities under an agreement or arrangement, entered into by the assessee with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India or the Reserve Bank of India;

(*zh*) of a capital asset in a transaction of reverse mortgage under a scheme notified by the Central Government;

(*zi*) of a capital asset, being share or shares of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor;

(*zj*) of a capital asset, being a unit or units, held by a unit holder in the consolidating scheme of a mutual fund, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund subject to the condition that the consolidation is of two or more schemes—

(i) of an equity-oriented fund; or

(ii) of a fund other than equity-oriented fund;

(*zk*) of a capital asset, being a unit or units, held by a unit holder in the consolidating plan of a mutual fund scheme, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund;

(*zl*) of a capital asset, being an interest in a joint venture, by a public sector company, in exchange for shares of a company incorporated outside India by the government of a foreign State, as per the laws of that foreign State.

(2) In sub-section (*1*), the definitions mentioned in column C of the Table below shall apply to the corresponding clauses of the said sub-section mentioned in column B of the said Table.

Table

Sl. No.	Clause	Definitions
A	B	C
1.	(*i*)	***(**)***
		(*a*) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949);
		(*b*) "banking institution" shall have the same meaning as assigned to it in section 45(*15*) of the Banking Regulation Act, 1949 (10 of 1949).
2.	(*n*) and (*o*)	"business reorganisation", "converted banking company", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 65.
3.	(*r*)	(a) "derivative" shall have the same meaning as assigned to it in section 2(*ac*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
		(b) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
4.	(*s*)	"Government Security" shall have the same meaning as assigned to it in section 2(*b*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
5.	(*t*) and (*u*)	(a) "original fund" means—
		(A) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:—
		(i) the fund is not a person resident in India;
		(ii) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(*1*) or (*2*) has been entered into; or is established or incorporated or registered in a country or a specified territory as notified by the Central Government;
		(iii) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and
		(iv) fulfils other conditions as prescribed;

A	B	C
		(B) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or (C) a fund notified by the Central Government subject to conditions as specified; (b) "relocation" means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31st March, **(**) 2030**, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to— (i) a shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, *in lieu* of their shares or units or interests in the original fund; or (ii) the original fund, in the same proportion as referred to in sub-clause (*i*), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder; (c) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which is located in an International Financial Services Centre as referred to in section 147 and has been granted— (i) a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019); or (ii) a certificate as a retail scheme or an Exchange Traded Fund as per Schedule VI (Note 1) and which fulfils the conditions specified in Schedule VI (Table: Sl. No. 1).
6.	(*y*)	"Electronic Gold Receipt" and "Vault Manager" shall have the same meanings as respectively assigned to them in regulation 2(*l*)(*h*) and (*l*) of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

A	B	C
7.	(*zc*)	"University" means a University established or incorporated by or under a Central Act or State Act or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.
8.	(*ze*)	"private company" and "unlisted public company" shall have the same meanings as respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009).
9.	(*zi*)	"special purpose vehicle" shall have the meaning assigned to it in Schedule V (Note 2).
10.	(*zj*)	(a) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger; (b) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); (c) "equity oriented fund" means a fund— (i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund, for which the percentage of equity shareholding shall be computed with reference to the annual average of the monthly averages of the opening and closing figures; and (ii) which has been set up under a scheme of Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21); (d) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).
11.	(*zk*)	(a) "consolidating plan" means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); (b) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger; (c) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); and
12.	(*zl*)	"joint venture" means a business entity, as notified by the Central Government.

Withdrawal of exemption in certain cases.

71. (*1*) The profits or gains arising from the transfer of capital asset not charged under section 67 by virtue of section 70(*1*)(*c*) and (*d*) shall, irrespective of anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the tax year in which such transfer took place, if at any time before the expiry of eight years from the date of such transfer,—

(a) the transferee company converts the capital asset into, or treats it as, stock-in-trade of its business; or

(b) the parent company or its nominees or the holding company, ceases or cease to hold the whole of the share capital of the subsidiary company.

(2) If any of the conditions laid down in section 70(*zd*) or (*zf*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor company for the tax year in which such **transfer took place (**)**.

(3) If any of the conditions laid down in section 70(*ze*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor limited liability partnership or the shareholder of the predecessor company, for the tax year in which such **transfer took place (**)**.

Mode of computation of capital gains.

72. (*1*) Income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset, the following amounts:—

(a) expenditure incurred wholly and exclusively in connection with such transfer; and

(b) the cost of acquisition of the asset and the cost of any improvement thereto.

(2) In cases, as prescribed, the provisions of sub-section (*1*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.

(3) In computing the income chargeable under the head "Capital gains", the following amounts shall not be allowed as a deduction:—

(a) the interest claimed as deduction under section 22(*1*)(*b*) or under Chapter VIII;

(b) any sum paid as securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004.

23 of 2004.

(4) If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3. or 4) and is not chargeable to tax under section 92(*2*)(*k*) or 223(*2*), then,—

(a) such amount shall be reduced from the cost of acquisition of such unit; and

(b) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, **(**) such** amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

(5) In case of value of any money or capital asset received by a specified person from a specified entity, as referred to in section 67(*10*), the specified entity is entitled to a deduction calculated in such manner, as prescribed for computing the amount chargeable to income-tax in its hands under that sub-section which is attributable to the transfer of such capital asset.

(6) In the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company (other than equity shares referred to in section 198) shall be computed—

(a) by converting the cost of acquisition, expenditure incurred, wholly and exclusively, in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures; and

(b) the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the said manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company.

(7) In the case of an assessee who is a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by the assessee, shall be ignored for the purpose of computing the full value of consideration.

(8) ***For the purposes of this section*** ***(**)***, —

(a) "Cost Inflation Index", in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf;

(b) "indexed cost of acquisition" means an amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later; *(**)*

(c) "indexed cost of any improvement" means an amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place; ***and***

(d) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf.

Cost with reference to certain modes of acquisition.

73. (*1*) In the case of a capital asset specified in column B of the Table below, the cost of acquisition of the asset shall be deemed to be the cost as mentioned in column C of the said Table.

Table

Sl. No.	Description of the capital asset	Cost of acquisition
A	B	C
1.	If the capital asset became the property of the assessee— (a) under a gift or will; or (b) by succession, inheritance or devolution; or	The cost for which the previous owner of the property acquired it, as increased by the cost of any improvement incurred or borne by the previous owner or the assessee.

A	B	C
	(c) on any distribution of assets on the liquidation of a company; or	
	(d) under a transfer to a revocable or an irrevocable trust; or	
	(e) being a Hindu undivided family, by the mode referred to in section 99(*3*) after the 31st December, 1969; or	
	(f) under any such transfer as is referred to in section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*g*), (*h*), (*i*), (*j*), (*l*), (*m*), (*n*), (*o*), (*t*), (*u*), (*v*), (*w*), (*zd*), (*ze*) or (*zf*).	
2.	Capital asset, being a share or shares in an amalgamated company which is an Indian company that became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*f*).	The cost of acquisition to him of the share or the shares in the amalgamating company.
3.	Capital asset being a share or debenture of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*z*) or (*za*).	That part of the cost of debenture, debenture-stock, bond or deposit certificate for which such asset is acquired by the assesse.
4.	Capital asset, being specified security or sweat equity shares, referred to in section 17**(1)(d)**	Fair market value taken into account for the purposes of the said clause.
5.	Capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), which became the property of the assessee on conversion as referred to in section 70(*1*)(*ze*).	The cost of acquisition of the share or shares in the company immediately before its conversion.
6.	Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(*1*) (Table: Sl. No. 2) held by such assessee.	The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made.
7.	Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer as referred to in section 70(*1*)(*zi*).	The cost of acquisition of the share referred to in the said clause.

A	B	C
8.	Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zj*).	The cost of acquisition of the unit or units in the consolidating scheme of the mutual fund.
9.	Capital asset, being equity share of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zb*).	That part of the cost of the preference shares in relation to which such asset is acquired.
10.	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zk*).	The cost of acquisition of the unit or units in the consolidating plan of the scheme of the mutual fund.
11.	Capital asset being a unit or units in the segregated portfolio.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of the unit or units in segregated portfolio; A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation.
12.	Capital asset being original units held by the unit holder in the main portfolio.	The cost of acquisition as reduced by the amount as so arrived at under serial number 11.

A	B	C
13.	Capital asset, being shares as referred to in section 70(*1*)(*zl*) which became the property of the assessee.	The cost of acquisition to it of the interest in the joint venture referred to in the said clause.
14.	Shares in the resulting company as a result of demerger.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of shares in the resulting company; A = cost of acquisition of shares in demerged company; B = net book value of assets transferred in demerger; and C = net worth of demerged company immediately before demerger.
15.	Original shares held by the shareholder in the demerged company.	**The cost of acquisition of such original shares a**s reduced by the amount so arrived at under serial number 14.
16.	Capital asset deemed to be chargeable to tax according to the provisions of section 71(*1*).	Cost for which such asset was acquired by the transferee company.
17.	Capital asset being property, where the capital gain arises from the transfer of such property the value of which has been subject to income-tax under section 92(*2*)(*m*).	The value taken into account under section 92(*2*)(*m*).
18.	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.

A	B	C
19.	Specified capital asset referred to in clause (*c*) of the *Explanation* to section 10(*37A*) of the Income-tax Act, 1961 (43 of 1961), which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20.	Capital asset, being share in the project, in the form of land or building, or both, under section 67(*14*).	The amount deemed as full value of consideration under section 67(*14*).
21.	Capital asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and tax paid thereon as per section 352.	The fair market value of the asset considered for computation of accreted income as on specified date as per section 352(2).
22.	Capital asset referred to in section 26(*2*)(*j*).	The fair market value for section 26(*2*)(*j*).
23.	Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became the property of the person as consideration of a transfer, as referred to in section 70(*1*)(*y*).	The cost of gold for the person in whose name Electronic Gold Receipt is issued.
24.	Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in section 70(*1*)(*y*).	The cost of the Electronic Gold Receipt for such person.

(2) For the purposes of the Table in sub-section (*1*), in respect of the entries against—

(a) serial number 1, "previous owner of the property" for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in column B thereof;

(b) serial numbers 11 and 12, "main portfolio", "segregated portfolio" and "total portfolio" shall have the same meanings as respectively assigned to them in the Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018, issued by the Securities and Exchange Board of India;

(c) serial numbers 14 and 15, "net worth" means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger;

(d) serial numbers 2, 14 and 15, the provisions as contained therein, shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 65.

Special provision for computation of capital gains in case of depreciable assets.

74. (*1*) Irrespective of anything contained in section 2(*101*), for a capital asset forming part of a block of assets on which depreciation has been allowed under this Act or under the Income-tax Act, 1961 or under the Indian Income-tax Act, 1922, the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (*2*) **and** (*3*) **(**)**.

43 of 1961.
11 of 1922.

(2) If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets in a block of assets exceeds the total of the following:—

(a) expenditure incurred wholly and exclusively for such transfer;

(b) the written-down value of the block of assets at the start of the tax year; and

(c) the actual cost of any asset falling within the block of assets acquired during the tax year,

such excess shall be deemed to be capital gains arising from the transfer of short-term capital assets.

(3) If any block of assets ceases to exist for the reason that all the assets in that block are transferred during the tax year, then,—

(a) the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the tax year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year; and

(b) the income received or accruing as a result of such transfer or transfers shall be deemed to be ***(**)*** ***capital gains arising from the transfer of short term capital assets***.

Special provision for cost of acquisition in case of depreciable asset.

75. If depreciation has been obtained under section 33(*2*) for a capital asset in any tax year, the provisions of sections 72 and 73 shall apply subject to the modification that the written down value, as defined in section 41, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

Special provision for computation of capital gains in case of Market Linked Debenture.

76. (*1*) Irrespective of anything contained in section 2(*101*) or section 72, the gains on the transfer or redemption or maturity, of a capital asset as mentioned in sub-section (*2*) shall be treated as short-term capital gains and shall be computed as per sub-section (*3*).

(2) For the purposes of sub-section (*1*), the capital asset shall be—

(a) a unit of a Specified Mutual Fund acquired on or after 1st April, 2023 or a Market Linked Debenture; or

(b) an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd July, 2024.

(3) For the purposes of sub-section (*1*), the short-term capital gains shall be computed as per the following formula:—

$$X = A - B - C,$$

where,—

X = short-term capital gains;

A = full value of consideration received or accruing as a result of the transfer or redemption or maturity of the debenture or unit or bond;

B = the cost of acquisition of the debenture or unit or bond; and

C = the expenditure incurred wholly and exclusively *(**)* ***in connection with*** such transfer or redemption or maturity.

(4) **In computing the income chargeable under *sub-section (3)*, n**o deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004. 23 of 2004.

(5) In this section,—

(a) "Market Linked Debenture" means a security, by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices, and include any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India; and

(b) "Specified Mutual Fund" means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—

(i) the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;

(ii) "debt and money market instruments" shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.

Special provision for computation of capital gains in case of slump sale.

77. (*1*) Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long-term capital gains and shall be deemed to be the income of the tax year in which the transfer took place, subject to the provisions of sub-section (*2*).

(2) The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or divisions owned and held by an assessee for 36 months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.

(3) In relation to capital assets, being an undertaking or division transferred by way of slump sale,—

(a) the "net worth" of the undertaking or division shall be deemed as the cost of acquisition and the cost of improvement for sections 72 and 73; and

(b) the fair market value of the capital assets on the date of transfer, calculated in such manner, as prescribed, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(4) Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant, before the specified date referred to in section 63, and the report shall—

(a) include the computation of the net worth of the undertaking or division; and

(b) certify that the net worth has been correctly arrived at as per the provisions of this section.

(5) For the purposes of this section,—

(a) the "net worth" shall be the "aggregate value of total assets" of the undertaking or division, as reduced by the value of its liabilities as appearing in the books of account, and for computing net worth, any change in the value of assets due to revaluation shall be ignored;

(b) the "aggregate value of total assets" shall,—

(i) for depreciable assets, be the written down value of the block of assets determined under section 41(*1*) (Table: Sl. No.3);

(ii) for capital asset being goodwill of a business or profession, which was not acquired by the assessee by purchase from a previous owner, be *nil*;

(iii) for capital assets for which the entire expenditure has been allowed or is allowable as a deduction under section 46, be *nil*; and

(iv) for other assets, be the book value.

Special provision for full value of consideration in certain cases.

78. (*1*) If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:—

(a) the stamp duty value on the date of agreement may be taken as the full value of consideration, if—

(i) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and

(ii) part or full consideration is received on or before the date of the agreement by an account payee cheque or account payee bank draft or electronic clearing system through a bank account or any other electronic mode, as prescribed;

(b) if the stamp duty value does not exceed 110% of the consideration received or accruing, such consideration shall be deemed to be the full value of the consideration for section 72.

(2) Without prejudice to the provisions of sub-section (*1*), the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, and the provisions of sections 269(*3*) to (*8*), shall, with necessary modifications, apply in relation to such reference, where—

(a) the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer; and

(b) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

(3) In this section, "assessable" means the value which any authority of the Government would have adopted or assessed as if it were referred to such authority for the purposes of payment of stamp duty, regardless of anything to the contrary contained in any other law in force.

(4) If the value determined by the Valuation Officer on a reference made under sub-section (*2*) exceeds the stamp duty value, such stamp duty value shall be taken as the full value of consideration.

Special provision for full value of consideration for transfer of share other than quoted share.

79. (*1*) If the consideration received or accruing from the transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in the manner as prescribed, the value so determined shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of ***section 72*** ***(**)***.

(2) The provisions of sub-section (*1*) shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions, as prescribed.

(3) In this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

Fair market value deemed to be full value of consideration in certain cases.

80. If the consideration received or accruing from the transfer of a capital asset is not ascertainable or **(**) cannot be determined**, its fair market value on the date of transfer shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains".

Advance money received.

81. Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations—

(a) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition;

(b) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(*2*)(*h*).

Profit on sale of property used for residence.

82. (*1*) Where an individual or Hindu undivided family—

(a) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (original asset); and

(b) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(i) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(2) If the capital gains is not used by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(c) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(3) For the purposes of sub-section (*1*), the amount, already utilised for purchasing or constructing the new asset, together with the deposited amount under sub-section (*2*) shall, subject to sub-section (*7*), be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not fully utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(a) the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(5) If the capital gains under sub-section (*1*) does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(a) for the purposes of sub-section (*1*)(*b*), "one residential house in India" shall be read as "two residential houses in India"; and

(b) for the purposes of sub-sections (*1*)(*b*) and (*2*), "new asset" shall mean two residential houses in India.

(6) If during any tax year, the assessee has exercised the option mentioned in sub-section (*5*), he shall not be entitled to exercise such option for the same tax year or any other tax year.

(7) If the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*1*).

(8) If the capital gains on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*2*).

Capital gains on transfer of land used for agricultural purposes not to be charged in certain cases.

83. (*1*) Where an assessee, being an individual or a Hindu undivided family,—

(a) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and

(b) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset),

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(i) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be *nil*; or

(ii) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.

(2) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(c) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(3) For the purposes of sub-section (*1*), the amount already utilised for purchasing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not fully utilised for purchase of the new asset within the period specified in sub-section (*1*), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which two years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw the unused amount according to the scheme referred to in sub-section (*2*).

Capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases.

84. (*1*) Where an assessee has—

(a) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and

(b) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(i) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(ii) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(c) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(3) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not fully utilised for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

Capital gains not to be charged on investment in certain bonds.

85. (*1*) Where an assessee has—

(a) long-term capital gains arising from the transfer of land or building, or both, (original asset); and

(*b*) within six months after the date of such transfer, invested whole or part of the capital gains in a long-term specified asset (new asset),

then, the capital gains shall be dealt with as follows:—

(i) if the capital gains exceed the investment in the new asset, the amount of capital gains as exceeds such investment shall be charged under section 67; or

(ii) if the capital gains is equal to or less than the investment in the new asset, the whole of such capital gains shall not be charged under section 67.

(2) For the purposes of sub-section (*1*), investment made in the long-term specified asset from capital gain arising from transfer of one or more original asset shall not exceed fifty lakh rupees,—

(a) during any tax year; or

(b) in the year of transfer of the original asset or assets and in the subsequent tax year.

(3) If the new asset is transferred or converted (otherwise than by transfer) into money within five years of its acquisition, the capital gains not charged under section 67 as per sub-section (*1*), shall be deemed to be income chargeable as long-term capital gains in the tax year of its transfer or conversion.

(4) Any loan or advance taken on the security of the new asset shall be regarded as transfer of the new asset on the date of such loan or advance.

(5) Where the investment in the new asset has been taken into account for sub-section (*1*), no deduction under section 123 for any tax year shall be allowed for such investment.

(6) In this section, "new asset" means any bond, redeemable after five years and as notified by the Central Government for the purposes of this section with such conditions (including a condition for providing a limit on the amount of investment by an assessee in such bond).

Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house.

86. (*1*) If an individual or a Hindu undivided family has—

(a) capital gains arising from the transfer of any long-term capital asset, not being a residential house (original asset); and

(b) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, the capital gains shall be dealt with as follows:—

(i) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or

(ii) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67.

(2) If the capital gains is not utilised by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then,—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(c) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(3) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall, subject to **(***)** sub-section (*8*), be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(a) the amount determined as per *(**)* the following formula shall be charged under section 67 as income of the tax year in which three years from the date of the transfer of the original asset expires:—

X - Y,

where,—

X = the capital gains not charged under section 67 as per sub-section (*1*).

Y = the capital gains that would not have been charged under section 67, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset;

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(5) The provisions of sub-section (*1*) shall not apply, if—

(a) the assessee—

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(*ii*) purchases any residential house, other than the new asset, within two years of transfer of the original asset; or

(*iii*) constructs any residential house, other than the new asset, within three years of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".

(6) If the assessee purchases within two years of the transfer of the original asset, or constructs within three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*), shall be charged as long-term capital gains of the tax year in which such residential house is purchased or constructed.

(7) If the new asset is transferred within three years of its purchase or its construction, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*) shall be charged as long-term capital gains of the tax year in which such new asset is transferred.

(8) If the cost of the new asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*1*).

(*9*) If the net consideration on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*2*).

(*10*) In this section, "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the original asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.

87. (*1*) If the assessee has—

(a) capital gains arising from the transfer of capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the case of shifting of an industrial undertaking situated in an urban area (original asset) to any non-urban area (new area); and

(b) within one year before or three years after the date of such transfer,—

(i) purchased new machinery or plant for business of the industrial undertaking in the new area;

(ii) acquired building or land or constructed building for his business in the said area;

(iii) shifted the original asset and transferred its establishment to such area; and

(iv) incurred expenses on such other purpose as specified in a scheme notified by the Central Government for this section,

then, instead of the capital gains being charged to income tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(A) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset),—

(I) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(II) is equal to or more than the capital gain, no capital gain shall be charged under section 67;

(B) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*) or shall be reduced by the amount of the capital gain in case of clause (*b*).

(2) If the capital gain is not used by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(c) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(3) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(5) In this section, the expression "urban area" means any area within the limits of a municipal corporation or municipality, declared to be an urban area by the Central Government for the purposes of this section, having regard to—

(a) the population;

(b) concentration of industries; and

(c) need for proper planning of the area and other relevant factors.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

88. (*1*) Irrespective of anything contained in section 87 if the assessee has—

(a) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any area; and

(b) has within one year before or three years after the date of such transfer,—

(i) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(ii) acquired building or land or constructed building for his business in such Special Economic Zone;

(iii) shifted the original asset and transferred the establishment to such Special Economic Zone; and

(iv) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf,

then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(A) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset)—

(I) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(II) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(B) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*), or shall be reduced by the amount of the capital gain in case of clause (*b*).

(2) If the capital gain is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,—

(a) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(c) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(3) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(5) In this section "urban area" shall have the meaning assigned to it in section 87.

Extension of time for acquiring new asset or depositing or investing amount of capital gains.

89. Irrespective of anything contained in sections 82, 83, 84, 85, and 86,—

(a) if the transfer of the original asset mentioned in those sections is by way of compulsory acquisition under any law; and

(b) if the compensation awarded for such acquisition is not received by the assessee on the date of transfer, then, the period available to him under those sections for acquisition of the new asset or investment or deposit of capital gain in specified bank or institution shall be reckoned from the date of receipt of compensation.

Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

90. (*1*) For the purposes of sections 72 and 73, "cost of improvement",—

(a) in relation to a capital asset being goodwill or any intangible asset of a business, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or any other right, shall be taken to be *nil*; and

(b) in relation to any other capital asset,—

(i) if the capital asset became the property of the previous owner or the assessee before the 1st April, 2001, means all expenditure of a capital nature incurred on or after the said date in making any additions or alterations to the capital asset by the previous owner or the assessee; and

(ii) in any other case, all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), by the previous owner.

(2) For the purposes of sub-section (*1*)(*b*), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources".

(3) For the purposes of sections 72 and 73, "cost of acquisition", of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, or any other right) means—

(a) purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(b) purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (*2*) of the said section; and

(c) *nil*, in any other case.

(4) For the purposes of sub-section (*3*)(*a*) or (*b*), if—

(a) the capital asset is goodwill of a business or profession; and

(b) the assessee has obtained a deduction on account of depreciation under section 32(*1*) of the Income-tax Act, 1961 in a tax year preceding the tax year commencing on the 1st April, 2020,

then the total amount of depreciation obtained before the tax year commencing on the 1st April, 2020 shall be reduced from the amount of purchase price.

43 of 1961.

(5) For the purposes of sections 72 and 73 *(**)*, and subject to the provisions of sub-sections (*9*)(*a*) and (*b*), "cost of acquisition" shall be as per sub-section (*6*), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (herein referred to as the financial asset), the assessee—

(a) becomes entitled to subscribe to any additional financial asset; or

(b) is allotted any additional financial asset without any payment.

(6) In a case referred to in sub-section (*5*), "cost of acquisition", in relation to—

42 of 1956.

(a) the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;

(b) any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee;

(c) the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid for acquiring such asset;

(d) the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil*; and

(e) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the total amount of the purchase price paid to the person renouncing such right and the amount paid to the company or institution, for acquiring such financial asset.

(6A) For the purposes of section 72 and 73, cost of acquisition in relation to a capital asset-

(a) being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 shall be the cost of acquisition of his original membership of the exchange;

(b) being trading or clearing rights of the recognised stock exchange acquired by shareholder who has been allotted equity share or shares under such scheme of demutualisaiton or corporatisation, shall be deemed to be nil.

(7) For the purposes of sections 72 and 73, "cost of acquisition", subject to sub-sections (*9*)(*a*) and (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

(a) the cost of acquisition of such asset; and

(b) lower of—

(i) the fair market value of such asset; and

(ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.

15 of 1992.

(8) For the purposes of sub-section (*7*),—

(a) "Cost Inflation Index", shall have the meaning assigned to it in section 72(*8*)(*a*);

(b) "fair market value" means,—

(i) in a case where the capital asset is listed on any recognised stock exchange as on the 31st January, 2018, the highest price of the capital asset quoted on such exchange on that date;

(ii) irrespective of sub-clause (*i*), if there is no trading in such asset on such exchange on the 31st January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded shall be the fair market value;

(iii) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st January, 2018, the net asset value of such unit as on that date;

(iv) if the capital asset is an equity share in a company which is—

(A) not listed on a recognised stock exchange as on the 31st January, 2018 but listed on the date of transfer;

(B) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);

(C) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction mentioned in section 70,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the tax year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st April, 2001, whichever is later.

(9) For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—

(a) if the capital asset became the property of the assessee before the 1st April, 2001, subject to sub-section (*10*), shall be the cost of acquisition of the asset to the assessee or its fair market value on the 1st April, 2001, at the option of the assessee;

(b) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (*10*), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;

(c) if the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 68, means the fair market value of the asset on the date of distribution;

(d) if the capital asset, being a share or a stock of a company, became the property of the assessee on—

(i) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares; or

(ii) the conversion of any shares of the company into stock; or

(iii) the re-conversion of any stock of the company into shares; or

(iv) the sub-division of any of the shares of the company into shares of smaller amount; or

(v) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(10) In case of a capital asset referred to in sub-sections (*9*)(a) and (*9*)(*b*), being land or building, or both, the fair market value of such asset on the 1st April, 2001 for the said clauses shall not exceed the stamp duty value, wherever available, of such asset as on the 1st April, 2001.

(11) If the cost for which the previous owner acquired the property is unable to be ascertained, the cost of acquisition to the previous owner shall be the fair market value on the date on which the capital asset became the property of the previous owner.

Reference to Valuation Officer.

91. (*1*) For ascertaining the fair market value of a capital asset for this Chapter, the Assessing Officer may refer the valuation of capital asset to a Valuation Officer,—

(a) if the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value;

(b) in any other case, if the Assessing Officer is of the opinion that—

(i) the fair market value of the asset exceeds the value claimed by the assessee by more than the percentage or amount, as prescribed; or

(ii) having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(*2*) The provisions of section 269(*3*) to (*8*) shall , with necessary modifications, apply in relation to such reference made under sub-section (*1*).

F.— Income from other sources

Income from other sources.

92. (*1*) Income of every kind which is not to be excluded from the total income, shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 13(*a*) to (*d*).

(2) In particular, and without prejudice to the generality of the provisions of sub-section (*1*), the following incomes shall be chargeable to income-tax under the head "Income from other sources":—

(a) any dividend;

(b) any winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(c) any sum received by the assessee from employees as contributions to any provident fund, superannuation fund, any fund set up under the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees, if the income in not chargeable to income-tax under the head "Profits and gains of business or profession"; 34 of 1948.

(d) any sum received under a Keyman insurance policy, as defined Schedule II (Note 1) including the bonus allocated on such policy, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";

(e) any income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(f) any income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(g) any income from letting on hire of machinery, plant or furniture, belonging to the assessee and also buildings, where the letting of the building is inseparable from the letting of such machinery, plant or furniture, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(h) any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset, if—

(i) such sum is forfeited; and

(*ii*) the negotiations do not result in transfer of such capital asset;

(i) any income by way of interest received on compensation or on enhanced compensation referred to in section 278(*1*);

(j) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment, or the modification of its terms and conditions;

(k) any specified sum received by a unit holder from a business trust during the tax year with respect to a unit held by him at any time during such tax year, the computation of which shall be—

specified sum = A-B-C (which shall be deemed to be zero, if the sum of B and C is greater than A), where—

A = aggregate of the sum distributed by the business trust with respect to such unit, during the tax year or during any earlier tax year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is—

(a) not in the nature of income referred to in Schedule V (Table: Sl. No. 3 or 4); and

(b) not chargeable to tax under section 223(*2*);

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under this clause in any earlier tax year;

(l) where any sum, including bonus allocated, is received, during a tax year, under a life insurance policy, other than—

(a) sums received under a unit linked insurance policy; or

(b) income referred to in clause (*d*),

and such sum is not to be excluded from the total income of that tax year under Schedule II (Table: Sl. No. 2), the sum exceeding the aggregate of the premium paid, during the term of such policy, and not claimed as a deduction under this Act, computed in such manner, as prescribed;

(m) where any person receives in any tax year, from any person or persons—

(i) any sum of money without consideration, the total of which exceeds fifty thousand rupees, the whole of such sum;

(ii) any immovable property—

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) for a consideration, the stamp duty value of such property that exceeds such consideration, if this excess amount is more than the higher of the following amounts:—

(I) fifty thousand rupees; or

(II) 10% of the consideration;

(iii) any property, other than immovable property,—

(A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration.

(3) The provisions of sub-section (*2*)(*m*) shall not apply to any sum of money or any property received—

(a) from any relative; or

(b) on the occasion of marriage of the individual; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer or donor; or

(e) from any local authority as defined in Schedule III (Note 6); or

(f) from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section 355**(**) (h)**; or

(g) by way of a transaction not regarded as transfer under section 70(*1*)(*a*), (*c*), (*d*), (*e*), ***(f)***, (*g*), (*i*), (*j*), ***(k)***, (*l*), (*n*), (*o*), *(**)*, (*t*), (*u*), (*v*) or (*w*); or

(h) from an individual by a trust created or established solely for the benefit of relative of the individual; or

(i) from such class of persons and subject to such conditions, as prescribed.

(4) For the purposes of sub-section (*2*)(*m*)(*ii*),—

(a) if the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement shall apply, provided the consideration, in whole or in part, has been paid by account payee cheque or account payee bank draft or by electronic clearing system through a bank account or through any prescribed electronic mode, on or before the date of agreement for transfer of such immovable property;

(b) if the stamp duty value of immovable property is disputed by the assessee on the grounds mentioned in section 78(*2*) the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of sections 78(*2*) and 288 (Table: Sl. No. 8) shall, as far as may be, apply to the stamp duty value of such property as they apply for valuation of capital asset under those sections.

(5) In this section,—

(a) "assessable" shall have the meaning assigned to it in section 78(*3*);

(b) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, where people compete to win prizes or any similar game;

(c) "fair market value" of a property, other than an immovable property, means the value determined in such method as prescribed;

(d) "jewellery" shall have the meaning assigned to it in section 2(*22*);

(e) "lottery" includes winnings from prizes awarded by draw of lots, by chance, or in any other manner under any scheme or arrangement by whatever named called;

(f) "property" means the following capital asset of the assesse:—

(i) immovable property being land or building or both;

(ii) shares and securities;

(iii) jewellery;

(iv) archaeological collections;

(v) drawings;

(vi) paintings;

(vii) sculptures;

(viii) any work of art;

(ix) bullion; or

(x) virtual digital asset;

(g) "relative" means—

(i) in case of an individual—

(A) spouse;

(B) brother or sister;

(C) brother or sister of the spouse;

(D) brother or sister of either of the parents;

(E) any lineal ascendant **(**)** (maternal **as well as** paternal) **or descendant (maternal as well as paternal)**;

(F) any lineal ascendant (maternal as well as paternal) or descendant *(**)* of the spouse;

(G) spouse of the person referred to in items (*B*) to (*F*); and

(ii) for a Hindu undivided family, any member thereof;

(h) "unit linked insurance policy" shall have the meaning assigned to it in Schedule II (Note 1).

Deductions.

93. (*1*) The income chargeable under the head "Income from other sources" shall be computed after making the following deductions:—

(a) for dividends [excluding those referred to in section 2(*40*)(*f*)**]** or interest on securities, any reasonable sum paid as commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee;

(b) for income of the nature referred to in section 92(*2*)(*c*), so far as may be, an amount as per section 29(*1*)(*e*);

(c) for income of the nature referred to in section 92(*2*)(*f*) and (*g*), so far as may be, an amount as per section 28(*1*)(*a*), (*b*), (*d*), section 33, and subject to the provisions of section 28(*2*);

(d) for income in the nature of family pension (a regular monthly amount payable by the employer to a family member of an employee upon the death of such employee),—

(i) an amount equal to one-third of such income or twenty-five thousand rupees, whichever is less, where income-tax is computed under section 202(*1*); and

(ii) an amount equal to one-third of such income or fifteen thousand rupees, whichever is less, in any other case;

(e) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for making or earning such income;

(f) for income of the nature referred to in section 92(*2*)(*i*), an amount equal to 50% of such income and no other deduction shall be allowed under this section.

(g) ***for income in the nature of commutation of pension received from a fund as specified in Schedule VII (Table: Sl. No. 3), the entire amount.***

(*2*) In respect of—

(a) dividend income of the nature referred to in section 2(*40*)(*f*), no deduction shall be allowed;

(b) any other dividend income [other than in clause (*a*)], or income from units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21) or income from units of a specified company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, only deduction allowed shall be interest expense which, for any tax year, shall be limited to 20% of such income (included in the total income for that year, without deduction under this section). 58 of 2002.

Amounts not deductible.

94. (*1*) Irrespective of anything contained in section 93, the following amounts shall not be deductible in computing the income of any assessee chargeable under the head "Income from other sources":—

(a) any personal expenses of the assessee; or

(b) any interest chargeable under this Act, payable outside India, on which tax has not been paid or deducted under Chapter XIX-B; or

(c) any payment chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid or deducted under Chapter XIX-B.

(2) The provisions of sections 29, 35(*b*)(*i*), and 36 shall apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(3) For an assessee, being a foreign company, the provisions of section 59 shall apply in computing the income chargeable under the head "Income from other sources", as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(4) In computing the income from winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, or from gambling or betting of any form or nature, no deduction for any expenditure or allowance related to such income shall be allowed under this Act.

(5) Sub-section (*4*) shall not apply in computing the income of an assessee, being the owner of horses maintained for running in horse races, from the activity of owning and maintaining such horses.

(6) In this section, "horse race" means a horse race upon which wagering or betting may be lawfully made.

Profits chargeable to tax.

95. The provision of section 38(*1*)(*a*) shall apply in computing the income of an assessee under section 92, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".

CHAPTER V

INCOME OF OTHER PERSONS, INCLUDED IN TOTAL INCOME OF ASSESSEE

Transfer of income without transfer of assets.

96. All income arising to any person by virtue of transfer,—

(a) whether revocable or not, and whether effected before or after the commencement of this Act; and

(b) where there is no transfer of assets from which such income arises,

shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

Chargeability of income in transfer of assets.

97. (*1*) All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as income of the transferor and shall be included in his total income.

(2) The provisions of sub-section (*1*) shall not apply, if such transfer—

(a) is by way of trust which is not revocable during the lifetime of the beneficiary; or

(b) **(**)** in case of any other transfer, is not revocable during the lifetime of the transferee,

and the transferor does not derive any direct or indirect benefit from such income in cases referred to in clauses (*a*) and (*b*).

(3) Irrespective of the provisions of sub-section (*2*), all income arising to any person by virtue of such transfer shall be chargeable to income-tax as income of the transferor as and when the power to revoke such transfer arises, and shall than be included in his total income.

"Transfer" and "revocable transfer" defined.

98. For the purposes of sections 96 and 97, and this section,—

(a) "transfer" includes any settlement, trust, covenant, agreement or arrangement;

(b) a transfer shall be considered to be revocable, if—

(i) it contains any provision for the direct or indirect re-transfer of the whole or any part of the income or assets to the transferor; or

(ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets.

Income of individual to include income of spouse, minor child, etc.

99. (*1*) The total income of any individual, for a tax year, shall include the income arising directly or indirectly,—

(a) to the spouse,—

(i) by way of salary, commission, fees or any other form of remuneration, whether in cash or kind, from a concern in which such individual has a substantial interest but shall not **(**)** **include** income solely attributable to the application of technical or professional knowledge, experience and professional qualification of the spouse;

(ii) from assets transferred directly or indirectly to him or her by such individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to the provisions of section 25(*a*);

(iii) from assets transferred directly or indirectly to any person or association of persons otherwise than for adequate consideration to the extent to which the income from such assets is for the immediate or deferred benefit of the spouse;

(b) to the son's wife,—

(i) from assets transferred directly or indirectly on or after the 1st June, 1973, to her by such individual, otherwise than for adequate consideration; or

(ii) from assets transferred directly or indirectly on or after the 1st June, 1973, to any person or association of persons otherwise than for adequate consideration to the extent to which the income from such assets is for the immediate or deferred benefit of the son's wife;

(c) to the minor child of the individual but shall not include in the total income of the individual where the income arising or accruing to the minor child is from manual work done by such child, or from activities where his skill, talent, specialised knowledge or experience is applied, or where such minor child is suffering from disability of the nature specified in section 154.

(2) If the asset transferred under sub-section (*1*)(*a*) or (*b*) is invested by the spouse or son's wife, in any business or capital contributed as a partner in a firm, or, as the case may be, for being admitted to the benefits of partnership in a firm, then, the income to be included in the hands of the individual for the tax year shall be as follows:—

$$A = B \times \left(\frac{C}{D}\right)$$

where,—

A = Income to be included in the hands of individual for the tax year;

B = Income and interest or both, arising to the spouse or son's wife from the business or the firm, as applicable during the tax year;

C = **v**alue of such assets invested, or contributed as capital by the spouse or son's wife as on the first day of the tax year;

D = Total investment or total capital contribution, as the case may be, by the spouse or son's wife **(**) as on the first day of the tax year**.

(3) Where a property owned by an individual is converted into property belonging to the Hindu undivided family of which he is a member, through—

(a) the act of impressing such separate property with the character of property belonging to the family; or

(b) throwing it into the common stock of the family; or

(c) transfer, directly or indirectly to the family,

without adequate consideration, then, irrespective of any other provision of this Act or any other law in force for computing the total income of such individual,—

(i) the individual shall be deemed to have transferred such property, through the family, to the members of such family for being held jointly, and the income derived from such property or part thereof, shall be deemed to be income of the individual;

(ii) upon partition (whether partial or total) of the family, the income derived from such property as is received by the spouse of the individual on partition, shall be deemed to arise to the spouse from assets transferred indirectly to the spouse and the provisions of sub-section (*1*)(*a*) shall apply;

(iii) the income referred to in clauses (*i*) and (*ii*) shall, on being included in the total income of the individual, be excluded from the total income of the family or, the spouse.

(4) The provisions of sub-section (*3*) shall not apply where the property of the individual has been converted into property belonging to the family on or before the 31st December, 1969.

(5) In this section,—

(a) for sub-section (*1*)(*a*)**(i)**-,—

(i) the income referred to in that clause shall be included in the hands of either of the spouse whose total income before such inclusion is greater; and

(ii) such income, once included in the total income of either spouse, for a tax year, shall not be included in the income of the other spouse for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other spouse an opportunity of being heard;

(*iii*) "substantial interest in a concern" means,—

(A) in case of a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by the individual or jointly with one or more of his relatives;

(B) in any other case, if such person is entitled, or such person and one or more of his relatives are jointly entitled, to atleast 20% of the profits of such concern at any time during the tax year;

(b) for sub-section (1)**(**)(c)**, income of minor child shall be included—

(i) in the income of that parent whose total income before such inclusion is greater in case where the marriage of his parents subsists; or

(ii) in the income of the parent who maintains such child during the tax year in case where marriage of his parents does not subsist,

and such income, once included in the total income of either parent, for a tax year, shall not be included in the income of the other parent for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other parent an opportunity of being heard;

(*c*) for sub-section (*3*), "property" includes—

(i) interest in property; or

(ii) movable or immovable property; or

(iii) proceeds of sale of such property and any money, property or investment representing such proceeds; or

(*iv*) where property is converted into any other property by any method, such other property;

(d) for this section, "income" includes loss.

Liability of person in respect of income included in income of another person.

100. Where, income of a person, other than the assessee, arising from any asset, or income from membership of a firm, is included in the total income of the assessee under this Chapter or under section 25(*a*), then, irrespective of anything to the contrary contained in any other law in force,—

(a) such person, in whose name such asset stands, shall be liable to pay, that portion of the tax levied on the assessee which is attributable to the income so included, upon service of notice of demand by the Assessing Officer in this behalf;

(b) where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay such tax; and

(c) the provisions of Chapter XIX-D shall apply accordingly.

CHAPTER VI

AGGREGATION OF INCOME

Total income.

101. In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter XVIIA-4.

Unexplained credits.

102. (*1*) Where any sum is found credited in the books of account maintained by the assessee for any tax year, and—

(a) the assessee offers no explanation about the nature and source of such credit; or

(b) the explanation offered by assessee is not satisfactory in the opinion of the Assessing Officer,

then, the sum so credited shall be charged to income-tax as income of the assessee of that tax year.

(2) If the sum so credited consists of loan or borrowing, or any such amount, by whatever name called, the explanation offered by such assessee shall be deemed to be not satisfactory, unless,—

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation, in the opinion of the Assessing Officer referred to in sub-section (*1*), has been found to be satisfactory.

(3) If the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium, or any such amount, by whatever name called, the explanation offered by such assessee company shall be deemed to be not satisfactory, unless—

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation, in the opinion of the Assessing Officer referred to in sub-section (*1*), has been found to be satisfactory.

(4) Nothing contained in sub-section (*2*) or (*3*) shall apply if the person, in whose name the sum referred to in those sub-sections is recorded, is a venture capital fund or a venture capital company as referred to in Schedule V (Table: Sl. No. 6).

Unexplained investment.

103. Where in any tax year, any investment has been made by the assessee which is not recorded in the books of account, if any, maintained by such assessee, or, the Assessing Officer finds that the amount of such investment exceeds the amount recorded in such books of account **(**)**, and the assessee—

(a) offers no explanation about the nature and source of such investment, or such excess amount, as the case may be; or

(b) the explanation offered by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such investment, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of that tax year.

Unexplained asset.

104. (*1*) Where in any tax year, any asset has been found to be owned by or belonging to the assesse which is not recorded in the books of account, if any, maintained by such assessee, or the Assessing Officer finds that the amount of such asset exceeds the amount recorded in such books of account (**), and the assesse––

(a) offers no explanation about the nature and source of acquisition of such asset, or such excess amount, as the case may be; or

(b) the explanation offered by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such asset, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of the tax year in which such asset has been found to be owned by, or belonging to, the assessee.

(*2*) In this section, "asset" includes money, bullion, jewellery, virtual digital asset or other valuable article.

Unexplained expenditure.

105. (*1*) Where any expenditure has been incurred by the assessee in any tax year, and—

(a) the assessee offers no explanation about the source of such expenditure or part thereof; or

(b) the explanation offered by the assessee is not satisfactory in the opinion of the Assessing Officer,

then, the amount covered by such expenditure or part thereof, shall be deemed to be the income of the assessee for that tax year.

(*2*) Irrespective of any other provision of this Act, the amount deemed as income in sub-section (*1*) shall not be allowed as a deduction under this Act.

Amount borrowed or repaid through negotiable instrument, *hundi*, etc.

106. (*1*) Where any amount **(**)** is borrowed or repaid through a negotiable instrument or a hundi, other than an account payee cheque, or through any mode as specified by the Board in this behalf, the amount so borrowed or repaid (**including interest thereof**) shall be deemed to be the income of the person borrowing or repaying, as the case maybe, for the tax year in which the amount was borrowed or repaid.

(*2*) Where the amount borrowed under sub-section (*1*) has been deemed to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under that sub-section on repayment of such amount.

Charge of tax.

107. Income referred to in sections 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of section 195.

CHAPTER VII

SET OFF, OR CARRY FORWARD AND SET OFF OF LOSSES

Set off of losses under the same head of income.

108. (*1*) Unless provided otherwise in this Act, for any tax year, if net result of computation from any source under any head of income (other than "Capital gains") is a loss, then assessee shall be entitled to set off such loss against his income from any other source under the same head for that tax year.

(2) Any loss, as a result of computation made under sections 72 to 90, for any tax year, arising from transfer of a capital asset as arrived at under a similar computation made for the tax year in respect of any other capital asset being,—

(a) a long-term capital asset, shall be set off only against gains, if any, from transfer of another long-term capital asset; and

(b) a short-term capital asset, shall be set off against gains, if any, from transfer of any capital asset.

Set off of losses under any other head of income.

109. (*1*) Subject to the provisions of this Chapter, for any tax year, if income computed under any head of income (other than "Capital gains") is a loss, such loss shall be set off against income of the assessee under any other head, including "Capital gains", if any, assessable for that tax year, subject to the following conditions:—

(a) loss under the head "Profits and gains of business or profession" shall not be set off against income chargeable under the head "Salaries"; and

(b) loss under the head "Income from house property" shall be set off to the extent of two lakh rupees against income under any other head;

(*2*) For any tax year, the loss under the head "Capital gains" shall not be set off against income under any other head.

Carry forward and set off of loss from house property.

110. (*1*) The unabsorbed loss from house property for any tax year shall be carried forward to the subsequent tax year, and shall be set off only against income from house property, if any, computed for such subsequent tax year, and so on.

(2) The unabsorbed loss from house property referred to in sub-section (*1*) shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(3) In this section, "unabsorbed loss from house property" means, loss computed under the head "Income from house property" for the tax year, which has not been, or is not wholly, set off against income from any other head, under section **109**, for the said tax year.

Carry forward and set off of loss from Capital gains.

111. (*1*) The unabsorbed capital loss for any tax year shall be carried forward to the subsequent tax year and shall be set off in the manner provided in sub-section (*2*).

(2) The unabsorbed capital loss arising from transfer of capital asset, being—

(a) a long-term capital asset, **(***) shall** be set off only against capital gains, if any, from transfer of any other long-term capital asset during the subsequent tax year and so on; and

(b) a short-term capital asset, shall be set off against capital gains, if any, from transfer of any other capital asset during the subsequent tax year and so on.

(3) The unabsorbed capital loss referred to in sub-section (*1*), shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(4) In this section, "unabsorbed capital loss" means loss computed under the head "Capital gains" for any tax year, which has not been, or is not wholly, set off under section 108 for the said tax year.

Carry forward and set off of business loss.

112. (*1*) The unabsorbed business loss (other than loss from speculation business) for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of business or profession, carried on by assessee and assessable for that tax year, if any, computed for such subsequent tax year, and so on.

(2) The unabsorbed business loss referred to in sub-section (*1*), shall be carried forward to the following tax year, not being more than eight tax years immediately succeeding the tax year in which such loss was first computed.

(3) The unabsorbed business loss referred to in sub-section (*1*) shall first be allowed to be set off before allowing set off of any carried forward allowance under section 33(*11*) or 45(*7*).

(4) In this section, "unabsorbed business loss" means, loss computed under the head "Profits and gains of business or profession" **(**)** for the tax year, which has not been, or is not wholly, set off against income from any other head, under section 109 for the said tax year.

Set off and carry forward of losses from speculation business.

113. (*1*) Any loss **computed in respect of** a speculation business carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of another speculation business for the said tax year.

(2) The unabsorbed speculation business loss for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of speculation business, if any, computed for such subsequent tax year, and so on.

(3) The unabsorbed speculation business loss referred to in sub-section (*2*) shall not be carried forward for more than four tax years immediately succeeding the tax year in which such loss was first computed.

(4) The unabsorbed speculation business loss referred to in sub-section (*2*) shall first be allowed to be set off before allowing set off of any carried forward allowance under section 33(*11*) or 45(*7*).

(5) In this section,—

(a) where any part of the business of the assessee (being a company) consists of purchase and sale of shares of other companies, then the assessee shall be deemed to be carrying on a speculation business, to the extent to which its business consists of purchase and sale of such shares;

(b) "unabsorbed speculation business loss" means any loss computed in respect of a speculation business carried on by the assessee during the tax year, which has not been, or is not wholly, set off against profits and gains, if any, of another speculation business under sub-section (*1*) for the said tax year.

(6) The provisions of sub-section (*5*)(*a*) shall not apply to an assessee, being a company, if—

(a) its gross total income consists mainly of income which is chargeable under the heads "Income from house property", "Capital gains" or "Income from other sources"; or

(b) its principal business is of trading in shares or banking or the granting of loans and advances.

Set off and carry forward of losses from specified business.

114. (*1*) Any loss **computed in respect of** a specified business carried on by the assessee, during any tax year, shall be set off only against profits and gains, if any, of any other specified business for the said tax year.

(2) The unabsorbed loss from the specified business for any tax year shall be carried forward to the subsequent tax year and shall be set off only against the profits and gains of any specified business, if any, computed for such subsequent tax year, and so on.

(3) In this section,—

(a) "specified business" means any specified business referred to in section 46;

(b) "unabsorbed loss from the specified business" means, any loss computed in respect of a specified business carried on by the assessee during the tax year, which has not been, or is not wholly, set off against profits and gains, if any, of another specified business under sub-section (*1*) for the said tax year.

Set off and carry forward of losses from specified activity.

115. (*1*) Any loss incurred by the assessee in the specified activity during any tax year, shall not be set off against the income, if any, from any source other than specified activity for the said tax year.

(2) The unabsorbed loss from the specified activity for any tax year shall be carried forward to the subsequent tax year and shall be set off,—

(a) only against the income from specified activity, if any, computed for such subsequent tax year, and so on; and

(b) only when the specified activity is carried on by the assessee in that tax year.

(3) The unabsorbed loss from the specified activity referred to in sub-section (*2*) shall not be carried forward for more than four tax years immediately succeeding the tax year in which such loss was first computed.

(4) In this section,—

(a) "income by way of stake money" means the gross amount of prize money received by the owner of race horses participating in horse races on their winning a particular position in such race;

(b) "loss incurred by the assessee in the specified activity" means the amount by which the income by way of stake money, if any, falls short of the expenditure, not being capital expenditure, incurred wholly and exclusively for maintaining race horses;

(c) "race horse" means a horse upon which wagering or betting may be lawfully made in a horse race;

(d) "specified activity" means the activity of owning and maintaining race horses;

(e) "unabsorbed loss from the specified activity" means any loss computed in respect of the specified activity carried on by the assessee during the tax year, which has not been, or is not wholly, set off against income, if any, of the specified activity under sub-section (*1*) for the said tax year.

Treatment of accumulated losses and unabsorbed depreciation in amalgamation or demerger, etc.

116. (*1*) Where there has been an amalgamation of,—

(a) a company owning an industrial undertaking or a ship or a hotel with another company; or

(b) a banking company referred to in section 5(*c*) of the Banking Regulation Act, 1949 with a specified bank; or 10 of 1949.

(c) one or more public sector company with one or more other public sector company; or

(d) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five years from the end of the tax year in which the restriction on amalgamation in the share purchase agreement ends,

then, irrespective of anything in any other provision of this Act, the accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, allowance for unabsorbed depreciation of the amalgamated company for the tax year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in sub-section (*1*)(*d*), which is deemed to be the loss or, as the case may be, the unabsorbed depreciation of the amalgamated company, shall not exceed the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which it ceases to be a public sector company due to such strategic disinvestment.

(3) For sub-section 1(*d*),—

(a) "control" shall have the same meaning as assigned to it in section 2(*27*) of the Companies Act, 2013; 18 of 2013.

(b) "erstwhile public sector company" means a company which was a public sector company in earlier tax years and ceases to be so due to strategic disinvestment by the Government;

(c) "strategic disinvestment" means sale of shareholding by the Central Government or State Government or a public sector company, in a public sector company or in a company, which results in—

(i) reduction of its shareholding to below 51%; and

(ii) transfer of control to the buyer;

(d) for clause(*c*)(*i*), the reduction of shareholding shall apply only where shareholding of the Central Government or the State Government or the public sector company exceeded 51% before the sale of shareholding;

(e) the transfer of control referred to in clause (*c*)(*ii*) may be effected by the Central Government or the State Government or the public sector company or any two or all of them.

(4) Irrespective of anything contained in sub-section (*1*), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless,—

(a) the amalgamating company—

(i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(ii) has held continuously as on the date of the amalgamation, at least three-fourths of the book value of fixed assets held by it two years preceding the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum five years from the date of amalgamation;

(iii) fulfils such other conditions as prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

(5) If any of the conditions laid down in sub-section (*4*) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the amalgamated company shall be treated as the income of the amalgamated company chargeable to tax for the year in which the non-compliance occurs.

(6) Irrespective of anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall,—

(a) if directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(b) if not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and shall be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as applicable.

(7) The Central Government may, by notification, specify such conditions to ensure that the demerger is for genuine business purposes.

(8) If there has been a business reorganisation where, a firm is succeeded by a company fulfilling the conditions laid down in section 70(*1*)(*zd*) or a proprietary concern is succeeded by a company fulfilling the conditions laid down in section 70(*1*)(*zf*), then, irrespective of anything contained in this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, shall be deemed to be the loss or allowance for depreciation of the successor company for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply.

(9) If any of the conditions laid down in section 70(*1*)(*zd*) or (*zf*) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which the non-compliance occurs.

(10) If there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in section 70(*1*)(*ze*), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(11) If any of the conditions laid down in section 70(*1*)(*ze*) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which the non-compliance occurs.

(12) For any amalgamation referred to in sub-section (*1*) or reorganisation of business referred to in sub-section (*8*) or (*10*) effected on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

(i) the amalgamating company; or

(ii) the firm or proprietary concern; or

(iii) the private company or unlisted public company,

as the case may be, which is deemed to be the loss of the successor entity, being—

(a) the amalgamated company; or

(b) the successor company; or

(c) the successor limited liability partnership,

as the case may be, shall be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity.

(*13*) In this section,—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, under the head "Profits and gains of business or profession" (excluding loss in a speculation business) which would have been eligible for carry forward and set off to such predecessor under section 112, had the reorganisation of business or conversion or amalgamation or demerger not occurred.

(b) "industrial undertaking" means any undertaking which is engaged in—

(i) the manufacture or processing of goods; or

(ii) the manufacture of computer software; or

(iii) the business of generation or distribution of electricity or any other form of power; or

(iv) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or

(v) mining; or

(vi) the construction of ships, aircrafts or rail systems;

(c) "original predecessor entity" means predecessor entity in respect of the first amalgamation for sub-section (*1*) or first business reorganisation for sub-sections (*8*) and (*10*), as the case may be.

(d) "specified bank" means the State Bank of India constituted under the State Bank of India Act, 1955 or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

23 of 1955.

5 of 1970.

40 of 1980.

(e) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, which remains to be allowed and which would have been allowed to such predecessor under this Act, had the reorganisation of business or conversion or amalgamation or demerger not occurred.

Treatment of accumulated losses and unabsorbed depreciation in scheme of amalgamation in certain cases

117. (*1*) Irrespective of anything contained in section 2(*6*)(*a*) to (*c*) or section 116, where there has been an amalgamation of,—

(a) one or more banking company with—

(i) any other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45(*7*) of the Banking Regulation Act, 1949; or

10 of 1949.

(ii) any other banking institution or a company following a strategic disinvestment, wherein the amalgamation occurs within five years from the end of the tax year during which such disinvestment is carried out; or

(b) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both; or

5 of 1970.
40 of 1980.

(c) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972,

57 of 1972.

the accumulated loss and unabsorbed depreciation of such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies, shall be deemed to be the loss or, allowance for depreciation of the banking institution or company or amalgamated corresponding new bank or amalgamated Government company for the tax year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) Where any scheme of such amalgamation is brought into force on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

(i) the banking company or companies;

(ii) the amalgamating corresponding new bank or banks; or

(iii) the amalgamating Government company or companies,

as the case may be, which is deemed to be the loss of the successor entity, being—

(a) the banking institution or company; or

(b) the amalgamated corresponding new bank or banks; or

(c) the amalgamated Government company or companies,

as the case may be, shall be carried forward in the hands of the successor entity for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for original predecessor entity.

(3) In this section,—

(a) "accumulated loss" means so much of the loss of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies under the head "Profits and gains of business or profession" (excluding losses of a speculation business) which such amalgamating company or companies would have been entitled to carry forward and set off under section 112 had the amalgamation not occurred;

(b) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949;

10 of 1949.

(c) "banking institution" shall have the same meaning as assigned to it in section 45(*15*) of the Banking Regulation Act, 1949;

10 of 1949.

(d) "corresponding new bank" shall have the same meaning as assigned to it in section 2(*d*) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or section 2(*b*) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

5 of 1970.
40 of 1980.

(e) "general insurance business" shall have the same meaning as assigned to it in section 3(*g*) of the General Insurance Business (Nationalisation) Act, 1972;

57 of 1972.

(f) "Government company" means a Government company as defined in section 2(*45*) of the Companies Act, 2013, engaged in the general insurance business and established under section 4 or 5 or 16 of the General Insurance Business (Nationalisation) Act, 1972;

18 of 2013.
57 of 1972.

(g) "original predecessor entity" means predecessor entity in respect of the first amalgamation;

(h) "strategic disinvestment" shall have the meaning assigned to it in section 116(*3*)(*c*);

(i) "unabsorbed depreciation" means the allowance for depreciation of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies which remains to be allowed and which would have been allowed to such entity, had the amalgamation not occurred.

Carry forward and set off of losses and unabsorbed depreciation in business reorganisation of co-operative banks.

118. (*1*) In a case of a co-operative bank, where amalgamation takes place during the tax year, the accumulated business loss and unabsorbed depreciation, if any, of the predecessor co-operative bank, shall be allowed to be set off against the income of the assessee, being a successor co-operative bank for that tax year, as if the business reorganisation had not taken place and all other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation, shall apply accordingly.

(2) In case of a co-operative bank where demerger takes place during the tax year, and where the accumulated loss or unabsorbed depreciation—

(a) is directly relatable to the undertaking transferred, the whole of such loss and depreciation shall be allowed to be carried forward and set off against the income of the resulting co-operative bank; and

(b) is not directly relatable to the undertaking transferred, then such loss and depreciation shall first be apportioned between the demerged co-operative bank and the resulting co-operative bank in the same proportion in which assets of the undertaking are distributed between the demerged co-operative bank and the resulting co-operative bank, and be allowed to be carried forward and set off against their respective incomes.

(3) The accumulated loss shall be carried forward only up to eight tax years immediately succeeding the tax year in which such loss was first computed in the hands of the predecessor-in-business.

(4) The provisions of this section shall apply, if—

(a) the predecessor co-operative bank—

(i) has been engaged in the business of banking for three or more years; and

(ii) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years before **(**)** the date of business reorganisation;

(b) the successor co-operative bank,—

(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum five years immediately succeeding the date of business reorganisation;

(ii) continues the business of the predecessor co-operative bank for a minimum five years from the date of business reorganisation; and

(iii) fulfils such other conditions, as prescribed, to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

(5) The Central Government may, by notification, specify such other conditions as it may consider necessary, other than the condition referred to in sub-section (*4*)(*b*)(*iii*), for the purposes of ensuring that the specified business reorganisation is for genuine business purposes.

(6) In a case where any of the conditions referred to in sub-section (*4*) or (*5*) are not complied with, the set off of accumulated business loss or unabsorbed depreciation made in any tax year in the hands of the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which such conditions are not complied with.

(7) The period commencing from the beginning of the tax year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the tax year, shall be deemed to be two different tax years for the purposes of set off and carry forward of loss and allowance for depreciation.

(8) In this section,—

(a) "accumulated business loss" means so much of the loss of amalgamating co-operative bank or demerged co-operative bank as referred to in section 112 in the hands of predecessor co-operative bank, which such predecessor co-operative bank would have been entitled to carry forward and set off under the said section, as if the business reorganisation had not taken place;

(b) "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 65;

(c) "unabsorbed depreciation" means so much of the allowance for depreciation in the hands of amalgamating co-operative bank or demerged co-operative bank, which remains to be allowed and which would have been allowed to such banks, if the business reorganisation had not taken place.

Carry forward and set off of losses not permissible in certain cases.

119. (*1*) In case of change in constitution of a firm during a tax year, such firm shall not be entitled to carry forward and set off so much of the loss proportionate to the share of retired or deceased partner as reduced by his share of profit, if any, from the firm for that tax year.

(2) If any person carrying on any business or profession has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

(3) In case of change in shareholding of a company, not being a company in which public are substantially interested, during any tax year, loss brought forward from any preceding tax year shall not be allowed to be set off against the income of the said tax year and subsequent tax years unless the following conditions are satisfied:—

(a) **(**)** the beneficial owners of shares of the company carrying at least 51% of voting power, as on the last day of tax year in which loss was incurred, shall continue to be the beneficial owner of shares carrying at least 51% of voting power, as on the last day of the tax year in which such change in shareholding takes place; or

(b) even if conditions referred to in clause (*a*) are not satisfied in case of a company, being an eligible start-up referred to in section 140,—

(i) all shareholders of the company holding shares carrying voting power, as on the last day of tax year in which loss was incurred, continue to hold those shares as on the last day of the tax year in which such change in shareholding takes place; and

(ii) such loss was incurred during the first ten years beginning from the year of incorporation of the company.

(4) The provisions of sub-section (*3*) shall not apply—

(a) where a change in the voting power and shareholding takes place in the tax year referred to in that sub-section due to death of shareholder or transfer of shares by way of gift to any relative of the shareholder; or

(b) where change in shareholding of Indian company, being a subsidiary of foreign company, takes place due to amalgamation or demerger of the foreign company and 51% of the shareholders of amalgamating or demerged foreign company are shareholders of amalgamated or resulting foreign company; or

(c) where change in shareholding takes place in a tax year consequent to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or

31 of 2016.

(d) to a company, its subsidiary and subsidiary of such subsidiary, if—

(i) the Board of Directors of such company were suspended by the Tribunal on an application moved by the Central Government under section 241 of the Companies Act, 2013 and new directors were appointed by the Central Government under section 242 of the said Act; and

18 of 2013.

(ii) the change in shareholding of such company and its subsidiary, and subsidiary of such subsidiary has taken place consequent to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or

18 of 2013.

(e) to a company to the extent that a change in the shareholding has taken place during the tax year on account of relocation referred to in section 70(*2*); or

(f) to an erstwhile public sector company where ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of such company in aggregate.

(5) Irrespective of anything contained in sub-section (*4*), if the conditions specified in sub-section 4(*f*) is not complied with in any tax year after the completion of strategic disinvestment, the provisions of sub-section (*3*) shall apply for such tax year and subsequent tax years.

(6) In this section,—

(a) a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company;

(aa) the expression "beneficial owner" means an individual who derives the benefits directly or indirectly from the shares during the tax year;

(b) the expression "erstwhile public sector company" shall have the meaning assigned to it in section 116(*3*)(*b*);

(c) "strategic disinvestment" shall have the meaning assigned to it in section 116(*3*)(*c*); 18 of 2013.

(d) "Tribunal" shall have the same meaning as assigned to it in section 2(*90*) of the Companies Act, 2013.

No set off of losses against undisclosed income consequent to search, requisition and survey.

120. (*1*) Irrespective of anything to the contrary contained in any other provision of this Act, any loss, whether brought forward or otherwise or unabsorbed depreciation, shall not be allowed to be set off against any undisclosed income which is included in the total income of any tax year, consequent to a search conducted under section 247 or a requisition under section 248 or a survey conducted under section 253, not being a survey under section 253(*4*).

Submission of return for losses.

(*2*) In this section, the expression "undisclosed income" for any tax year shall have the meaning assigned to it in section 301.

121. Irrespective of anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under section 263(*1*), shall be carried forward and set off under section 111(*1*) and 111(*2*), or 112(*1*), or 113(*2*), or 114(*2*) or 115(*1*).

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CHAPTER VIII

DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

A.—General

Deductions to be made in computing total income.

(**) 122. (*1*) In computing the total income of an assessee, the deductions specified in this Chapter shall be allowed from his gross total income, as per and subject to the provisions of this Chapter.

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee.

(3) If the deduction under section 133 or 135 or 137 or 138 or 141 or 142 or 143 is admissible in computing the total income of an association of persons or a body of individuals, no deduction under the same provision shall be made in relation to the share of income of a member of such association of persons or body of individuals while computing the total income of such member.

(4) Irrespective of anything to the contrary contained in any of the provisions of this Chapter under the heading "Deductions in respect of certain incomes", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under those provisions for any tax year,—

(a) deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provision of this Act for such tax year; and

(b) shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business.

(5) Deduction under the provisions of Part C of this Chapter shall not be allowed to an assessee, who fails to—

(a) furnish a return of income on or before the due date specified under section 263(*1*); or

(*b*) make a claim of deduction in return furnished under section 263(*1*).

(6) For the purposes of any deduction under this Chapter, irrespective of anything to the contrary contained in Part C of this Chapter, if any goods or services held for the purposes of—

(a) the undertaking, unit, enterprise or eligible business carried on by the assessee are transferred to any other business carried on by the assessee; or

(b) any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business of the assessee; and

(c) the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of transfer,

the profits and gains of such undertaking or unit or enterprise or eligible business carried on by the assessee, shall be computed as if the transfer in clause (*a*) or (*b*), had been made at the market value of such goods or services as on that date.

(*7*) For the purposes of sub-section (*6*), "market value",—

(a) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch, if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(*b*) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any; and

(*c*) in relation to any goods or services sold, supplied or acquired means the arms length price of such goods or services as defined in section 173(*a*), if it is a specified domestic transaction referred to in section 164.

(8) Where a deduction under Part C of this Chapter, is claimed and allowed in respect of profits of a specified business as referred to in section 46(*11*)(*d*) for any tax year, no deduction shall be allowed for such specified business under section 46 for the same or any other tax year.

(9) Where any deduction is required to be made or allowed under Part C of this Chapter, in respect of any income of the nature specified in that section and included in the gross total income of the assessee, then, irrespective of anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed under the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and which is included in his gross total income.

(10) In this Chapter, "gross total income" means the total income computed as per the provisions of this Act, before making deduction under this Chapter.

B.—Deductions in respect of certain payments

Deduction for life insurance premia, deferred annuity, contributions to provident fund, etc.

123. An individual or a Hindu undivided family, shall be allowed a deduction of the whole of the amount paid or deposited in the tax year, being the aggregate of the sums enumerated in Schedule XV, but not exceeding one lakh fifty thousand rupees, while computing the total income for that year, subject to the conditions specified in that Schedule.

Deduction in respect of employer contribution to pension scheme of the Central Government.

124. (*1*) Where in the case of an assessee, being an individual employed by any employer, if an employer makes any contribution in his account under a pension scheme notified by the Central Government, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by such employer as does not exceed—

(a) 14%, where such contribution is made by the employer being the Central Government or the State Government; and

(b) 10%, where such contribution is made by an employer other than an employer referred to in clause (*a*),

of his salary in the tax year.

(2) Where the total income of the assessee is chargeable to tax under section 202(*1*), the provisions of sub-section (*1*) shall have effect as if for "10%" referred to in clause (*b*) of that sub-section, "14%" had been substituted.

(3) An assessee referred to in sub-section (*1*), or any other assessee, being an individual, shall be allowed a deduction in computation of his total income of the whole of the amount paid or deposited **by such individual** in the tax year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees.

(4) The deduction under sub-section (*3*) shall also be allowed where any payment or deposit is made to the account of a minor under the said pension scheme, by the assessee, being the guardian of such minor, subject to the condition that the aggregate amount of deduction under sub-section (*3*) and this sub-section shall not exceed fifty thousand rupees.

(5) No deduction under sub-section (*3*) shall be allowed in respect of the amount on which a deduction has been claimed and allowed under section 123.

(6) Any amount standing to the credit of the assessee or a minor, in his account or the account of a minor, as the case may be, referred to in sub-sections (*1*), (*3*) and (*4*), in respect of which a deduction has been allowed together with the amount accrued thereon, received by the assessee or his nominee, in whole or in part, in any tax year,—

(a) on account of closure or his opting out of the pension scheme referred to in sub-sections (*1*) and (*3*); or

(b) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause (*a*) or (*b*) shall be deemed to be the income of the individual or his nominee, in the tax year in which such amount is received, and shall accordingly be charged to tax as income of that tax year.

(7) The amount received by the nominee, on the death of the assessee, under the circumstances referred to in sub-section (*6*)(*a*), shall not be deemed to be the income of the nominee.

(8) The amount received by a person, being the guardian or nominee of a minor on account of closure of the pension scheme due to the death of the minor referred to in sub-section (*4*), shall not be deemed to be the income of such person.

(9) For the purposes of this section, the assessee shall not be deemed to have received any amount in the tax year, if such amount is used for purchasing an annuity plan in the same tax year.

(10) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (*3*), no deduction with reference to such amount shall be allowed as deduction under section 123 for that tax year.

(11) For the purposes of this section, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

Deduction in respect of contribution to *Agnipath* Scheme.

125. (*1*) An assessee, being an individual who has enrolled in the *Agnipath* Scheme and subscribes to the *Agniveer* Corpus Fund on or after the 1st November, 2022, shall be allowed a deduction in the computation of his total income, of the whole of the amount paid or deposited in his account in the said Fund during the tax year.

(2) Where the Central Government makes any contribution to the account of an assessee in the Fund referred to in sub-section (*1*), the assessee shall be allowed a deduction in the computation of his total income of the whole of the amount so contributed.

(3) In this section,—

(a) "*Agnipath* Scheme" means the scheme for enrolment in the Indian Armed Forces introduced *vide* letter No. 1(23)2022/D(Pay/Services), dated the 29th December, 2022, of the Government of India in the Ministry of Defence;

(b) "*Agniveer* Corpus Fund" means a fund in which consolidated contributions of all the *Agniveers* and matching contributions of the Central Government along with interest on both these contributions are held.

Deduction in respect of health insurance premia.

126. (*1*) An assessee, being an individual or a Hindu undivided family, shall be allowed a deduction of a sum as specified in sub-sections (*2*) to (*8*), payment of which is made by any mode as specified in sub-section (*9*), out of his income chargeable to tax in the tax year.

(2) In the case of an assessee, being an individual, the sum referred to in sub-section (*1*), shall be the aggregate of the whole of the amount paid—

(a) to effect or keep in force an insurance on the health (herein referred to as health insurance) of the assessee or his family, or any contributions made to the Central Government Health Scheme or such other scheme, as notified by the Central Government in this behalf, or any payment made for preventive health check-up of the assessee or his family, up to twenty-five thousand rupees in aggregate;

(b) to effect or to keep in force the health insurance, or any payment made for preventive health check-up, for the parent or parents of the assessee, up to twenty-five thousand rupees in aggregate;

(c) on account of medical expenditure incurred on the health of the assessee or any member of his family, up to fifty thousand rupees in aggregate; and

(d) on account of medical expenditure incurred on the health of any parent of the assessee, up to fifty thousand rupees in aggregate.

(3) The deduction in respect of amounts referred to in sub-section (*2*)(*a*) or (*2*)(*b*), which are paid on account of preventive health check-up, shall be allowed up to five thousand rupees in aggregate.

(4) The amount of sum referred to in sub-section (*2*) shall not exceed fifty thousand rupees in aggregate of the sum specified under sub-sections 2(*a*) and 2(*c*) or aggregate of the sum specified under sub-sections 2(*b*) and 2(*d*).

(5) In the case of assessee, being Hindu undivided family, the sum referred to in sub-section (*1*), shall be the aggregate of the whole of the amount paid—

(a) to effect or keep in force an insurance on the health of any member of that family, up to twenty-five thousand rupees in the aggregate; and

(b) on account of medical expenditure incurred on the health of any member of that family, up to fifty thousand rupees in the aggregate.

(6) The amount of sum under sub-section (*5*) shall not exceed fifty thousand rupees in the aggregate of the sum specified under sub-section (*5*)(*a*) and (*b*); or

(7) For the purposes of this section, where the amount is paid on account of medical expenditure incurred on the health of senior citizen under sub-section (*2*)(*c*) or (*d*) or (*5*)(*b*), deduction shall be allowed, if no amount has been paid to effect or to keep in force the health insurance of such person.

(8) Where the sum specified in sub-section (*2*)(*a*) or (*b*) or (*5*)(*a*) is paid to effect or keep in force the health insurance of any person specified therein, and—

(a) such person is a senior citizen, the amount of sum as provided in such clauses, shall be substituted with fifty thousand rupees for twenty-five thousand rupees; and

(b) such sum is paid in lump sum in the tax year for more than a year, a deduction shall be allowed for each of the relevant tax year equal to the appropriate fraction of such amount.

(9) For the purposes of deduction under **sub-**section (*1*), the payment shall be made by any mode,—

(a) including cash, in respect of any sum paid on account of preventive health check-up; or

(b) other than cash in all other cases not falling under clause (*a*).

(10) In this section,—

(a) "appropriate fraction" means the fraction where the numerator is one, and the denominator is the total number of relevant tax year;

(b) "family" includes the spouse and dependant children of the (***) assessee; and

(c) "relevant tax year" means the tax year beginning with the tax year in which such lump sum amount is paid and the subsequent tax year or years during which the health insurance remains in force.

(11) The health insurance referred to in this section shall be as per the scheme made in this behalf by—

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or 57 of 1972.

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999. 4 of 1999.

Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

127. (*1*) An assessee being an individual or a Hindu undivided family, who is a resident in India, shall be allowed a deduction upto seventy-five thousand rupees from his gross total income of a tax year, subject to the provisions of this section, if during that year he has—

(a) incurred expenditure for the medical treatment (including nursing), training, or rehabilitation of a dependant, being a person with disability; or

(*b*) paid or deposited any amount, under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator, or the specified company, for the maintenance of a dependant, being a person with disability, subject to the conditions specified in sub-section (*2*) and approved by the Board in this behalf.

(2) The deduction under sub-section (*1*)(*b*) shall be allowed only if the following conditions are fulfilled:—

(a) the scheme referred to in sub-section (*1*)(*b*) provides for payment of an annuity or lump sum amount for the benefit of a dependant, being a person with disability—

(i) on the death of the individual or the member of the Hindu undivided family, in whose name the scheme was subscribed; or

(ii) on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued;

(b) the assessee nominates the dependant, being a person with disability or another person or a trust to receive the payments on behalf and for the benefit of such dependant.

(3) If the dependant as referred to in sub-section (*1*) is a person with severe disability, the amount of deduction as referred to in sub-section (*1*) shall be substituted with one lakh and twenty-five thousand rupees for seventy-five thousand rupees.

(4) In the event of death of the dependant, being a person with disability before the individual or member of the Hindu undivided family mentioned in sub-section (*2*), the amount paid or deposited under sub-section (*1*)(*b*) shall be deemed to be the income of the assessee of the tax year in which it is received and shall accordingly be chargeable to tax.

(5) The provisions of sub-section (*4*) shall not apply to the amount received by the dependant, being a person with disability, before his death, as an annuity or lump sum, by application of the condition referred to in sub-section (*2*)(*a*)(*ii*).

(6) The assessee claiming deduction under this section, shall furnish a copy of the medical certificate issued by the medical authority in such form and manner as prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(7) If the certificate referred to in sub-section (*6*), specifies that the condition of disability requires reassessment of its extent after a period stipulated in it, the deduction under this section shall not be allowed for any tax year succeeding the tax year in which the said certificate expires, unless a new certificate is obtained from the medical authority in such form and manner, as prescribed, and a copy thereof is submitted along with the return of income under section 263.

(8) The dependant mentioned in this section shall not include a person who has claimed deduction under section 154 in computing his total income for the tax year.

(9) In this sections,—

(a) "Administrator" means the Administrator as referred to in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(b) "dependant" means—

(i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

(ii) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;

(c) "disability" shall have the same meaning as assigned to it in section 2(*i*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and includes "autism", "cerebral palsy" and "multiple disability" respectively referred to in section 2(*a*), (*c*) and (*h*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(d) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956; 31 of 1956.

(e) "medical authority" means the medical authority as referred to in section 2(*p*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" respectively referred to in section 2(*a*), (*c*), (*h*), (*j*) and (*o*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(f) "person with disability" means a person as referred to in section 2(*t*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or section 2(*j*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(g) "person with severe disability" means—

(i) a person with 80% or more of one or more disabilities, as referred to in section 56(*4*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or 1 of 1996.

(ii) a person with severe disability referred to in section 2(*o*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 44 of 1999.

(h) "specified company" shall have the same meaning as assigned to it in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. 58 of 2002.

Deduction in respect of medical treatment, etc.

128. (*1*) An assessee who is resident in India, shall be allowed a deduction of the amount actually paid during the tax year or a sum of forty thousand rupees, whichever is less, from income chargeable to tax of that tax year, for the medical treatment of such disease or ailment as prescribed—

(a) for himself or a dependant, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family.

(2) A deduction shall be allowed under this section only if the assessee obtains the prescription for the medical treatment from a neurologist, oncologist, urologist, haematologist, immunologist, or any other specialist, as prescribed.

(3) The deduction under this section shall be reduced by any amount received under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person as referred to in sub-section (*1*)(*a*) or (*b*).

(4) If the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is senior citizen, the amount of deduction as referred to in sub-section (*1*) shall be substituted with one lakh rupees for forty thousand rupees.

(5) In this section,—

(a) "dependant" shall have the meaning as **(***)** **assigned to it** in section 127;

4 of 1938. (b) "insurer" shall have the meaning assigned to it in section 2(*9*) of the Insurance Act, 1938.

Deduction in respect of interest on loan taken for higher education.

129. (*1*) An assessee, being an individual, shall be allowed a deduction of amount paid as interest during a tax year, subject to the provisions of this section, on a loan taken by him from any financial institution or any approved charitable institution, if the—

(a) loan taken is for the purpose of pursuing higher education of himself or his relative; and

(b) payment is made out of his income chargeable to tax.

(2) The deduction referred to in sub-section (*1*) shall be allowed in computing the total income in respect of the initial tax year and seven tax years immediately succeeding the initial tax year, or until the interest on the loan is fully paid by the assessee, whichever is earlier.

(3) In this section,—

43 of 1961. (a) "approved charitable institution" means a registered non-profit organisation where it was approved earlier under the provisions of section 10(*23C*) of the Income-tax Act, 1961, or an institution referred to in section 80G(*2*)(*a*) of the said Act;

10 of 1949. (b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) or any other financial institution which the Central Government may, by notification, specify;

(c) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from a school, board, or University recognised by the Central Government or State Government, local authority, or by any authority authorised by the Central Government or State Government or local authority to do so;

(d) "initial tax year" means the tax year in which the assessee starts paying the interest on the loan; and

(e) "relative", in relation to an individual, means the spouse and children of that individual, or the student for whom the individual is the legal guardian.

Deduction in respect of interest on loan taken for residential house property.

130. (*1*) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property as per the provisions of this section.

(2) The deduction under sub-section (*1*) shall not exceed fifty thousand rupees and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2016 and subsequent tax years.

(3) The deduction under sub-section (*1*) shall be subject to the following conditions:—

(a) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2016 and ending on the 31st March, 2017;

(b) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;

(c) the value of residential house property does not exceed fifty lakh rupees; and

(d) the assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (*1*), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) In this section,—

(a) "financial institution" means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in section 51 of that Act or a housing finance company; and

10 of 1949.

(b) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

Deduction in respect of interest on loan taken for certain house property.

131. (*1*) An assessee, being an individual not eligible to claim deduction under section 130, shall be allowed a deduction on interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property, subject to a maximum limit of one lakh and fifty thousand rupees in a tax year and on fulfilment of conditions specified in sub-section (*2*), for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(2) The deduction under sub-section (*1*) shall be subject to the following conditions:—

(a) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending with the 31st March, 2022;

(b) the stamp duty value of residential house property does not exceed forty-five lakh rupees; and

(c) the assessee does not own any residential house property on the date of sanction of loan.

(3) Where a deduction under this section is allowed for any interest referred to in sub-section (*1*), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(4) In this section, "financial institution" shall have the meaning assigned to it in section 130(*5*)(*a*).

Deduction in respect of purchase of electric vehicle.

132. (*1*) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle, as per the provisions of this section.

(2) The deduction under sub-section (*1*) shall be subject to the condition that the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending with the 31st March, 2023.

(3) The deduction under sub-section (*1*) shall not exceed one lakh fifty thousand rupees and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (*1*), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) In this section,—

(a) "electric vehicle" means a vehicle powered exclusively by an electric motor, whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy; and

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in section 51 of that Act and includes a non-banking financial company.

10 of 1949.

Deduction in respect of donations to certain funds, charitable institutions, etc.

133. (*1*) In computing the total income of an assessee, there shall be deducted, as per and subject to the provisions of this section,—

(a) the whole of the aggregate of the sum or the sums paid by the assessee, in the tax year as donations to—

(i) the National Defence Fund set up by the Central Government; or

(ii) the Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); or

(iii) the Prime Minister's Armenia Earthquake Relief Fund; or

(iv) the Africa (Public Contributions-India) Fund; or

(v) the National Children's Fund; or

(vi) the National Foundation for Communal Harmony; or

(vii) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or

(viii) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or

(ix) any *Zila Saksharta Samiti* constituted in any district under the chairmanship of the Collector of that district for improving primary education in villages and towns (having a population up to one lakh) according to the last published census of which figures are available before the first day of the relevant tax year), in such district and for literacy and post-literacy activities; or

(x) the National Blood Transfusion Council or any State Blood Transfusion Council, which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks; or

(xi) any fund set up by a State Government to provide medical relief to the poor; or

(xii) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or

(xiii) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or

(xiv) the National Illness Assistance Fund; or

(xv) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, if the fund meets all the following conditions:—

(A) it is the only fund of its kind established in the State or the Union territory;

(B) it is under the overall control of the Chief Secretary or the Department of Finance of the respective State or the Union territory;

(C) it is administered in a manner specified by the State Government or the Lieutenant Governor; or

(xvi) the National Sports Development Fund to be set up by the Central Government; or

(xvii) the National Cultural Fund set up by the Central Government; or

(xviii) the Fund for Technology Development and Application set up by the Central Government; or

(xix) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under section 3(*1*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; or

44 of 1999.

(xx) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section 135(*5*) of the Companies Act, 2013; or

18 of 2013.

(xxi) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section 135(*5*) of the Companies Act, 2013; or

18 of 2013.

(xxii) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985; or

61 of 1985.

(xxiii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning; or

(xxiv) the Indian Olympic Association or any other association or institution established in India, as the Central Government may, having regard to the prescribed guidelines, by notification specify in this behalf for—

(A) the development of infrastructure for sports and games in India; or

(B) the sponsorship of sports and games in India,

and where the assessee is a company;

(b) an amount equal to 50% of the aggregate of the sums paid as donation by an assessee during the tax year to—

(i) the Prime Minister's Drought Relief Fund;

(ii) any fund or any institution to which this section applies, if:—

(A) it is established in India for a charitable purpose; and

(B) it is a registered non-profit organisation or an institution or fund mentioned in Schedule VII (Table: Sl. No. 1) and approved under section 354;

(iii) the Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning;

(iv) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(v) a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community;

(vi) for the purposes of sub-clause (*v*), "minority community" means a community notified as such by the Central Government;

(vii) any entity, for the renovation or repair of any temple, mosque, gurudwara, church or other place which is notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

(2) Where the aggregate of the sums referred to in sub-section (*1*)(*a*)(*xxiii*) and (*xxiv*), sub-section (*1*)(*b*)(*ii*) to (*v*) and (*vii*) exceeds 10% of the adjusted gross total income, then the amount in excess of 10% of the **adjusted** gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (*1*).

(3) Where deduction under this section is claimed and allowed for any tax year in respect of any sum specified in sub-section (*1*), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other tax year.

(4) The deduction under this section shall be allowed only for donation made as a sum of money.

(5) Any deduction for a donation over two thousand rupees shall be allowed only if the payment is made by a mode other than cash.

(6) Any claim of deduction by the assessee in his return of income filed for any tax year in case of a donation made to an institution or fund referred in sub-section (*1*)(*b*)(*ii*), shall be allowed only on the basis of—

(a) the information relating to such donation furnished by such institution or fund to the prescribed authority or person authorised by such authority; and

(b) subject to verification as per the risk management strategy formulated by the Board from time to time.

(7) For the purposes of this section,—

(a) "adjusted gross total income" means gross total income as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter;

(b) "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature;

(c) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 and has an officer of the rank of an Additional Secretary to the Government of India or higher to deal with the AIDS Control Project as its Chairman; 21 of 1860.

(d) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India and has a Secretary to the Government of that State dealing with the Department of Health, as its Chairman; and 21 of 1860.

(e) an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as notified by the Central Government, shall be considered to be an institution established in India for a charitable purpose.

Deductions in respect of rents paid.

134. (*1*) In computing the total income of an assessee, subject to other provisions of this section, there shall be deducted any expenditure incurred by him towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence.

(2) The deduction under sub-section (*1*) shall be allowable on such rent exceeding 10% of his total income, subject to a maximum of five thousand rupees per month, or 25% of total income for tax year, whichever is less.

(3) For the purposes of deduction under sub-section (*1*), such other conditions or limitations having regard to the area or place in which such accommodation is situated and other relevant consideration, as prescribed, shall be taken into account.

(4) No deduction under this section shall be allowed to an assessee in any case, where—

(a) any residential accommodation is—

(i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under section 21(*6*) or (*7*)(*a*); or

(b) the assessee has any income falling in Schedule III (Table: Sl. No. 11).

(5) For the purposes of this section, the expressions "10% of his total income" and "25% of his total income" shall mean 10% or 25%, as the case may be, of the total income of the assessee before allowing deduction for any expenditure under this section.

Deduction in respect of certain donations for scientific research or rural development.

135. (*1*) In computing the total income of an assessee, there shall be deducted, as per the provisions of this section, any sum paid by the assessee in the tax year to,—

(a) a research association which has as its object the undertaking of scientific research, or to a University, college or other institution approved for the purposes of section 45(*3*)(*a*)(*i*) to be used for scientific research;

(b) a research association which has as its object the undertaking of research in social science or statistical research, or to a University, college or other institution approved for the purposes of section 45(*3*)(*a*)(*ii*) to be used for research in social science or statistical research;

(2) Deduction for contributions made as per sub-section (*1*) shall not be allowed, if—

(a) the gross total income of the assessee includes income which is chargeable under the head "Profits and gains of business or profession"; or

(b) the contribution is made in cash exceeding two thousand rupees.

(3) Deduction under sub-section (*1*)(*a*) and (*1*)(*b*) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, approval to such association, University, college, other institution referred there in to whom the payment was made has been withdrawn.

(4) The claim of the assessee for a deduction in respect of any sum referred to in sub-section (*1*) in the return of income for any tax year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification as per the risk management strategy formulated by the Board from time to time.

Deduction in respect of contributions given by companies to political parties.

136. (*1*) An assessee, being an Indian company, shall be allowed a deduction for the amount contributed by it, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951 or an electoral trust.

43 of 1951.

(*2*) In this section, the word "contribute", with its grammatical variations and cognate expressions shall have the same meaning as assigned to it in section 182 of the Companies Act, 2013.

18 of 2013.

Deduction in respect of contributions given by any person to political parties.

137. An assessee, (other than a local authority and an artificial juridical person wholly or partly funded by the Government), shall be allowed a deduction for the amount contributed by him, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951, or an electoral trust.

43 of 1951.

C.—Deductions in respect of certain incomes.

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

138. In respect of any tax year beginning on or after the 1st April, 2026, where—

(*a*) the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in section 80-IA of the Income-tax Act, 1961; and

43 of 1961.

(b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(i) the amount of deduction is calculated as per the provisions of section 80-IA of the Income-tax Act,1961; and 43 of 1961.

(ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IA of the Income-tax Act,1961, as if the said Act had not been repealed. 43 of 1961.

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

139. In respect of any tax year, where—

(a) the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st April, 2005 under the Special Economic Zones Act, 2005 referred to in section 80-IAB of the Income-tax Act, 1961; and 28 of 2005. 43 of 1961.

(b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(i) the amount of deduction is calculated as per the provisions of section 80-IAB of the Income-tax Act, 1961; and 43 of 1961.

(ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IAB of the Income-tax Act, 1961, if the said Act had not been repealed. 43 of 1961.

Special provision in respect of specified business.

140. (*1*) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for three consecutive tax years.

(2) The deduction specified in sub-section (*1*) may, at the option of the assessee, be claimed by him for any three consecutive tax years out of ten years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions:—

(a) it is not formed by splitting up, or the reconstruction, of a business already in existence;

(b) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

(4) Where the business of any undertaking carried on in India is discontinued in any tax year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of—

(a) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(b) riot or civil disturbance; or

(c) accidental fire or explosion; or

(d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

and thereafter, at any time before the expiry of three years from the end of such tax year, the business of such undertaking is re-established, re-constructed or revived by the assessee, the condition referred to in sub-section (3)(a) shall not apply to such undertaking which is so re-established, reconstructed or revived.

(5) For the purposes of sub-section (*3*)(*b*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled:—

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before to the date of the installation of the machinery or plant by the assessee.

(6) Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used in the business, then, for the purposes of sub-section (*3*)(*b*), the condition specified therein shall be considered to have been complied with.

(7) Irrespective of anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (*1*) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the tax year immediately succeeding the initial tax year or any subsequent tax year, be computed as if such eligible business were the only source of income of the assessee during the initial tax year and to every subsequent tax year up to and including the tax year for which the determination is to be made.

(8) The deduction under sub-section (*1*) from profits and gains derived from an eligible business shall not be admissible unless the accounts of the eligible business for the tax year for which the deduction is claimed have been audited by an accountant, before the specified date referred to in section 63 and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant.

(9) In a case where,—

(i) any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee; or

(ii) where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the eligible business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(10) For the purposes of sub-section (*9*), where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

(11) For the purposes of sub-section (*9*), "market value", in relation to any goods or services, means—

(i) the price that such goods or services would ordinarily fetch in the open market; or

(ii) the arm's length price as defined in section 173(*a*), where the transfer of such goods or services is a specified domestic transaction referred to in section 164.

(12) Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any tax year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of Part C of this Chapter and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.

(13) Where it appears to the Assessing Officer that,—

(i) owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person; or

(ii) for any other reason,

the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably considered to have been derived therefrom.

(14) Where the arrangement as mentioned in sub-section (*13*) involves a specified domestic transaction referred to in section 164, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in section173(*a*).

(15) The Central Government may, after making such inquiry as it may think fit, direct, by notification, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(16) In this section,—

(a) "eligible business" means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation;

(b) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions:—

(i) it is incorporated on or after the 1st April, 2016 but before the 1st April, 2030;

(ii) the total turnover of its business does not exceed one hundred crore rupees in the tax year relevant to the tax year for which deduction under sub-section (*1*) is claimed; and

(iii) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified by the Central Government; and

(c) "limited liability partnership" means a partnership referred to in section 2(*1*)(*n*) of the Limited Liability Partnership Act, 2008. 6 of 2009.

Deduction in respect of profits and gains from certain industrial undertakings.

141. In respect of any tax year, where—

(a) the gross total income of an assessee, includes any profits and gains derived from any business referred to in section 80-IB of the Income-tax Act, 1961; and 43 of 1961.

(b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(i) the amount of deduction is calculated as per the provisions of section 80-IB of the Income-tax Act, 1961; and 43 of 1961.

(ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IB of the Income-tax Act, 1961, if the said Act had not been repealed. 43 of 1961.

Deductions in respect of profits and gains from housing projects

142. In respect of any tax year, where—

(a) the gross total income of an assessee, includes any profits and gains derived from the business of developing and building housing projects or rental housing projects referred to in section 80-IBA of the Income-tax Act,1961; and 43 of 1961.

(b) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(i) the amount of deduction is calculated as per the provisions of section 80-IBA of the Income-tax Act, 1961; and 43 of 1961.

(ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IBA of the Income-tax Act, 1961, if the said Act had not been repealed. 43 of 1961.

Special provisions in respect of certain undertakings in North-Eastern States.

143. (*1*) Where the gross total income of an assessee includes any profits and gains derived by an undertaking, to which this section applies, from any business referred to in sub-section (*2*), there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for ten consecutive tax years commencing with the initial tax year.

(2) This section applies to any undertaking which has, during the period beginning on the 1st April, 2007 and ending **(**) before** the 1st April, 2017, begun or begins, in any of the North-Eastern States,—

(a) to manufacture or produce any eligible article or thing;

(b) to undertake substantial expansion to manufacture or produce any eligible article or thing; and

(c) to carry on any eligible business.

(3) This section applies to any undertaking which fulfils all the following conditions:—

(a) it is not formed by splitting up, or the reconstruction, of a business already in existence;

(b) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(c) condition referred to in clause (*a*) shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 140(*4*),in the circumstances and within the period specified therein.

(4) For the purposes of sub-section (*3*)(*b*), the provisions of section 140(*5*) and (*6*) shall apply.

(5) Irrespective of anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in this Chapter in relation to the profits and gains of the undertaking.

(6) Irrespective of anything contained in this Act, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section or under second proviso to section 80-IB(*4*) of the Income-tax Act, 1961 exceeds ten tax years. 43 of 1961.

(7) The provisions contained in section 140(*7*) to (*15*) shall, so far as may be, apply to the eligible undertaking under this section.

(8) In this section,—

(a) "eligible article or thing" means the article or thing other than the following:—

(i) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985, which pertains to tobacco and manufactured tobacco substitutes; 5 of 1986.

(ii) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(iii) plastic carry bags of less than twenty microns as specified by the Ministry of Environment and Forests *vide* notification numbers S.O. 705(*E*), dated the 2nd September, 1999 and S.O. 698(*E*), dated the 17th June, 2003; and

(iv) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985, produced by petroleum oil or gas refineries; 5 of 1986.

(b) "eligible business" means the business of—

(i) hotel (not below two star category);

(ii) adventure and leisure sports including ropeways;

(iii) providing medical and health services in the nature of nursing home with a minimum capacity of twenty-five beds;

(iv) running an old-age home;

(v) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;

(vi) running information technology related training centre;

(vii) manufacturing of information technology hardware; and

(viii) bio-technolog;

(c) "initial tax year" means the tax year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion;

(d) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(e) "substantial expansion" means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the tax year in which the substantial expansion is undertaken.

Special provisions in respect of newly established Units in Special Economic Zones.

144. In respect of any tax year , where—

(a) in computing the total income of an assessee, being an entrepreneur as referred to in section 2(*j*) of the Special Economic Zones Act, 2005, who begins to manufacture or produce articles or things or provide any services referred to in section 10AA of the Income-tax Act, 1961; and 28 of 2005. 43 of 1961.

(b) such assessee is eligible to claim a deduction from the profits and gains derived from the export, of such articles or things or from services for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(i) the amount of deduction is calculated as per the provisions of section 10AA of the Income-tax Act, 1961; and 43 of 1961.

(ii) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 10AA of the Income-tax Act, 1961, if the said Act had not been repealed. 43 of 1961.

Duction for businesses engaged in collecting and processing of bio-degradable waste.

145. (*1*) If the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for,—

(a) generating power; or

(b) producing bio-fertilizers, bio-pesticides or **other** biological agents; or

(c) producing bio-gas; or

(d) making pellets or briquettes for fuel or organic manure,

there shall be allowed a deduction equal to the whole amount of such profits and gains for five consecutive tax years, beginning with the tax year in which such business commences.

Deduction in respect of additional employee cost.

146. (*1*) Subject to the conditions specified in sub-sections (*2*) and (*3*), if the gross total income of an assessee, to whom section 63 applies, includes any profits and gains from business, a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the tax year shall be allowed.

(2) The deduction referred to in sub-section (*1*) shall be allowed for three consecutive tax years, beginning from the tax year in which the employment is provided.

(3) The deduction under sub-section (*1*) shall not be allowed, if—

(a) the business is formed by splitting up, or the reconstruction, of an existing business; or

(b) the business is acquired by the assessee through transfer from any other person or as a result of any business reorganisation;

(c) the assessee does not furnish the report of an accountant, before the specified date as referred to in section 63, giving the particulars in the report, as prescribed.

(4) The condition referred to in sub-section (*3*)(*a*) shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 140(*4*) in the circumstances and within the period specified in that sub-section.

(5) In this section,—

(a) "additional employee cost" means—

(i) the total emoluments paid or payable to additional employees employed during the tax year; or

(ii) emoluments paid or payable to employees employed during the tax year, where that year is the first year of a new business,

and it shall be *nil* in the case of an existing business, if—

(A) there is no increase in the number of employees from the total number employed as on the last day of the preceding tax year; or

(B) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode, as prescribed;

(b) "additional employee" means an employee who has been employed during the tax year and whose employment increases the total number of employees employed by the employer as on the last day of the preceding tax year, but does not include any employee—

(i) whose total emoluments exceed twenty-five thousand rupees per month;

(ii) for whom the Government pays the entire contribution under the Employees' Pension Scheme notified as per the provisions of the Employees, Provident Funds and Miscellaneous Provisions Act,1952; 19 of 1952.

(iii) employed for less than one hundred and fifty days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this section shall apply accordingly;

(iv) employed for less than two hundred and forty days during the tax year in case of any other assessee, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this section shall apply accordingly; and

(v) who does not participate in a recognised provident fund;

(c) "emoluments" means any sum paid or payable to an employee *in lieu* of his employment, by whatever name called, but does not include—

(i) employer contributions to any pension or provident fund or any other fund for the benefit of the employee as mandated by any law; and

(ii) lump sum payments paid or payable to an employee at the time of termination of his service, superannuation, or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

Deductions for income of Offshore Banking Units and Units of International Financial Services Centre.

147. (*1*) Where the following assessee has any income of the nature referred to in sub-section (*3*), there shall be allowed a deduction equal to 100% of such income:—

(a) a scheduled bank, or a bank incorporated under the laws of a country outside India, having an Offshore Banking Unit in a Special Economic Zone; or

(b) a unit of an International Financial Services Centre.

(2) The deduction shall be allowed—

(a) for ten consecutive tax years beginning from the relevant tax year in the case of an entity mentioned in sub-section (*1*)(*a*);

(b) for ten consecutive tax years within fifteen years beginning from the relevant tax year, at the option of an assessee, in the case of an entity mentioned in sub-section (*1*)(*b*).

(3) The income referred to in sub-section **(**) *(1)*** shall be the income from—

(a) an Offshore Banking Unit located in a Special Economic Zone; or

(b) the business activities referred to in section 6(*1*) of the Banking Regulation Act, 1949, with undertakings in a Special Economic Zone or entities that develop, develop and operate, or develop, operate and maintain Special Economic Zone; or 10 of 1949.

(c) the approved business activities of any Unit of an International Financial Services Centre set up in a Special Economic Zone; or

(d) transfer of an asset being, an aircraft or a ship, leased by a unit referred to in clause (*c*) if such unit commenced its business operations by 31st March, 2030.

(4) The deduction under this section shall be allowed only if the assessee submits along with the return of income—

(a) a report in the form as prescribed, from an accountant certifying the correctness of claim of deduction; and

(b) a copy of the—

(i) permission obtained under section 23(*1*)(*a*) of the Banking Regulation Act, 1949; or 10 of 1949.

(ii) permission or registration obtained under the International Financial Services Centres Authority Act, 2019. 50 of 2019.

(5) In this section,—

(a) "relevant tax year" shall be,—

(i) in case of an entity mentioned in sub-section (*1*)(*a*), the tax year in which permission under section 23(*1*)(*a*) of the Banking Regulation Act, 1949, or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law was obtained; or 10 of 1949. 15 of 1992.

(ii) in case of an entity mentioned in sub-section (*1*)(*b*), the tax year in which permission under section 23(*1*)(*a*) of the Banking Regulation Act, 1949, or permission or registration under the Securities and Exchange Board of India Act, 1992, or permission or registration under the International Financial Services Centre Authority Act, 2019 was obtained; 10 of 1949. 15 of 1992. 50 of 2019.

(b) "Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005; 28 of 2005.

(c) "aircraft" and "ship" shall have the meanings respectively assigned to them in Schedule VI Note 3.

Deduction in respect of certain inter-corporate dividends.

148. (*1*) If the gross total income of a domestic company in any tax year includes any income by way of dividends from—

(a) any other domestic company; or

(b) a foreign company; or

(c) a business trust,

such domestic company shall, be allowed a deduction of an amount equal to so much of the income by way of dividends received from the person mentioned in clause (*a*) or (*b*) or (*c*) as does not exceed the amount of dividend distributed by it by the date one month before the due date for filing the return of income under section 263(*1*).

(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (*1*) in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

Deduction in respect of income of co-operative societies.

149. (*1*) If the gross total income of an assessee, being a co-operative society, includes any income referred to in sub-section (*2*), the sums specified in the said sub-section shall, in accordance with and subject to the provisions of this section, be allowed as deduction in computing the total income of such assessee.

(2) The sums referred to in sub-section (*1*) shall be the following:—

(a) in the case of a co-operative society engaged in—

(i) carrying on the business of banking or providing credit facilities to its members; or

(ii) a cottage industry; or

(iii) the marketing of agricultural produce grown by its members; or

(iv) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or

(v) the processing, without the aid of power, of the agricultural produce of its members; or

(vi) the collective disposal of the labour of its members; or

(vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,

the whole of the amount of profits and gains of business attributable to any one or more of such activities;

(b) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits, or vegetables raised or grown by its members to—

(i) a federal co-operative society, engaged in the business of supplying milk, oilseeds, fruits or vegetables; or

(ii) the Government or a local authority; or

(iii) a Government company, as defined in section 2(*45*) of the Companies Act, 2013, or a corporation established by or under a Central Act or State Act or Provincial Act, engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public,

18 of 2013.

the whole of the amount of profits and gains of such business;

(c) in the case of a co-operative society engaged in activities not specified in clause (*a*) or (*b*), (either independently of, or in addition to, all or any of the activities so specified), that amount of profits and gains attributable to such activities as does not exceed—

(i) one lakh rupees, if the society is a consumers' co-operative society; and

(ii) fifty thousand rupees, in any other case;

(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

(e) in respect of any income **(***)** derived by the co-operative society from the letting of godowns or warehouses for storage, processing, or facilitating the marketing of commodities, the whole of such income;

(f) in the case of a co-operative society, not being—

(i) a housing society; or

(ii) an urban consumers' society (being a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area, or cantonment); or

(iii) a society carrying on transport business; or

(iv) a society engaged in performing manufacturing operations with the aid of power,

where the gross total income does not exceed twenty thousand rupees, the amount of income—

(i) by way of interest on securities; or

(ii) any income from house property chargeable under section 20.

(3) In the case of a co-operative society as referred to in sub-section (*2*)(*a*)(*vi*) or (*vii*), provisions of sub-section (*2*) shall apply when the rules and bye-laws of the society restrict the voting rights to the following classes of members:—

(i) the individuals who contribute their labour or carry on fishing or allied activities; or

(ii) the co-operative credit societies which provide financial assistance to the society; or

(iii) the State Government.

(4) The deduction under sub-section (*1*) in relation to the sums specified in sub-section (*2*)(*a*)or (*b*) or (*c*) or sub-section (*3*), shall be allowed with reference to the income referred to in those sub-sections included in the gross total income after reducing the deduction under section 80-IA of the Income-tax Act, 1961, if the assessee is also entitled to such deduction. 43 of 1961.

(5) The provision of this section shall not apply to any co-operative bank which is not a primary agricultural co-operative society or a primary co-operative agricultural and rural development bank.

(6) In this section,—

(a) "consumers' co-operative society" means a society for the benefit of the consumers;

(b) "primary agricultural credit society" has the same meanings as assigned to it in Part V of the Banking Regulation Act, 1949; and 10 of 1949.

(c) "primary co-operative agricultural and rural development bank" means a society having an area of operation confined to a taluk, the principal object of which is to provide long-term credit for agricultural and rural development activities.

Deduction in respect of certain income of Producer Companies.

150. (*1*) An assessee, who,—

(a) is a Producer Company;

(b) has a total turnover of less than one hundred crore rupees in any tax year; and

(c) has any profits and gains derived from eligible business included in its gross total income,

shall be allowed a deduction of 100% of the profits and gains attributable to such business for the tax year commencing on or after the 1st April, 2018, but before the 1st April, 2024.

(2) The deduction under this section shall be allowed after the gross total income of the assessee mentioned in sub-section (*1*) is reduced by any other deduction under this Chapter to which such assessee is entitled.

(3) For the purposes of this section,—

(a) "eligible business" means—

(i) the marketing of agricultural produce grown by the members; or

(ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or

(iii) the processing of the agricultural produce of the members;

(b) "Member" shall have the same meaning as assigned to it in section 378A(*e*) of the Companies Act, 2013;

18 of **(**) 2013**.

(c) "Producer Company" shall have the same meaning as assigned to it in section 378A(*l*) of the Companies Act, **(**) 2013**.

18 of 2013.

Deduction in respect of royalty income, etc., of authors of certain books other than text-books.

151. (*1*) Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section (*2*).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (*1*), or an amount of three lakh rupees, whichever is less.

(3) Where the income by way of such royalty or the copyright fee, is not a lump sum consideration *in lieu* of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of 15% of the value of such books sold during the tax year shall be ignored.

(4) In respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(5) Deduction under this section shall not be allowed unless the assessee furnishes a certificate in such form and manner, as prescribed, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section (*1*), along with the return of income, setting forth such particulars, as prescribed.

(6) Deduction under this section shall not be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(7) Where a deduction for any tax year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any tax year.

(8) In this section,—

(a) "author" includes a joint author;

(b) "books" shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called;

(c) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law in force for regulating payments and dealings in foreign exchange; and

(d) "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

Deduction in respect of royalty on patents.

152. (*1*) An assessee, being an individual, who is—

(a) a resident in India;

(b) a patentee;

(c) in receipt of income by way of royalty in respect of a patent registered on or after the 1st April, 2003 under the Patents Act, 1970; and. 39 of 1970.

(d) having gross total income for the tax year which includes royalty,

shall be allowed a deduction from such income computed in the manner specified in sub-sections (*2*) to (*6*).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (*1*) or three lakh rupees, whichever is less.

(3) Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act. 39 of 1970.

(4) In respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority referred to in section 151(*8*)(*c*) may allow in this behalf.

(5) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the authority as prescribed, along with the return of income setting forth such particulars, as prescribed.

(6) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in such form, from the authority or authorities, as prescribed, along with the return of income.

(7) **Where a deduction for any tax year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any tax year.**

(8) In this section,—

(a) "Controller" means the authority as defined in section 2(*1*)(*b*) of the Patents Act, 1970; 39 of 1970.

(b) "lump sum" includes a non-refundable advance payment for royalties;

(c) "patent" means any patent granted, including a patent of addition, under the Patents Act, 1970; 39 of 1970.

(d) "patentee" means the true and first inventor recorded as the patentee under the Patents Act, 1970, including joint patentees recorded as such true and first inventors; 39 of 1970.

(e) "patent of addition" shall have the same meaning as assigned to it in section 2(*1*)(*q*) of the Patents Act, 1970; 39 of 1970.

(f) "patented article" and "patented process" shall have the same meanings as assigned to them in section 2(*1*)(*o*) of the Patents Act, 1970; 39 of 1970.

(g) "royalty" in respect of a patent, means consideration for—

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(ii) the imparting of any information concerning the working of, or the use of, a patent; or

(iii) the use of any patent; or

(iv) the rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*), but does not include any consideration,—

(A) which would be the income of the recipient chargeable under the head "Capital gains"; or

(B) for sale of product manufactured with the use of patented process or of the patented article for commercial use; and

(*h*) "true and first inventor" shall have the same meaning as assigned to it in section 2(*1*)(*y*) of the Patents Act, 1970. 39 of 1970.

D.—Deductions in respect of other incomes

Deduction for interest on deposits.

153. (*1*) An assessee who is—

(a) an individual, not being a senior citizen; or

(b) an individual, being a senior citizen; or

(c) a Hindu undivided family, 10 of 1949.

shall be allowed a deduction from the gross total income, subject to conditions specified in sub-section (*2*), where it includes income by way of interest on deposits with—

(i) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act); or

(ii) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(iii) a Post Office as defined in section 2(*k*) of the Post Office Act, 2023. 43 of 2023.

(2) Thededuction under sub-section (*1*) shall be allowed for a tax year as follows:—

(a) in case of assessee mentioned in sub-section 1(*a*) or (*c*), the whole of the interest up to a maximum amount of ten thousand rupees on deposits in a savings account, excluding time deposits;

(b) in case of assessee mentioned in sub-section (*1*)(*b*), the whole of the interest up to a maximum amount of fifty thousand rupees on deposits in a savings account, including time deposits.

(3) Where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

(4) In this section, "time deposits" means the deposits repayable on expiry of fixed periods.

E.—Other deductions

Deduction in case of a person with disability.

154. (*1*) An individual, being resident in India, who is certified by a medical authority, at any time during the tax year, as a person with disability or person with severe disability, shall be allowed a deduction of seventy-five thousand rupees or one lakh and twenty-five thousand rupees, respectively, while computing his total income.

(2) The deduction under sub-section (*1*) shall be allowed only if all of the following conditions are fulfilled:—

(a) the individual furnishes a copy of the certificate issued by the medical authority;

(b) if the certificate specifies that the disability needs reassessment of its extent after a period stipulated in it, the deduction shall not be allowed for any tax year succeeding the tax year in which the certificate expires, unless a new disability certificate is obtained and submitted; and

(c) the certificate referred to in clauses (*a*) and (*b*) of this sub-section shall be furnished in the form and manner, as prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(3) For the purposes of this section, "disability", "medical authority", "person with disability" or "person with severe disability" shall have the same meanings as provided in section 127.

CHAPTER IX

REBATES AND RELIEFS

A.—Rebates and reliefs

Rebate to be allowed in computing income-tax.

155. (*1*) In computing income-tax on the total income of an assessee with which he is chargeable for any tax year, there shall be allowed from income-tax (as computed before allowing the deductions under this Chapter), subject to the provisions of section 156, the deductions specified therein.

(*2*) The deduction under section 156, shall not, in any case, exceed income-tax (as computed before allowing the deductions under this Chapter) on the total income of the assessee with which he is chargeable for any tax year.

Rebate of income-tax in case of certain individuals.

156. (*1*) A resident individual assessee shall be entitled to a deduction of 100% of income-tax payable or twelve thousand five hundred rupees, whichever is less, from the income-tax (computed before allowing the deduction under this section) chargeable on the total income for any tax year if the total income does not exceed five lakh rupees.

(2) Where the total income of a resident individual assessee for any tax year is chargeable to tax under section 202(*1*), then from income-tax (computed before allowing the deduction under this section) following deductions shall be allowed, if—

(a) the income does not exceed twelve lakh rupees, 100% of the income-tax payable or sixty thousand rupees, whichever is less;

(b) (**)**<u>the total income exceeds twelve lakh rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of twelve lakh rupees, an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds twelve lakh rupees</u>**.

(3) The deduction under sub-section (*2*), shall not exceed income-tax payable as per the rates provided in section 202(*1*).

Relief when salary, etc., is paid in arrears or in advance.

157. (*1*) Where the total income of an assessee is assessed at a rate higher than the rate at which it would otherwise have been assessed, due to the following receipts,—

(a) a sum in the nature of arrear or advance salary; or

(b) salary for more than twelve months in any one tax year; or

(c) a payment in the nature of "profits *in lieu* of salary" under section 18(*1*); or

(d) arrears of "family pension" as defined in section 93(*1*)(*d*),

the Assessing Officer shall on an application made to him by the assessee in this behalf, grant such relief, as prescribed.

(*2*) No relief shall be granted on any income on which deduction has been claimed by the assessee in section 19(*1*)(Table: Sl. No. 12) for any amount mentioned therein, for such, or any other, tax year.

Relief from taxation in income from retirement benefit account maintained in a notified country.

158. (*1*) (**)**<u>The income accrued to a specified person in a specified account shall be taxed in the manner and in a tax year, as prescribed</u>**.

(*2*) In this section,—

(*a*) "notified country" means a country as notified by the Central Government;

(b) "specified account" means an account maintained in a notified country by the specified person for his retirement benefits, **<u>the income from</u>** which is taxed by that notified country at the time of withdrawal or redemption and, not on accrual basis;

(c) "specified person" means a person resident in India having opened a specified account in a notified country while being non-resident in India and resident in that country.

B.—Double taxation relief

Agreement with foreign countries or specified territories and adoption by Central Government of agreement between specified associations for double taxation relief.

159. (*1*) The Central Government may enter into an agreement with the Government of—

(*a*) any other country;or

(*b*) any specified territory,

for the purposes mentioned in sub-section (*3*), and may, by notification, make such provisions as necessary for implementing the agreement.

(2) Any specified association in India may enter into an agreement with any specified association in the specified territory for the purposes mentioned in sub-section (*3*) and the Central Government may, by notification, make such provisions as may be necessary for adopting and implementing such agreement.

(3) The agreement mentioned in sub-section (*1*) or (*2*) may be entered for—

(a) the granting of relief in respect of—

(i) income on which income-tax has been paid both under this Act and income-tax in that country or specified territory, as the case may be; or

(ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment; or

(b) the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory);

(c) exchange of information for—

(i) the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be; or

(ii) investigation of cases of such evasion or avoidance; or

(d) recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be.

(4) Where,—

(a) the Central Government has entered into an agreement with the Government of any country or specified territory, as the case may be, under sub-section (*1*); or

(b) a specified association in India has entered into an agreement with a specified association of any specified territory under sub-section (*2*) and such agreement has been notified under that sub-section,

for granting relief of tax, or avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(5) The charge of tax,—

(a) in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable; or

(b) in respect of a company incorporated in the specified territory at a rate higher than the rate at which a domestic company is chargeable,

shall not be regarded as less favourable charge or levy of tax in respect of such foreign company or such company incorporated in the specified territory, as the case may be.

(6) Irrespective of anything contained in sub-section (*4*), the provisions of Chapter XI shall apply to the assessee, even if such provisions are not beneficial to him.

(7) Where, any—

(a) term used in an agreement entered into under sub-section (*1*) or (*2*), is defined under the said agreement, the said term shall have the same meaning as assigned to it in that agreement and where the term is not defined in that agreement, but defined in this Act, it shall have the same meaning as assigned to it in this Act and the explanation, if any, given to it by the Central Government, and shall be deemed to have effect from the date on which that agreement came into force; or

(b) term is used but not defined in this Act or in the agreement referred to in sub-section (*1*) or (*2*), it shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the said agreement, have the same meaning as assigned to it in the notification issued by the Central Government in this behalf, and the meaning assigned to such term shall be deemed to have effect from the date on which that agreement came into force; or

(c) term is used in any agreement entered into under sub-section (*1*) or (*2*), and not defined under the said agreement or this Act, or in any notification issued under clause (*b*), then, unless the context otherwise requires, it shall have the same meaning as assigned to it—

(i) in any Act of the Central Government related to taxes; and

(ii) in any other case, in any other law of the Central Government,

and shall be deemed to have effect from the date on which the said agreement came into force.

(8) An assessee, not being a resident, shall be entitled to claim any relief under an agreement mentioned in sub-section (*1*) or (*2*), only when—

(a) a certificate of his being a resident in any country or specified territory, is obtained by him from the Government of that country or Government of that specified territory, as the case may be, and

(b) he provides such other documents and information, as prescribed.

(9) In this section,—

(a) "specified associations" means any institution, association or body, whether incorporated or not—

(A) functioning under any law for the time being in force in India or the laws of the specified territory; and

(B) which may be notified as such by the Central Government; and

(b) "specified territory" means any area outside India which may be notified as such by the Central Government.

Countries with which no agreement exists.

160. (*1*) If any person who is resident in India in any tax year proves that, in respect of his income which accrued or arose during that tax year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 159 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income,—

(a) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or

(b) at the Indian rate of tax, if both the rates are equal.

(2) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any tax year and such share includes any income accruing or arising outside India during that tax year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 159 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included,—

(a) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or

(b) at the Indian rate of tax, if both the rates are equal.

(3) In this section,—

(a) "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country;

(b) "Indian income-tax" means income-tax charged as per this Act;

(c) "Indian rate of tax" means the rate determined by dividing Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this section, by the total income; and

(d) "rate of tax of the said country" means income-tax and super-tax actually paid in the said country as per the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country.

CHAPTER X

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

Computation of income from international transaction and specified domestic transaction having regard to arm's length price.

161. (*1*) Any income arising from an international transaction or a specified domestic transaction shall be determined having regard to the arm's length price.

(2) Any allowance for any expense or interest arising from an international transaction or a specified domestic transaction shall also be determined having regard to the arm's length price.

(3) If in an international transaction or specified domestic transaction, two or more associated enterprises enter into a mutual agreement or arrangement for—

(a) allocation or apportionment of any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises; or

(b) any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises,

the cost or expense allocated or apportioned to, or, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility.

(4) The provisions of this section shall not apply if the determination under sub-section (*1*) or (*2*) or (*3*) has the effect of reducing the income chargeable to tax or increasing the loss, computed on the basis of entries made in the books of account in respect of the tax year in which the international transaction or specified domestic transaction was entered.

Meaning of associated enterprise.

162. (*1*) In this Chapter, "associated enterprise", in relation to another enterprise, means an enterprise—

(a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise ***in the following manner,—***

(i) the persons who participate, directly or indirectly, or through one or more intermediaries, in management or control or capital of one enterprise, also participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(ii) an enterprise holds, directly or indirectly, shares carrying not less than 26% of the voting power in the other enterprise; or

(iii) which holds, directly or indirectly, shares carrying not less than 26% of the voting power in each of such enterprises; or

(b) which has advanced a loan to the other enterprise and such loan constitutes not less than 51% of the book value of the total assets of the other enterprise; or

(c) which guarantees not less than 10% of the total borrowings of the other enterprise; or

(d) whose more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board, are appointed by the other enterprise; or

(e) whose more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, are appointed by the same person or persons, who has or have done so for the other enterprise; or

(f) in case of which, manufacturing or processing of goods or articles or business carried out by such enterprise is wholly dependent on the use of know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(g) in case of which, 90% or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by such enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(h) in case of which, the goods or articles manufactured or processed by such enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(i) which is controlled by an individual or his relative or jointly by such individual and relative of such individual, and the other enterprise is also controlled by the individual or his relative or jointly by such individual and relative of such individual; or

(j) which is controlled by a Hindu undivided family, and the other enterprise is controlled by a member of such Hindu undivided family or by a relative of a member of such Hindu undivided family or jointly by such member and his relative; or

(k) which is a firm, association of persons or body of individuals, and the other enterprise holds not less than 10% interest in such firm, association of persons or body of individuals; or

(l) which has any relationship of mutual interest with the other enterprise, as may be prescribed.

(2) (***)

(3) *In relation to a specified domestic transaction entered into by an assessee, associated enterprise shall also include—*

(a) *other units or undertakings or businesses of such assessee in respect of a transaction referred to in section 122 or 140(9);*

(b) *any other person referred to in section 140(13) or 205(4) in respect of a transaction referred to therein; and*

(c) *other units, undertakings, enterprises or business of such assessee, or other person referred to in section 140(13) in respect of a transaction referred to in section 144 or the transactions referred to in Chapter VIII to which the provisions of section 140(9) or (13) are applicable.*

Meaning of international transaction.

163. (*1*) In this Chapter, "international transaction" means a transaction between two or more associated enterprises, one of which is necessarily a non-resident, and includes—

(a) the purchase, sale, transfer, lease or use of tangible property, including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;

(b) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;

(c) capital financing, lending and borrowing of money, including,—

- any type of long-term or short-term borrowing, lending or guarantee; or
- purchase or sale of marketable securities; or
- any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;

(d) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;

(e) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has any bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

(f) a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises; and

(g) any other transaction having a bearing on the profits, income, losses or assets of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise ("other person") shall, for sub-section (*1*), be deemed to be an international transaction entered into between two associated enterprises, if—

(a) there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or

(b) the terms of the relevant transaction are determined, in substance, between such other person and the associated enterprise,

and the enterprise or the associated enterprise or both of them are non-residents, irrespective of whether the other person is a non-resident or not.

(3) The expression "intangible property" shall include the following,—

(a) marketing related intangible assets, such as, trademarks, trade names, brand names, logos;

(b) technology related intangible assets, such as, process patents, patent applications, technical documentation such as laboratory notebooks, technical know-how;

(c) artistic related intangible assets, such as, literary works and copyrights, musical compositions, copyrights, maps, engravings;

(d) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters;

(e) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation;

(f) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders;

(g) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements;

(h) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts;

(i) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights;

(j) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value;

(k) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists or technical data; and

(l) any other similar item that derives its value from its intellectual content rather than its physical attributes.

Meaning of specified domestic transaction.

164. In this Chapter, "specified domestic transaction" in case of an assessee means any of the following transactions, not being an international transaction—

(a) any transaction referred to in section 122;

(b) any transfer of goods or services referred to in section 140(*9*);

(c) any business transacted between the assessee and other person as referred to in section 140(*13*);

(d) any transaction, referred to in any other section under Chapter VIII or section 144, to which provisions of section 140(*9*) or (*13*) are applicable;

(e) any business transacted between the persons referred to in section 205**(**) (5)**;

(f) any other transaction as prescribed,

and where the aggregate of such transactions entered into by the assessee in a tax year exceeds a sum of twenty crore rupees.

Determination of arm's length price.

165. (*1*) The arm's length price in relation to an international transaction or specified domestic transaction shall be determined by any of the following methods, being the most appropriate method—

(a) comparable uncontrolled price method;

(b) resale price method;

(c) cost plus method;

(d) profit split method;

(e) transactional net margin method;

(f) such other method as prescribed by the Board.

(2) The most appropriate method referred to in sub-section (*1*) shall be,—

(a) selected having regard to the nature of transaction or class of transaction or class of associated enterprise or functions performed by such enterprises or such other relevant factors as the Board may prescribe;

(b) applied for determination of arm's length price in such manner as prescribed.

(3) The arm's length price shall be—

(a) in case, only one price is determined by the most appropriate method,—

(i) the price determined by that method; or

(*ii*) the price at which the international transaction or specified domestic transaction has actually been undertaken, if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding 3% of the latter, notified by the Central Government in this behalf; or

(*b*) in case, more than one price is determined by the most appropriate method, the price determined in such manner as prescribed.

(4) The Assessing Officer, during the course of any proceeding for the assessment of income, may proceed to determine the arm's length price in relation to an international transaction or specified domestic transaction as per sub-sections (*1*), (*2*) and (*3*) if, on the basis of material or information or document in his possession, he is of the opinion that—

(a) the price charged or paid in an international transaction or specified domestic transaction has not been determined as per sub-sections (*1*), (*2*) and (*3*); or

(b) any information and document relating to an international transaction or specified domestic transaction has not been kept and maintained by the assessee as per section **(**)** **171(1)**; or

(c) the information or data used in determination of the arm's length price by the assessee is not reliable or correct; or

(d) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under section 171(*2*).

(5) The Assessing Officer, before determining the arm's length price under sub-section (*4*), shall give a notice calling upon the assessee to show cause, on the date and time to be specified in the notice, why the arm's length price should not be determined on the basis of material or information or document in his possession.

(6) The Assessing Officer, on determination of arm's length price under sub-section (*4*), may compute the total income of the assessee having regard to the arm's length price so determined.

(7) No deduction shall be allowed under section 144 or under Chapter VIII in respect of income by which the total income of the assessee is enhanced after computation of income under sub-section (*6*).

(8) When the total income of an associated enterprise is computed under sub-section (*6*) on determination of the arm's length price paid to another associated enterprise from which tax has been deducted or was deductible under the provisions of Chapter XIX-B, the income of the other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of the first mentioned enterprise.

Reference to Transfer Pricing Officer.

166. (*1*) Where,—

(a) the assessee has entered into an international transaction or specified domestic transaction in any tax year; and

(b) the Assessing Officer considers it necessary or expedient so to do,

he may refer the determination of the arm's length price in relation to such transaction to the Transfer Pricing Officer, with the previous approval of the Principal Commissioner or Commissioner.

(2) No reference under sub-section (*1*) for computation of the arm's length price in relation to an international transaction or a specified domestic transaction shall be made, if the Transfer Pricing Officer has declared that option exercised by the assessee in sub-section (*9*) in relation to such transaction is valid for such tax year.

(3) If any reference for an international transaction or a specified domestic transaction under sub-section (*1*), in respect of a tax year, for which the option is declared valid under sub-section (*9*) is made before or after such declaration by the Transfer Pricing Officer, the provisions of sub-section (*1*) shall have the effect as if no reference is made for such transaction.

(4) Where a reference is made under sub-section (*1*), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date specified therein, any evidence on which the assessee may rely in support of the determination made by him of the arm's length price in relation to such transaction.

(5) Where,—

(a) any international transaction or specified domestic transaction, other than an international transaction or a specified domestic transaction referred under sub-section (*1*); or

(b) any international transaction or a specified domestic transaction that the assessee has not included in the report under section 172,

comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such transaction is a transaction referred to him under sub-section (*1*).

(6) On the date specified in the notice under sub-section (*4*), or as soon thereafter as may be,—

(a) after hearing such evidence as the assessee may produce, including any information or documents referred to in section 171(*2*);

(b) after considering such evidence as the Transfer Pricing Officer may require on any specified points; and

(c) after taking into account all relevant materials which he has gathered,

the Transfer Pricing Officer shall, by order in writing, determine the arm's length price in relation to the international transaction or specified domestic transaction as per section 165(*4*) and send a copy of his order to the Assessing Officer and to the assessee.

(7) Where a reference was made under sub-section (*1*), an order under sub-section (*6*) may be made at any time before sixty days before the expiry of limitation period referred to in section 286, or 296, for making the order of assessment or reassessment or recomputation or fresh assessment.

(8) If the period of limitation available to the Transfer Pricing Officer for making an order under sub-section (*6*) is less than sixty days in the circumstances referred to in section 286(*3*)(*b*) or (*i*) ,such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to have been extended accordingly.

(9) The arm's length price, being determined in relation to the international transaction or the specified domestic transaction under sub-section (*6*) for any tax year shall apply to similar international transaction or specified domestic transaction for the two consecutive tax years immediately following such tax year, on fulfilment of the following conditions:—

(a) the assessee exercises an option or options to the above effect for the said two consecutive tax years;

(b) such option or options are exercised in such form, manner and within such period as prescribed; and,

(c) the Transfer Pricing Officer shall, within one month from the end of the month in which such option or options are exercised, by an order in writing, declare that such option or options are valid subject to the conditions, as prescribed.

(*10*) The provisions of sub-section (*9*) shall not apply to any proceedings under Chapter XVI-B.

(*11*) On receipt of the order under sub-section (*6*), the Assessing Officer shall compute the total income of the assessee under section 165(*6*) in conformity with the arm's length price as so determined by the Transfer Pricing Officer.

(*12*) Irrespective of anything contained in sub-section (*11*), where the Transfer Pricing Officer has declared an option exercised by the assessee as valid option under sub-section (*9*), he shall examine and determine the arm's length price in relation to such similar transaction for two consecutive tax years immediately following such tax year, in the order referred to in sub-section (*4*) and on receipt of such order, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive tax years as per the provisions of section 288.

(13) For rectifying any mistake apparent from the record, the Transfer Pricing Officer,—

(a) may amend any order passed by him under sub-section (*6*), and the provisions of section 287 shall, so far as may be, apply accordingly; and

(b) shall send a copy of such order to the Assessing Officer who shall thereafter amend the order of assessment in conformity with such order of the Transfer Pricing Officer.

(14) The Transfer Pricing Officer may exercise all or any of the powers specified in section 246(*1*)(*a*) to (*d*) or 252(*1*)(*a*) or 253 for the purposes of determining the arm's length price under this section.

(15) If any difficulty arises in giving effect to the provisions of sub-sections (*9*) and (*12*), the Board may, with the prior approval of the Central Government, issue guidelines for the purpose of removing such difficulty.

(*16*) No guideline under sub-section (*15*) shall be issued after the expiration of two years from the 1st April, 2026.

(17) Every guideline issued by the Board under sub-section (15) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(18) In this section, "Transfer Pricing Officer" means a Joint Commissioner or Deputy Commissioner or Assistant Commissioner authorised by the Board to perform all or any of the functions of an Assessing Officer specified in sections 165 and 171 in respect of any person or class of persons.

Power of Board to make safe harbour rules.

167. (*1*) The determination of—

(a) income referred to in section 9(*2*); or

(b) arm's length price under section 165 or 166,

shall be subject to safe harbour rules.

(*2*) For the purposes of sub-section (*1*), the Board may make rules for safe harbour.

(*3*) In this section, "safe harbour" means circumstances in which the income-tax authorities shall accept,—

(a) the transfer price; or

(b) the income, deemed to accrue or arise under section 9(2),

declared by the assessee.

Advance pricing agreement.

168. (*1*) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the—

(a) arm's length price or specifying the manner in which the arm's length price is to be determined, in relation to an international transaction to be entered into by that person;

(b) income referred to in section 9(*2*), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident.

(2) The manner of determination of the arm's length price referred to in sub-section (*1*)(*a*) or (*b*) may include, respectively,—

(a) the methods referred to in section 165(*1*); or

(b) the methods provided by rules made under this Act,

with such adjustments or variations, as may be necessary or expedient so to do.

(3) Irrespective of anything contained in section 165 or 166 or the methods provided by rules made under this Act,—

(a) the arm's length price of any international transaction; or

(b) the income referred to in sub-section (*1*)(*b*),

in respect of which the advance pricing agreement has been entered into, shall be determined as per the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (*1*) shall be valid for such period not exceeding five consecutive tax years as specified in the agreement.

(5) The advance pricing agreement entered into shall be binding—

(a) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and

(b) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.

(6) The agreement referred to in sub-section (*1*) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

(7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be *void ab initio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

(8) Upon declaring the agreement *void ab initio*,—

(a) all the provisions of the Act shall apply to the person as if such agreement had never been entered into;

(b) irrespective of anything contained in the Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (*7*) shall be excluded for the purpose of computing any period of limitation under this Act; and

(c) if immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) For the purposes of this section, the Board may prescribe a scheme specifying therein the manner, form, procedure and any other matter in respect of the advance pricing agreement.

(10) The agreement referred to in sub-section (*1*), may, subject to such conditions, procedure and manner as prescribed, provide for determining the—

(a) arm's length price or specify the manner in which the arm's length price shall be determined in relation to the international transaction entered into by the person;

(b) income referred to in section 9(*2*), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations, transactions and activities carried out in India by or on behalf of that non-resident person,

during any period not exceeding four tax years preceding the first of the tax years referred to in sub-section (4).

(11) Where an application is made by a person for entering into an agreement referred to in sub-section (*1*), the proceedings shall be deemed to be pending in the case of the person for the purposes of this Act till such agreement is entered into, or such proceedings are closed as per rules prescribed.

Effect to advance pricing agreement.

169. (*1*) If a return of income for any tax year covered by an advance pricing agreement has been furnished by any person, before the date of entering into the said agreement, he shall, irrespective of anything to the contrary contained in section 263, furnish a modified return, in accordance with and limited to the agreement, in respect of such tax years, within three months from the end of the month in which the agreement was entered into.

(2) Except as provided in this section, all other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 263.

(3) Where a modified return is furnished under sub-section (*1*), and assessment or reassessment proceedings, in respect of a tax year to which the agreement applies, were initiated before the filing of such return then,—

(a) if such proceedings have been completed, the Assessing Officer shall pass an order modifying the total income of the relevant tax year; or

(b) if such proceedings are pending on the date of filing of modified return, the Assessing Officer shall proceed to complete them,

as per the agreement after taking into consideration the modified return so furnished.

(4) Irrespective of anything contained in section 275 or 286 or 296,—

(a) the order in respect of a case falling under sub-section (*3*)(*a*) shall be passed within one year from the end of the financial year in which the modified return under sub-section (*1*) is furnished;

(b) in respect of a case falling under sub-section (*3*)(*b*), the period of limitation as provided in section 275 or 286 or section 296 for completion of pending assessment or reassessment proceedings shall be extended by twelve months.

(5) In this section,—

(*a*) "agreement" means an agreement referred to in section 168(*1*);

(b) the assessment or reassessment proceedings for a tax year shall be deemed to have been completed where—

(i) an assessment or reassessment order has been passed; or

(ii) no notice has been issued under section 270(*8*) till the expiry of the limitation period provided under the said section.

Secondary adjustment in certain cases.

170. (*1*) An assessee shall make a secondary adjustment in every case where primary adjustment of one crore rupees or more to transfer price—

(a) has been made on his own in his return of income;

(b) made by the Assessing Officer has been accepted by him;

(c) is determined by an advance pricing agreement entered into by him under section 168;

(d) is made as per the safe harbour rules made under section 167; or

(e) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 159 for avoidance of double taxation.

(2) The excess money or part thereof available with its associated enterprise shall be deemed to be an advance made by the assessee to such associated enterprise if—

(a) as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee; and

(b) such excess money or part thereof is not repatriated to India within the time as prescribed.

(3) The excess money or part thereof referred to in sub-section (*2*) may be repatriated from any of the associated enterprises of the assessee which is not a resident in India.

(4) The interest on advance as referred to in sub-section (*2*) shall be computed in such manner as prescribed.

(5) Without prejudice to the provisions of sub-section (*2*), where the excess money or part thereof has not been repatriated within the prescribed time, the assessee may, at his option, pay additional income-tax at the rate of 18% on such excess money or part thereof, as the case may be.

(6) The tax on the excess money or part thereof so paid by the assessee under sub-section (*5*) shall be treated as the final payment of tax in respect of the excess money or part thereof not repatriated and no further credit thereof shall be claimed by the assessee or by any other person in respect of tax so paid.

(7) Deduction under any other provision of this Act shall not be allowed to the assessee in respect of the amount on which tax has been paid as per sub-section (*5*).

(8) In a case where the additional income-tax referred to in sub-section (*5*) is paid by the assessee, he shall not be required to make secondary adjustment under sub-section (*1*) and compute interest under sub-section (*4*) from the date of payment of such tax.

(9) In this section,—

(a) "arm's length price" shall have the meaning assigned to it in section 173(*a*);

(b) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(c) "primary adjustment" to a transfer price, means the determination of transfer price as per the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

(d) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

Maintenance, keeping and furnishing of information and document by certain persons.

171. (*1*) Every person,—

(a) who has entered into an international transaction or specified domestic transaction; or

(b) is a constituent entity of an international group,

shall keep and maintain such information and document in respect thereof and for such period and in such manner, as prescribed.

(2) The Assessing Officer or the Commissioner (Appeals) may, during any proceeding under this Act, require any person referred to in sub-section (*1*)(*a*) to furnish any information or document referred therein within ten days from the date of receipt of a notice issued in this regard.

(3) The Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of ten days by a further period not exceeding thirty days.

(*4*) Every person referred to in sub-section (*1*)(*b*) shall furnish the information and document referred to in sub-section (*1*) to the authority prescribed under section 511(*1*), in such manner, on or before such date, as prescribed.

(5) In this section,—

(a) "constituent entity" shall have the meaning assigned to it in section 511 (*10*)(*d*);

(b) "international group" shall have the meaning assigned to it in section 511 (*10*)(*g*).

Report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction.

172. Every person who has entered into an international transaction or specified domestic transaction during a tax year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the manner as prescribed by such accountant and setting forth such particulars as prescribed.

Definitions of certain terms relevant to determination of arm's length price, etc.

173 In this section and sections 161, 162, 163, 165, 171 and 172, unless the context otherwise requires,—

(*a*) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

(b) "enterprise" means a person (including a permanent establishment of such person) who is, or has been, or is proposed to be, engaged in any activity relating to—

(*i*) the production, storage, supply, distribution, acquisition or control of articles or goods; or

(ii) know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature; or

(iii) any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(iv) provision of services of any kind; or

(v) carrying out any work in pursuance of a contract; or

(*vi*) investment or providing loan; or

(*vii*) business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate,

whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places;

(c) "permanent establishment", referred to in clause (*b*), includes a fixed place of business through which the business of the enterprise is wholly or partly carried on;

(d) "specified date" means the date one month before the due date for furnishing the return of income under section 263 (*1*) for the relevant tax year;

(e) "transaction" includes an arrangement, understanding or action in concert,—

(i) whether or not such arrangement, understanding or action is formal or in writing; or

(ii) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.

Avoidance of income-tax by transactions resulting in transfer of income to non-residents.

174. (*1*) Where there is a transfer of assets before and after the commencement of this Act, and by virtue or in consequence of it,—

(a) either alone; or

(b) in conjunction with associated operations,

any income becomes payable to a non-resident, the provisions of this section shall apply.

(2) If any person ("first mentioned person"), by means of any transfer referred to in sub-section (*1*), either alone or in conjunction with associated operations, acquires any rights,—

(a) by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident; and

(b) such income would have been chargeable to income-tax if it were such first mentioned person's income,

then, that income shall, whether or not it would have been chargeable to income-tax under any other provisions of this Act, be deemed to be the income of such first mentioned person for all the purposes of this Act.

(3) If any such first mentioned person receives or is entitled to receive any capital sum,—

(a) the payment of which is in any way connected with the transfer or any associated operations; and

(b) whether before or after any such transfer,

then any income, which has become the income of a non-resident by virtue or in consequence of such transfer, either alone or in conjunction with associated operations, shall be deemed to be the income of such first mentioned person for all the purposes of this Act, whether or not it would have been chargeable to income-tax under any other provisions of this Act.

(4) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(5) The provisions of this section shall not apply if the first mentioned person in sub-section (*2*) or (*3*) shows to the satisfaction of the Assessing Officer that—

(a) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or

(b) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(6) In this section,—

(a) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred;

(b) any body corporate incorporated outside India shall be treated as if it were a non-resident;

(c) a person shall be deemed to have power to enjoy the income of a non-resident if—

(i) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to ensure for the benefit of the first mentioned person in sub-section (*2*) or (*3*); or

(ii) the receipt or accrual of the income operates to increase the value to such first mentioned person of any assets held by him or for his benefit; or

(iii) such first mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or shall be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income; or

(iv) such first mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income; or

(v) such first mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income;

(d) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(*7*) In this section,—

(a) "assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights;

(b) "associated operation" in relation to any transfer, means an operation of any kind effected by any person in relation to—

(i) any of the assets transferred; or

(ii) any assets representing, whether directly or indirectly, any of the assets transferred; or

(iii) the income arising from any such assets; or

(iv) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets;

(c) "benefit" includes a payment of any kind;

(d) "capital sum" means—

(i) any sum paid or payable by way of a loan or repayment of a loan; and

(ii) any other sum paid or payable otherwise than as income, being a sum, which is not paid or payable for full consideration in money or money's worth.

Avoidance of tax by certain transactions in securities.

175 (*1*) Where the owner of any securities (hereinafter referred to as "the owner") sells or transfers such securities and buys back or reacquires them or buys or acquires any similar securities, any interest that becomes payable in respect of such securities,—

(a) is receivable by a person other than the owner, shall be deemed, for all purposes of this Act, to be the income of the owner; and

(b) shall not be the income of the other person,

irrespective of whether it would have been chargeable to income-tax under any other provision of this Act.

(2) Where similar securities as referred to in sub-section (1) are bought or acquired, the owner shall not be under greater liability to income-tax than he would if the original securities had been bought back or reacquired.

(3) If any person has had a beneficial interest in any securities at any time during a tax year, and the result of any transaction relating to such securities or the income from it is that, in respect of such securities within such year,—

(a) either no income is received by him; or

(b) the income received by him is less than what would have been if the income from such securities had accrued from day to day and been apportioned accordingly,

the income from such securities for such year shall be deemed to be the income of such person.

(4) The provisions of sub-sections (*1*), (*2*) and (*3*) shall not apply if the owner, or the person who has had a beneficial interest in the securities, proves to the satisfaction of the Assessing Officer that—

(a) there has been no avoidance of income-tax; or

(b) the avoidance of income-tax was exceptional and not systematic and also that in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-sections (*1*), (*2*) or (*3*) was not there in his case.

(5) If a person carrying on a business which consists wholly or partly in dealing in securities, buys or acquires any securities and sells back or retransfers the securities, then, if the result of the transaction is that interest in respect of the securities receivable by him is not deemed to be his income by reason of the provisions contained in sub-section (*1*), no account shall be taken of the transaction in computing the profits arising from or loss sustained in the business for any of the purposes of this Act.

(6) The provisions of sub-section (*5*) shall have effect, subject to any necessary modifications, as if references to selling back or retransferring the securities included references to selling or transferring similar securities.

(7) The Assessing Officer may, by notice in writing, require any person to provide within specified time, which shall not be less than twenty-eight days, details in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities.

(8) If—

(a) any person buys or acquires any securities or unit within three months before the record date;

(b) such person sells or transfers—

(i) such securities within three months after such date; or

(ii) such unit within nine months after such date;

(c) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

(9) If—

(a) any person buys or acquires any securities or unit within three months before the record date;

(b) such person is allotted additional securities or unit without any payment on the basis of holding of such securities or unit on such date;

(c) such person sells or transfers all or any of the securities or unit referred to in clause (*a*) within nine months after such date, while continuing to hold all or any of the additional securities or unit referred to in clause (*b*),

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such securities or unit shall be ignored for the purposes of computing his income chargeable to tax.

(10) Irrespective of any other provision of this Act, loss ignored as per sub-section (*9*) shall be deemed to be the cost of purchase or acquisition of such additional securities or unit referred to in sub-section (*9*)(*b*) as are held by him on the date of such sale or transfer.

(11) In this section,—

(a) "interest" includes a dividend;

(b) "record date" means such date as may be fixed by—

(i) a company;

(ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the *Explanation* to section 10(*35*) of the Income-tax Act, 1961; or

43 of 1961.

(iii) a business trust defined in section 2(*21*); or

(iv) an Alternative Investment Fund defined in regulation 2(*1*)(*b*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992,

15 of 1992.

for the purposes of entitlement of the holder of the securities or unit to receive dividend, income, or additional securities or unit without any consideration;

(c) "securities" includes stocks and shares;

(d) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, irrespective of any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred;

(e) "unit" shall mean,—

(i) a unit of a business trust defined in section 2(*21*);

(ii) a unit defined in section 208(*3*)(*c*); or

(iii) beneficial interest of an investor in an Alternative Investment Fund, referred to in clause (*b*)(*iv*), and shall include shares or partnership interests.

Special measures in respect of transactions with persons located in notified jurisdictional area.

176. (*1*) The Central Government may, by notification specify any country or territory outside India, as a notified jurisdictional area, having regard to the lack of effective exchange of information with such jurisdiction.

(*2*) Irrespective of anything contrary in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then,—

(a) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 162;

(b) any transaction of the nature described in section 163(*1*) and (*2*) shall be deemed to be an international transaction within the meaning of section 163,

and the provisions of sections161, 162, 163, 165 except the benefit of variation specified in sections 165(*3*)(*a*)(*ii*), 166, 167, 171, 172 and 173 shall apply accordingly.

(3) Irrespective of anything to the contrary in this Act, no deduction shall be allowed—

(a) for any payment made to any financial institution located in a notified jurisdictional area, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on behalf of such assessee; and

(b) for any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area, unless the assessee maintains such other documents and furnishes such information as prescribed, in this behalf.

(4) Irrespective of anything to the contrary in this Act, if, in any tax year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and—

(a) the assessee does not provide any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum); or

(b) the explanation provided by the assessee, in the opinion of the Assessing Officer, is not satisfactory,

then such sum shall be deemed to be the income of the assessee for that tax year.

(5) Irrespective of anything to the contrary in this Act, if any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XIX-B, the tax shall be deducted at the highest of the following rates—

(a) at the rate or rates in force;

(b) at the rate specified in the relevant provisions of this Act;

(c) at the rate of 30%.

(6) In this section,—

(a) "person located in a notified jurisdictional area" shall include,—

(i) a person who is resident of the notified jurisdictional area;

(ii) a person, not being an individual, which is established in the notified jurisdictional area; or

(iii) a permanent establishment of a person not falling in sub-clause (*i*) or (*ii*), in the notified jurisdictional area;

(b) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(c) "transaction" shall have meaning assigned to it in section 173(*e*).

Limitation on interest deduction in certain cases.

177. (*1*) Irrespective of anything contrary in this Act, any expenditure by way of interest or similar payment in respect of excess interest, as specified in sub-section (*4*), shall not be deductible in computation of income chargeable under the head "Profits and gains of business or profession", if,—

(a) it is paid or payable by an Indian company or a permanent establishment of a foreign company in India, in respect of any debt issued by an associated enterprise which is a non-resident; and

(b) the sum of such expenditure in a tax year exceeds one crore rupees.

(2) Where a lender, not being an associated enterprise, has issued a debt referred to in sub-section (*1*), such debt shall be deemed to have been issued by an associated enterprise if an associated enterprise has—

(a) provided an implicit or explicit guarantee to the lender in respect of such debt; or

(b) deposited a corresponding and matching funds with such lender.

(3) The provisions of this section shall not apply to—

(a) interest paid in respect of a debt issued by a lender which is a permanent establishment in India of a non-resident engaged in the business of banking;

(b) an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance or a Finance Company located in any International Financial Services Centre, or such class of non-banking financial companies as notified by the Central Government in this behalf.

(4) In sub-section (*1*), the "excess interest" means—

(a) In total interest paid or payable in excess of 30% of earnings before interest, taxes, depreciation and amortisation of the borrower in the tax year; or

(b) interest paid or payable to associated enterprises for that tax year,

whichever is less.

(5) Interest expenditure not wholly deducted against income under the head "Profits and gains of business or profession" for any tax year shall be—

(a) carried forward to the following tax year or years; and

(b) allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for such tax year, to the extent of maximum allowable interest expenditure as per sub-section (*4*).

(6) The interest expenditure referred to in sub-section (*5*) shall not be carried forward for more than eight tax years immediately succeeding the tax year for which the excess interest expenditure was first computed.

(7) In this section,—

(a) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

(b) "Finance Company" means a finance company as defined in regulation 2(*1*)(*e*) of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 and which satisfies such conditions and carries on such activities, as prescribed;

50 of 2019.

(c) "permanent establishment" shall have the meaning assigned to it in section 173(*c*).

CHAPTER XI

GENERAL ANTI-AVOIDANCE RULE

Applicability of General Anti-Avoidance Rule.

178. (*1*) Irrespective of anything contained in this Act, an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising from it may be determined subject to the provisions of this Chapter.

(*2*) The provisions of this Chapter may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

Impermissible avoidance arrangement.

179. (*1*) An impermissible avoidance arrangement means an arrangement, the main purpose of which is to obtain a tax benefit, and it—

(a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;

(b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;

(c) lacks commercial substance or is deemed to lack commercial substance under section 180, in whole or in part; or

(d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for *bona fide* purposes.

(2) An arrangement shall be presumed, unless it is proved to the contrary by the assessee, to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, irrespective of the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

Arrangement to lack commercial substance.

180. (*1*) An arrangement shall be deemed to lack commercial substance, if—

(e) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or

(f) it involves or includes—

(i) round trip financing; or

(ii) an accommodating party; or

(iii) elements that have effect of offsetting or cancelling each other; or

(iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction; or

(g) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party; or

(h) it does not have a significant effect upon the business risks or net cash flows of any party to the arrangement apart from any effect attributable to the tax benefit that would be obtained (but for the provisions of this Chapter).

(2) In sub-section (*1*), round trip financing includes any arrangement in which, through a series of transactions—

(a) funds are transferred among the parties to the arrangement; and

(b) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter),

without having any regard to—

(*A*) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;

(*B*) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or

(*C*) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.

(3) The following may be relevant but shall not be sufficient for determining whether an arrangement lacks commercial substance or not:—

(a) the period of time for which the arrangement (including operations therein) exists;

(b) the fact of payment of taxes, directly or indirectly, under the arrangement;

(c) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

Consequences of impermissible avoidance arrangement.

181. (*1*) If an arrangement is declared to be an impermissible avoidance arrangement, then, the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in the manner as deemed appropriate **in the circumstances of the case.**

(*2*) The consequences of an arrangement declared to be an impermissible avoidance arrangement as referred to in sub-section (*1*) shall include but shall not be limited to the following:—

(a) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;

(b) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;

(c) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;

(d) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;

(e) reallocating amongst the parties to the arrangement—

(i) any accrual, or receipt, of a capital nature or revenue nature; or

(ii) any expenditure, deduction, relief or rebate;

(f) treating—

(*i*) the place of residence of any party to the arrangement; or

(*ii*) the situs of an asset or of a transaction,

at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or

(g) considering or looking through any arrangement by disregarding any corporate structure.

(3) In this section,—

(a) any equity may be treated as debt or *vice versa*;

(b) any accrual, or receipt, of a capital nature may be treated as of revenue nature or *vice versa*; or

(c) any expenditure, deduction, relief or rebate may be recharacterised.

Treatment of connected person and accommodating party.

182. In this Chapter, in determining whether a tax benefit exists,—

(a) the parties who are connected persons in relation to each other may be treated as one and the same person;

(b) any accommodating party may be disregarded;

(c) the accommodating party and any other party may be treated as one and the same person;

(d) the arrangement may be considered or looked through by disregarding any corporate structure.

Application of this Chapter.

183. The provisions of this Chapter **shall apply**—

(a) in addition to, or *in lieu* of, any other basis for determination of tax liability;

(b) as per such guidelines and subject to such conditions, as prescribed.

Interpretation.

184. In this Chapter, unless the context otherwise requires,—

(1) "accommodating party" means a party to an arrangment, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement;

(2) "arrangement" means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;

(3) "asset" includes property, or right, of any kind;

(4) "benefit" includes a payment of any kind whether in tangible or intangible form;

(5) "connected person" means any person who is connected directly or indirectly to another person and includes,—

(a) any relative of the person, if such person is an individual;

(b) any director of the company or any relative of such director, if the person is a company;

(c) any partner or member of a firm or association of persons or body of individuals or any relative of such partner or member, if the person is a firm or association of persons or body of individuals;

(d) any member of the Hindu undivided family or any relative of such member, if the person is a Hindu undivided family;

(e) any individual who has a substantial interest in the business of the person or any relative of such individual;

(f) a company, firm or an association of persons or a body of individuals, whether incorporated or not, or a Hindu undivided family having a substantial interest in the business of the person or any director, partner, or member of the company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member;

(g) a company, firm or association of persons or body of individuals, whether incorporated or not, or a Hindu undivided family, whose director, partner, or member has a substantial interest in the business of the person, or family or any relative of such director, partner or member;

(h) any other person who carries on a business, if—

(i) the person being an individual, or any relative of such person, has a substantial interest in the business of that other person; or

(*ii*) the person being a company, firm, association of persons, body of individuals, whether incorporated or not, or a Hindu undivided family, or any director, partner or member of such company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member, has a substantial interest in the business of that other person;

(6) "fund" includes—

(a) any cash;

(b) cash equivalents; and

(c) any right, or obligation, to receive or pay, the cash or cash equivalent;

(7) "party" includes a person or a permanent establishment which participates or takes part in an arrangement;

(8) "relative" shall have the meaning assigned to it in section 92(*5*)(*g*);

(9) a person shall be deemed to have a substantial interest in the business, if,—

(a) in a case where the business is carried on by a company, such person is, at any time during the financial year, the beneficial owner of equity shares carrying at least 20% of the voting power; or

(b) in any other case, such person is, at any time during the financial year, beneficially entitled to at least 20% of the profits of such business;

(10) "step" includes a measure or an action, particularly one of a series taken in order to deal with or achieve a particular thing or object in the arrangement;

(11) "tax benefit" includes,—

(a) a reduction or avoidance or deferral of tax or other amount payable under this Act; or

(b) an increase in a refund of tax or other amount under this Act; or

(c) a reduction or avoidance or deferral of tax or other amount that would be payable under this Act, as a result of a tax treaty; or

(d) an increase in a refund of tax or other amount under this Act as a result of a tax treaty; or

(e) a reduction in total income; or

(f) an increase in loss,

in the relevant tax year or any other tax year;

(12) "tax treaty" means an agreement referred to in section 159(*1*) or (*2*).

CHAPTER XII

MODE OF PAYMENT IN CERTAIN CASES ETC.

Mode of taking or accepting certain loans, deposits and specified sum.

185.(*1*) No person shall take or accept from another person any loan or deposit or specified sum, except through—

(a) an account payee cheque;

(b) account payee bank draft;

(c) electronic clearing system through a bank account; or

(d) any other prescribed electronic mode,

if,—

(i) the amount or the aggregate amount of such loan, deposit, or specified sum; or

(ii) the amount or the aggregate amount of any previously taken or accepted loan or deposit or specified sum by such person from such another person, which is remaining unpaid, whether due for repayment or not, as on the date of taking or accepting such amount as referred to in clause (*i*); or

(iii) the aggregate of the amounts referred to in **(**)** clauses (*i*) and (*ii*), is twenty thousand rupees or more.

(2) Sub-section (*1*) shall not apply to loans or deposits or specified sums taken or accepted from or by,—

(a) the Government;

(b) any banking company, post office savings bank, or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined under section 2(*45*) of the Companies Act, 2013; 18 of 2013.

(e) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(3) The provisions of sub-section (*1*) shall not apply to any loan or deposit or specified sum where, the person taking or accepting such loan or deposit or specified sum and person from whom such loan or deposit or specified sum is taken or accepted, both, have agricultural income and neither has any income chargeable to tax under this Act.

(4) In sub-section (*1*), "two lakh rupees" shall be substituted for "twenty thousand rupees" in the case of any deposit or loan, where—

(a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or

(b) such loan is taken from a primary agricultural credit society or primary co-operative agricultural and development bank by its member.

(5) In this section, "loan or deposit" means loan or deposit of money.

Mode of undertaking transactions.

186. (*1*) No person shall receive an amount of two lakh rupees or more—

(a) in aggregate from a person in a day; or

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,

except through—

(i) an account payee cheque;

(ii) account payee bank draft;

(iii) electronic clearing system through a bank account; or

(iv) any other electronic mode, as prescribed.

(*2*) Sub-section (*1*) shall not apply to—

(a) any receipt by Government, any banking company, post office savings bank, or co-operative bank;

(b) transactions of the nature referred to in section 185;

(c) such other persons or class of persons or receipts, as notified by the Central Government.

Acceptance of payment through prescribed electronic modes.

187. Every person shall provide facility for accepting payment, through electronic modes as prescribed, in addition to other electronic modes, if any, being provided by him, where—

(a) such person is carrying on business **or profession**; and

(b) total sales, turnover, or gross receipts in such business **or profession** exceeds fifty crore rupees during the immediately preceding tax year.

Mode of repayment of certain loans or deposits ***and specified (***) advance***..

188. (*1*) No branch of a banking company or co-operative bank and no other company or co-operative society and no firm or other person shall repay—

(a) any loan or deposit made with it; or

(b) any specified advance**s** received by

it, except through—

(i) an account payee cheque; or

(ii) account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified (***) ***advance***; or

(iii) by use of electronic clearing system through a bank account, or any other prescribed electronic mode,

if,—

(A) the loan or the deposit or specified (***) ***advance***, together with the interest, if any, payable thereon; or

(B) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm or other person (either individually or jointly) on the date of such repayment together with interest, if any, payable thereon; or

(C) the aggregate amount of the specified advances received by such person (either individually or jointly) on the date of such repayment together with the interest, if any, payable thereon,

is twenty thousand rupees or more.

(2) Irrespective of the provision in sub-section (*1*), a branch of a banking company or co-operative bank, may also make the repayment by crediting such loan or deposit to the savings bank account or current account, if any, with such branch of the person to whom such loan or deposit has to be repaid.

(3) Sub-section (*1*) shall not apply to repayment of any loan, deposit, or specified advance taken or accepted from—

(a) Government;

(b) any banking company, post office savings bank, or co-operative bank;

(c) any corporation established by a Central, State, or Provincial Act;

(d) any Government company as defined in section 2 (*45*) of the Companies Act, 2013; 18 of 2013.

(e) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(4) In sub-section (*1*), "two lakh rupees" shall be substituted for "twenty thousand rupees" in the case of any deposit or loan where—

(a) such deposit is **(**)** **repaid** to a member by a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or

(b) such loan is repaid by a member to a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

(5) In this section, "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.

Interpretation.

189. In this Chapter, unless the context otherwise requires,—

(a) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act; 10 of 1949.

(b) "primary agricultural credit society", and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 149(*6*);

(c) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place;

(d) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place**;**

CHAPTER XIII

DETERMINATION OF TAX IN SPECIAL CASES

A.—Determination of tax in certain special cases

Determination of tax where total income includes income on which no tax is payable.

190. Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.

Tax on accumulated balance of recognised provident fund.

191. Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable, the Assessing Officer shall calculate the total of the various sums of tax as per the provisions of paragraph 9 thereof.

Tax in case of block assessment of search cases.

192. (*1*) The total income of the block period, determined under section 294 shall be chargeable to tax at the rate of 60%.

(*2*) The tax chargeable under sub-section (*1*) shall be increased by a surcharge, if any, levied by any Central Act.

Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

193. (*1*) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes income specified in column B of the Table below, the income-tax payable shall be the aggregate of income-tax specified in the column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued as per such Employees' Stock Option Scheme as the Central Government may, by notification, specify in this behalf and purchased by him in foreign currency.	10%
2.	Income from long-term capital gains arising from the transfer of Global Depository Receipts referred to in serial number 1.	12.5%
3.	Total income as reduced by income referred to in serial numbers 1 and 2.	Income-tax chargeable on such income

(2) Where the gross total income of the resident employee—

(a) consists only of income by way of dividends in respect of Global Depository Receipts referred to in sub-section (*1*)(Table: Sl. No. 1), no deduction shall be allowed to him under any other provision of this Act;

(b) includes any income referred to in sub-section (*1*)(Table: Sl. No. 1) and (Table: Sl. No. 2),—

(i) the gross total income shall be reduced by such income; and

(*ii*) the deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) The section 72(*6*) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in sub-section (*1*)(Table: Sl. No. 2).

(4) In this section,—

(a) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of,—

(i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(ii) foreign currency convertible bonds of issuing company;

(iii) ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre;

(b) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(c) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(d) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company;

(e) "specified knowledge based industry or service" means—

(i) information technology software;

(ii) information technology service;

(iii) entertainment service;

(iv) pharmaceutical industry;

(v) bio-technology industry; and

(vi) any other industry or service, as specified by the Central Government, by notification; and

(f) "subsidiary" shall have the same meaning as assigned to it in section 2(*87*) of the Companies Act, 2013 and includes subsidiary incorporated outside India. 18 of 2013.

Tax on certain incomes.

194. (*1*) Irrespective of anything contained in any other provision of this Act, where the total income of an assessee as mentioned in column B of the Table below, includes income of the nature specified in column C of the said Table, the income-tax payable by such assessee, for a tax year, shall be the aggregate of—

(a) income-tax calculated on income mentioned in column C, at the rate mentioned in column D, subject to the conditions specified in the Notes relating to the respective serial number; and

(b) income-tax with which the assessee would have been chargeable had his total income been reduced by income mentioned in column C thereof.

Table

Sl.No.	Assessee	Income	Rate of tax	Conditions
A	B	C	D	E
1.	Any person.	Winnings (other than from any online game) from— (a) lottery; or (b) crossword puzzle; or (c) race including horse race (not being income from the activity of owning and maintaining race horses); or (d) card game and other game of any sort; or (e) gambling or betting of any form or nature.	30%	*Nil*.
2.	A person, resident in India and who is a patentee (herein referred to as an eligible assessee).	Royalty in respect of a patent developed and registered in India.	10%	(a) No deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in column C; (b) an option for taxation of income by way of royalty in respect of a patent developed and registered in India is exercised in the prescribed manner, on or before the due date specified under section 263(*1*) for furnishing the return of income for the relevant tax year; (c) where an option is exercised under clause (*b*) and the eligible assessee

A	B	C	D	E
				does not offer its income for taxation as per the provisions of columns C and D for any of the five tax years, succeeding such tax year, then such assessee shall not be eligible to claim the benefit of the provisions of columns C and D for five tax years subsequent to the tax year in which such income has not been offered to tax as per such provisions.
3.	Any person.	Income by way of transfer of carbon credits.	10%	No deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to column C.
4.	Any person.	Any income from the transfer of any virtual digital asset.	30%	(*a*) No deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in column C; and (*b*) no set off of loss from transfer of the virtual digital asset computed herein shall be allowed against income computed under any provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding tax years.

A	B	C	D	E
5.	Any person.	Any income by way of net winnings from any online game, computed in the manner, as prescribed.	30%	*Nil*.
6.	Any person.	Any profits and gains from life insurance business.	12.5%	*Nil*.

(*2*) In this section,—

(a) "carbon credit", in respect of one unit, means reduction of one tonne of carbon dioxide emissions or emission of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price;

(b) "computer resource" shall have the same meaning as assigned to it in section 2(*1*)(*k*) of the Information Technology Act, 2000; 21 of 2000.

(c) "developed" means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (herein referred to as the Patents Act); 39 of 1970.

(d) "horse race" shall have the meaning assigned to it in section **(**) 94(6)**;

(e) "internet" means the combination of computer facilities and electromagnetic transmission media including related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;

(f) "invention" shall have the same meaning as assigned to it in section 2(*1*)(*j*) of the Patents Act;

(g) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(h) "online game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device;

(i) "patent" shall have the meaning assigned to it in section 2(*1*)(*m*) of the Patents Act;

(j) "patented article" and "patented process" shall have the meanings as respectively assigned to them in section 2(*1*)(*o*) of the Patents Act;

(k) "patentee" means the person, being the true and first inventor of the invention, whose name is entered *(**)* ***in*** the patent register as the patentee, as per the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(l) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

(i) transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(ii) imparting of any information concerning the working of, or the use of, a patent; or

(iii) use of any patent; or

(iv) rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*);

(m) "true and first inventor" shall have the same meaning as assigned to it in section 2(*1*)(*y*) of the Patents Act; and

(n) for the purposes of sub-section (*1*)(Table: Sl. No. 4), the term "transfer" as defined in section 2(*109*), shall apply to any virtual digital asset, whether capital asset or not.

Tax on income referred to in section 102 or 103 or 104 or 105 or 106.

195. (*1*) Where the total income of an assessee—

(a) includes any income referred to in section 102 or 103 or 104 or 105 or 106 and reflected in the return of income furnished under section 263; or

(b) determined by the Assessing Officer includes any income referred to in any of the said sections, if such income is not covered under clause (*a*),

the income-tax payable shall be the aggregate of—

(i) income-tax calculated on the income referred to in clauses (*a*) and (*b*), at the rate of 60%; and

(ii) income-tax with which the assessee would have been chargeable had his total income been reduced by income referred to in clause (*i*).

(*2*) Irrespective of anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in sub-section (*1*)(*a*) and (*b*).

B.—Special provisions relating to tax on capital gains

Tax on short-term capital gains in certain cases.

196. (*1*) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset—

(a) being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust; and

(b) the transaction of sale of such equity share or unit is chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004, then, 23 of 2004.

the tax payable by the assessee on the total income, subject to the provisions of sub-section (*2*), shall be the aggregate of—

(i) income-tax calculated on such short-term capital gains at the rate of 20%;

(ii) income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee.

(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income, as reduced by short-term capital gains computed under sub-section (*1*), is below the maximum amount which is not chargeable to income-tax, then,—

(a) such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such short-term capital gains shall be computed at the rate as applicable in sub-section (*1*)(*i*).

(3) The provisions of sub-section (*1*)(*b*) shall not apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

(4) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section (*1*), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(5) In this section, "equity oriented fund" shall have the meaning assigned to it in section 198.

Tax on long-term capital gains.

197. (*1*) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income, subject to sub-sections (*2*) *(**),*(*3*) ***and (4)***, shall be the aggregate of—

(*a*) income-tax payable on the total income as reduced by such long-term capital gains, had the total income, as so reduced, been his total income; and

(b) income-tax calculated on such long-term capital gains at the rate of 12.5%.

(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (*1*) is below the maximum amount which is not chargeable to income-tax, then,—

(a) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(b) the tax on the balance of such long-term capital gains shall be computed at the rate as referred in sub-section (*1*).

(3) In the case of an individual or a Hindu undivided family, being a resident, in the case of transfer of a long-term capital asset, being land or building, or both, which *(**)* ***was*** acquired before the 23rd July, 2024, the excess income-tax computed as per the following formula shall be ignored:—

E = A – B

where—

E = excess income-tax to be ignored;

A = income-tax computed under clause (*b*) of sub-section (*1*);

B = income-tax computed under clause (*b*) of sub-section (*1*) taking the rate as 20% and the capital gains is computed by taking the cost of acquisition as indexed cost of acquisition and the cost of improvement as indexed cost of improvement.

(4) In the case of an assessee being a non-resident (not being a company) or a foreign company, the long term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, shall be computed without giving effect to the provision under section 72(6).

(5) *(**)* Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced were the gross total income of the assessee. 42 of 1956.

(6) *(**)* In this section,—

(a) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956;

Tax on long-term capital gains in certain cases.

(b) "listed securities" means the securities which are listed on any recognised stock exchange in India;

(c) "unlisted securities" means securities other than listed securities;

(d) "indexed cost of acquisition" and "indexed cost of improvement" shall have the meanings respectively assigned to them in section 72.

198. (*1*) Irrespective of anything contained in section 197, the tax payable by an assessee on his total income shall be determined as per the provisions of sub-section (*2*), if—

(a) the total income includes any income chargeable under the head "Capital gains"; 23 of 2004.

(b) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(c) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 has—

(i) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or

(ii) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (*1*) shall be the aggregate of—

(a) income-tax calculated on such long-term capital gains exceeding one lakh twenty five thousand rupees **(**)** at the rate of 12.5%; and

(b) income-tax payable on the total income as reduced by long-term capital gains referred to in sub-section (*1*) as if the total income so reduced were the total income of the assessee.

(3) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (*1*) is below the maximum amount which is not chargeable to income-tax, then,—

(a) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(b) the tax on the balance of such long-term capital gains shall be computed at the rate as referred to in sub-section (*2*).

(4) The condition specified in sub-section (*1*)(*c*) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(5) The Central Government may, by notification, specify the nature of acquisition in respect of which the provisions of sub-section (*1*)(*c*)(*i*) shall not apply.

(6) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (*1*), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(7) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (*1*), the rebate under section 156 shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

(8) In this section, "equity oriented fund" means a fund set up under a scheme of a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply and—

(i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(A) a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(ii) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange,

and, for the purposes of this clause,—

(I) the percentage of equity shareholding or unit held in respect of the fund, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(II) in case of a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied throughout the term of such insurance policy.

C.—New tax regime

Tax on income of certain manufacturing domestic companies.

199. (*1*) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part (other than sections 200 and 201) of this chapter, the income-tax payable in respect of the total income of a person, being a domestic company, for any tax year, shall, at the option of such person, be computed at the rate of 25% subject to the following conditions:—

(a) the company has been set-up and registered on or after the 1st March, 2016;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(c) the total income of the company has been computed,—

(i) without any deduction under—

(A) sections 45(*2*)(*c*) *(**)* ***or*** 47(*1*)(*b*); ***or***

(B) Chapter VIII-C, other than the provisions of section 146; or

(C) sections specified in section 205(*1*)(*a*) to (*g*);

(ii) without set off of any loss carried forward from any earlier tax year, if such loss is attributable to any of the deductions referred to in sub-clause (*i*).

(2) The loss referred to in sub-section (*1*)(*c*)(*ii*) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(3) The provisions of this section shall not apply unless an option is exercised by the person in the manner as prescribed on or before the due date specified under section 263(*1*) for furnishing the first of the returns of income which such person is required to furnish and such option once exercised, shall apply to subsequent tax years.

(4) Once the option under sub-section (*3*) has been exercised for any tax year, it cannot be subsequently withdrawn for the same or any other tax year, except where the person exercises option under **(**)** section 200.

Tax on income of certain domestic companies.

200. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B and this Part (other than sections 199 and 201) of this chapter, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a domestic company, in respect of the total income of such person computed in the following manner:—

(a) without any deduction under—

(i) sections 45(*2*)(*c*) ***(**) or*** 47(*1*)(*b*); or

(ii) Chapter VIII other than **(**)** provisions of section ***(**)*** 146 ***or 148***; or

(iii) sections specified in section 205(*1*)(*a*) to (*g*);

(b) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*);

(c) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116(*1*), if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(2) Where the person fails to satisfy the requirements contained in sub-section (*1*) in any tax year, the option shall become invalid in respect of the said tax year and subsequent years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent years.

(3) The loss and depreciation referred to in sub-section (*1*)(*b*) and (*c*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under sub-section (*5*), the requirements contained in sub-section (*1*) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in ***(**)*** such manner as prescribed on or before the due date specified under section 263(*1*) for furnishing the return of income and such option once exercised, shall apply to subsequent tax years.

(*6*) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

(*7*) In case of a person, being a domestic company, where the option exercised by it under section 201, has been rendered invalid due to violation of the conditions contained in section 205(*2*)(*b*) or (*c*) or (*d*), such person may exercise the option under this section.

Tax on income of new manufacturing domestic companies.

201. (*1*) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part (other than sections 199 and 200) of this chapter, the income-tax payable in respect of the total income of an assessee, being a domestic company, specified in column B of the Table below, shall, at the option of such assessee, be computed at the rates specified in column C, if the conditions contained in column D thereof are fulfilled.

Table

Sl. No.	Assessee	Total income and rate of tax	Conditions
A	B	C	D
1.	A domestic company engaged in business of manufacture or production of any article or thing.	(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and	Such domestic company— (a) exercises the option in the manner provided in sub-section (*2*); (b) has been set-up and registered on or after the 1st October, 2019; (c) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024;

A	B	C	D
		(*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (c) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (d) 30% on the income deemed so under section 205(5).	(d) the total income of which is computed as per the provisions of sub-section (*3*); and (e) fulfils all the conditions provided in sub-section (*5*) of this section and section 205(*2*).

(2) The option under this section shall be exercised by the assessee in the manner prescribed subject to the following conditions:—

(a) it shall be exercised on or before the due date specified under section 263(*1*) for furnishing first of the returns of income for any tax year;

(b) such option, once exercised, shall apply to subsequent tax years;

(c) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year; and

(d) where the assessee fails to fulfil the conditions contained in sub-section (*1*)(Table: Sl. No. 1.D) in any tax year,—

(i) the option shall become invalid in respect of such tax year and subsequent tax years; and

(ii) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (*1*), the total income of the assessee shall be computed,—

(a) without any deduction under—

(i) sections 45(*2*)(*c*) ***(**)*** ***or*** 47(*1*)(*b*); ***or***

(ii) Chapter VIII other than sections 146 ***(**)*** ***or*** 148; or

(iii) section 205(*1*)(*a*) to (*g*);

(b) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116(*1*), if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (*3*)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

(5) In case of an amalgamation, option under this section shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (*1*) (Table: Sl. No. 1.D) are continued to be fulfilled by such company.

New tax regime for individuals, Hindu undivided family and others.

202. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B**, D, E** and this Part of this Chapter the income-tax payable by a person, being—

(a) an individual; or

(b) a Hindu undivided family; or

(c) an association of persons (other than a co-operative society); or

(d) a body of individuals, whether incorporated or not; or

(e) an artificial juridical person referred to in section 2(*77*)(*g*),

in respect of the total income for a tax year, shall, unless the person exercises the option in the manner provided under sub-section (*4*), be computed at the rate of tax given in the following Table:—

Table

Sl.No.	Total income	Rate of tax
A	B	C
1.	Upto ₹4,00,000	*Nil*
2.	From ₹4,00,001 to ₹8,00,000	5%
3.	From ₹8,00,001 to ₹12,00,000	10%
4.	From ₹12,00,001 to ₹16,00,000	15%
5.	From ₹16,00,001 to ₹20,00,000	20%
6.	From ₹20,00,001 to ₹24,00,000	25%.
7.	Above ₹24,00,000	30%

(2) For the purposes of sub-section (*1*), the total income of the assessee shall be computed—

(a) without any exemption or deduction under the provisions of or in—

(*i*) Schedule III (Table: Sl. No. 5 or 6 or 7 or 8 or 11 or 17);

(ii) Schedule III (Table: Sl. No. 12 or 13) (other than those as prescribed for this purpose);

(iii) section 144;

(iv) section 19(*1*) (Table: Sl. No. 1);

(*v*) section 22(*1*)(*b*), in respect of properties referred to in section 21(*6*);

(vi) section 33(*8*);

(vii) section 48;

(viii) section 49;

(*ix*) section 45(*3*)(*a*) or (*b*) or (*c*);

(x) section 46;

(xi) section 47(*1*)(*a*);

(xii) of Chapter VIII other than the provisions of sections 124(*1*), 125(*3*) and 146; and

(*b*) without set off of—

(i) any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*); or

(ii) any loss under the head "Income from house property" with any other head of income; and

(*c*) without any exemption or deduction for allowances or perquisite, called by any name, provided under any other law in force.

(3) The loss and depreciation referred to in sub-section (*2*)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) Nothing contained in sub-section (*1*) shall apply to a person, where an option is exercised by such person under this section, in such manner as prescribed, for any tax year, and such option is exercised,—

(a) in case of a person having income from business or profession,—

(i) on or before the due date specified under section 263(*1*) for furnishing the returns of income for such tax year;

(ii) such option, once exercised, shall apply to subsequent tax years;

(iii) such option, once exercised, may be withdrawn only once for a tax year other than the tax year for which it was exercised; and

(iv) after such withdrawal, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession, and in such a case the option under clause (*b*) shall be available;

(b) in case of a person not having income from business or profession, along with the return of income to be furnished under section 263(*1*) for the tax year.

(5) In case of a person, having a Unit in the International Financial Services Centre, who has exercised the option under sub-section (*4*) for any tax year from 2020-21 to 2023-24, the provisions of sub-section (*2*) shall be modified to the extent that deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

Tax on income of certain resident co-operative societies.

203. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Part A, B and this Part (other than section 204) of this chapter, the income-tax payable for a tax year shall be at the rate of 22%,at the option of a person being a co-operative society resident in India, in respect of the total income of such person computed in the following manner:—

(a) without any deduction under—

(i) Chapter VIII other than the provisions of section 146; or

(ii) sections specified in section 205(*1*)(*a*) to (*g*);

(b) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(2) Where a person fails to satisfy the requirements contained in sub-section (*1*) in any tax year, the option shall become invalid in respect of the said tax year and subsequent tax years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent tax years.

(3) The loss and depreciation referred to in clause (*b*) of sub-section (*1*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent tax year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under this section, the requirements contained in sub-section (*1*) shall be modified to the extent that the deduction under section 147 shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under section 263(*1*) for furnishing the return of income and such option once exercised shall apply to subsequent tax years.

(*6*) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

Tax on income of certain new manufacturing co-operative societies.

204. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Part A, B and this Part (other than section 203) of this chapter, the income-tax payable in respect of the total income of an assessee, being a co-operative society, resident in India, engaged in the business of manufacture or production of any article or thing, shall at the option of such assessee, be computed at the rates specified in column A of the said Table, if the conditions contained in column B thereof are fulfilled.

Table

Total income and rate of tax	Conditions
A	B
(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (b) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (i) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and (ii) in respect of which no specific rate of tax has been provided separately under this Part; (c) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (d) 30% on the income deemed so under section 205 (5).	Such co-operative society— (a) exercises the option in the manner provided in sub-section (*2*); (b) has been set-up and registered on or after the 1st April, 2023; and (c) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024; and (d) the total income of which is computed as per the provisions of sub-section (*3*); and (e) fulfils all the conditions provided in section 205(*2*).

(2) The option under this section shall be exercised by the assessee in the manner as prescribed subject to the following conditions:—

(a) it shall be exercised on or before the due date specified under section 263(*1*) for furnishing the first of the returns of income for any tax year; and

(b) such option, once exercised, shall apply to subsequent tax years;

(c) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year;

(d) where the assessee fails to fulfil the conditions contained in sub-section (*1*)(Table: Sl. No. 1. B) in any tax year,—

(i) the option shall become invalid in respect of the tax year and subsequent tax years; and

(ii) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (*1*), the total income of the assessee shall be computed,—

(a) without any deduction under—

(i) Chapter VIII other than the provisions of section 146; or

(ii) sections specified in 205(*1*)(*a*) to (*g*);

(b) without set off of any loss carried forward or depreciation from earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (*3*)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

Conditions for tax on income of certain companies and co-operative societies.

204. (*1*) For the purposes of sections 199(*1*)(*c*)(*i*)(C), 200(*1*)(*a*)(*iii*), 201(*3*)(*a*)(*iii*), 203(*1*)(*a*)(*ii*) and 204(*3*)(*a*)(*ii*), the total income shall be computed without any deduction or exemption, under the following provisions:—

(a) section 33(*8*), determined in such manner, as prescribed;

(b) section 45(*3*)(*a*) or (*b*) or (*c*);

(c) section 46;

(d) section 47(*1*)(*a*).;

(e) section 48;

(f) section 49; and

(g) section 144.

(2) For the purposes of section 201 or 204, the following conditions shall apply to the assessee:—

(a) its business is not formed by splitting up, or the reconstruction, of a business already in existence, unless it is formed as a result of the re-establishment, reconstruction or revival of the business of any such undertaking as is referred to in section 140(*4*) in the circumstances and within the period specified in the said section;

(b) it does not use any machinery or plant, previously used for any purpose, other than—

(i) permitted machinery or plant used outside India;

(ii) machinery or plant or any part thereof previously used for any purpose and the total value of such machinery or plant or any part thereof put to use by the assessee does not exceed 20% of the total value of the machinery or plant used by such assessee;

(c) in case of a domestic company, it does not use any building previously used as a hotel or a convention centre, in respect of which deduction under section 80-ID of the Income-Tax Act, 1961 has been claimed and allowed;

43 of 1961.

(d) it is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it,

and, if any difficulty arises in fulfilling any of the conditions contained in clause (*b*) or (*c*) or (*d*), the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(3) No guideline under sub-section (*2*) shall be issued after the expiration of two years from the 1st April, 2026.

(4) Every guideline issued by the Board under sub-section (*2*) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(5) For the purposes of section 201,—

(a) where it appears to the Assessing Officer that, owing to the close connection between the person to which the said section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, then the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take profits as may be reasonably deemed to have been derived therefrom, and where the said arrangement involves a specified domestic transaction referred to in section 164, profits from such transaction shall be determined having regard to the arm's length price as defined in section 173(*a*); and

(b) the amount, being profits in excess of the profits determined by the Assessing Officer under clause (*a*), shall be deemed to be the income of the person and shall be chargeable at the rates specified in section 201(*1*) [Table: Sl. No. 1.B(*d*)] or 204 (*1*)[Table: Sl. No. 1.A(*d*)], as the case may be.

(6) For the purposes of this Part,—

(a) the business of manufacture or production of any article or thing shall include the business of generation of electricity but shall not include business of—

(i) development of computer software in any form or in any media; or

(ii) mining; or

(iii) conversion of marble blocks or similar items into slabs; or

(iv) bottling of gas into cylinder; or

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(b) the expressions,—

(i) "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (*b*) and clause (*a*) of section 80-ID(*6*) of the Income Tax Act, 1961; 43 of 1961.

(ii) "permitted machinery and plant used outside India" means the machinery or plant, which was previously used outside India by any other person, if the following conditions are fulfilled:—

(A) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of machinery or plant by the person;

(iii) "unabsorbed depreciation" shall have the meaning assigned to it in section 116(*13*)(*e*); and

(iv) "Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005. 28 of 2005.

D.—Special provisions relating to minimum alternate tax and alternate minimum tax

Special provision for minimum alternate tax and alternate minimum tax.

206. (*1*) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee, referred to in column B of Table, the income-tax payable on the total income as computed under this Act in respect of a tax year is less than the percentage referred to in column C of the said Table of book profit in the case of a company or of adjusted total income in any other case, computed as per the provisions of Note to the said Table, then—

(a) such book profit in the case of a company or such adjusted total income in any other case shall be deemed to be the total income of that assessee for such tax year; and

(b) the tax payable on such total income shall be at the rate provided in column C of the said Table.

Table

Sl. No.	Assessee	Percentage of book profit or adjusted total income
A	B	C
1.	A company, other than a unit as referred to against serial number 2.	15% of book profit.
2.	A unit, being a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9% of book profit.
3.	A person, other than— (a) a company; (b) a co-operative society; (c) a unit as referred to against serial number 4.	18.5% of adjusted total income.
4.	A unit, being a person other than a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9% of adjusted total income.
5.	A co-operative society.	15% of adjusted total income.

Note 1:—Adjusted total income, for the purposes of Sl. Nos. 3, 4 and 5 shall be the total income before giving effect to this section, as increased by deductions claimed, if any, under—

(a) any section (other than section 149) included in Chapter VIII-C;

(*b*) section 144; and

(*c*) section 46 as reduced by depreciation allowable as per the provisions of section 33, as if no deduction was allowed in respect of the assets on which the deduction under that section is claimed.

(2) The book profit under this section shall be computed in the following manner:—

B = P + (I-R)

where,—

B = book profit for the purposes of this section;

P = profit, as shown in the statement of profit and loss for the relevant tax year prepared as per sub-section (*3*);

I = amounts mentioned in column A of Table below;

R = amounts mentioned in column B of said Table.

Table

(**)	Amounts (to be increased)	Amounts (to be reduced)
(**)	(**) A	(**) B
(**)	(a) Income-tax paid or payable and the provision therefor, if any such amount is debited to the statement of profit and loss, where income-tax shall include— (i) any interest charged under this Act; (ii) surcharge, if any, as levied under the Central Acts; (iii) Education Cess on income-tax, if any, as levied under the Central Acts; and (iv) Secondary and Higher Education Cess on income-tax, if any, as levied under the Central Acts; (b) the amounts carried to any reserves, called by any name, if any such amount is debited to the statement of profit and loss; (c) the amount or amounts set aside for meeting liabilities, other than ascertained liabilities, if any such amount is debited to the statement of profit and loss; (d) the amount by way of provision for losses of subsidiary companies, if any such amount is debited to the statement of profit and loss; (e) dividends paid or proposed, if any such amount is debited to the statement of profit and loss; (f) expenditure relatable to any income to which provisions of section 11 apply or any expenditure out of regular income of a registered non-profit organisation referred in section 335, if any such amount is debited to the statement of profit and loss; (g) depreciation, if any such amount is debited to the statement of profit and loss; (h) deferred tax and the provision therefor, if any such amount is debited to the statement of profit and loss;	(a) The amount withdrawn from any reserve or provision, where,— (i) any such amount is credited to the statement of profit and loss (excluding a reserve created before the 1st April, 1997 otherwise than by way of a debit to the statement of profit and loss); and (ii) the book profit of such year has been increased by those reserves or provisions out of which the said amount was withdrawn; (b) income to which any of the provisions of section 11 apply or any regular income of a registered non-profit organisation referred in section 335, if any such amount is credited to the statement of profit and loss; (c) depreciation debited to the statement of profit and loss excluding the depreciation on account of revaluation of assets; (d) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed depreciation on account of revaluation of assets referred to in clause (*c*); (e) deferred tax, if any such amount is credited to the statement of profit and loss; (f) loss brought forward (excluding depreciation) or unabsorbed depreciation, whichever is less, as per books of account, except, where either of such amount is nil, in case of a company other than the company referred to in sub-section (*4*) (Table: Sl. No. 6 or 7); and (g) such amounts mentioned in column D of the Table in sub-section (*4*), in case of an assessee mentioned in column B of the said Table.

A	B	C
	(i) the amount or amounts set aside as provision for diminution in the value of any asset, if any such amount is debited to the statement of profit and loss;	
	(j) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset, if any such amount is not credited to the statement of profit and loss; and	
	(k) **(**)**	

(3) For the purposes of this section, every company shall prepare its statement of profit and loss for the relevant tax year in the following manner:—

(*a*) if it is an insurance or banking company, or a company engaged in the generation or supply of electricity, or any other class of company for which a form of financial statement has been specified under the enactment governing such class of company, as per the provisions of such enactment;

(b) in all other cases, as per the provisions of Schedule III to the Companies Act, 2013. 18 of 2013.

(4) While computing the book profit under sub-section (*2*), the following amounts shall be further adjusted:—

Table

S. No.	Assessee	Amounts (to be increased)	Amount (to be decreased)
A	B	C	D
1.	A company being a member of association of persons or body of individuals	The amount or amounts of expenditure relatable to income referred to in Note if any such amount is debited to the statement of profit and loss	Income referred to in Note if any such amount is credited to the statement of profit and loss.
Note : Income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable as per the provisions of section 310.			
2.	A foreign company	The amount or amounts of expenditure relatable to income referred to in Note ,if any such amount is debited to the statement of profit and loss.	Income referred to in Note , if such income is credited to the statement of profit and loss.

A	B	C	D

Note: Income, accruing or arising to an assessee from—

(a) the capital gains arising on transactions in securities; or

(b) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XIII,

if the income-tax payable thereon as per the provisions of this Act, other than the provisions of this Part, is at a rate less than the rate specified in sub-section (*1*).

3.	A company, which has transferred any capital asset, being share of a special purpose vehicle to a business trust	Amount referred to in Note, if any such amount is debited to the statement of profit and loss.	Amount referred to in Note, if any such amount is credited to the statement of profit and loss.

Note: The amount representing—

(a) the notional loss on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in section 70(*1*)(*zi*); or

(b) the notional loss resulting from any change in carrying amount of the said units; or

(c) the loss on transfer of units referred to in section 70(*1*)(*zi*).

4.	A company, which has transferred any capital asset, as referred to against serial number 3	Gain on transfer of units referred to in Note	Loss on transfer of units referred to in Note.

Note: Units referred to in section 70(*1*)(*zi*), computed by taking into account the cost of the shares exchanged with units referred to in the said clause, or the carrying amount of the shares at the time of exchange, where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be.

5.	Where total income includes income by way of royalty in respect of a patent which is chargeable to tax under section 194(*1*)(Table: Sl. No. 2).	The amount or amounts of expenditure relatable to such royalty income, if any such amount is debited to the statement of profit and loss	Income by way of such royalty.

A	B	C	D
6.	A company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has after suspension of the Board of Directors of such company has nominated new directors under section 242 of the said Act	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.
7.	A company against whom corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.
8.	A sick industrial company under section 17(*1*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003	*Nil.*	Profits for the tax year in which the such company has become a sick industrial company and ending with the tax year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

A	B	C	D
9.	A company whose financial statements are drawn up in compliance with the Indian Accounting Standards, specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013.	(*a*) All amounts credited to the statement of profit and loss as referred in Note 1; (*c*) the amounts or aggregate of the amounts debited to the statement of profit and loss on distribution as referred in Note 2; (c) one-fifth of the transition amount, in the year of convergence and each of the following four tax years, if such amount is not decreased; (d) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not decreased; (e) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not decreased.	(a) All amounts debited to the statement of profit and loss as referred in Note 1; (b) the amounts or aggregate of the amounts credited to the statement of profit and loss on distribution as referred in Note 2; (c) one-fifth of the transition amount, in the year of convergence and each of the following four tax years, if such amount is not increased; (d) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not increased; (*f*) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not increased.

Note 1: Other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss", excluding—

(i) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(ii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109; and

the amount or the aggregate of the amounts referred to in clause (*a*) **(**)** for the tax year or any of the preceding tax years, and relatable to such asset or investment, in the tax year in which the said asset or investment referred to in clause (*a*) is retired, disposed, realised or otherwise transferred.

Note 2: on distribution of non-cash assets to shareholders in a demerger as per Appendix A of the Indian Accounting Standards 10.

Note 3: sub-section (*19*)(*f*)(*ii*) to (*v*) relatable to such asset or investment, in the tax year in which the asset or investment referred to in such sub-clauses is retired, disposed, realised or otherwise transferred.

Note 4: sub-section (*19*)(*f*)(*ii*) to (*v*) relatable to such foreign operations, in the tax year in which the foreign operation referred to in such sub-clause is disposed or otherwise transferred.

(5) In case of a person, being a company, while preparing the annual accounts including statement of profit and loss,—

(a) the accounting policies;

(b) the accounting standards adopted for preparing such accounts including statement of profit and loss; and

(c) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss and laid before the company at its annual general meeting as per the provisions of section 129 of the Companies Act, 2013, or correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including statement of profit and loss for, such financial year or part of such financial year falling within the relevant tax year, where the company has adopted or adopts the financial year under the which is different from the tax year under this Act.

(6) The provisions of this section shall not be applicable to any assessee, being a foreign company, where—

(a) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in section 159(*1*) or the Central Government has adopted any agreement under section 159(*2*) and the assessee does not have a permanent establishment in India as per the provisions of such agreement; or

(b) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (*a*) and the assessee is not required to seek registration under any law in force relating to companies; or

(c) its total income comprises solely of profits and gains from business referred to in section 61(*2*)(Table: Sl. Nos. 1, 3, 4 and 5), and such income has been offered to tax at the rates specified in the respective sections.

(7) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from the values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(8) In the case of an assessee being a company, where—

(a) there is an increase in book profit of the tax year due to income of past year or years included in the book profit on account of—

(i) an advance pricing agreement entered into by the assessee under section 168; or

(ii) a secondary adjustment required to be made under section 170; and

(b) the assessee has not utilised the credit of tax paid under this section in any subsequent tax year under sub-section (*13*),

the Assessing Officer shall, on an application made to him in this behalf by the assessee,—

(*i*) recompute the book profit of the past year or years and tax payable, if any, by the assessee during the tax year under sub-section (*1*) in such manner, as prescribed; and

(*ii*) the provisions of section 287 shall, so far as may be, apply and the period of four years specified in sub-sections (*7*) and (*8*) of that section shall be reckoned from the end of the tax year in which the said application is received by the Assessing Officer.

(9) Irrespective of anything contained in any other provisions of this Act, no interest shall be payable to an assessee on the refund arising on account of the provisions of sub-section (*8*).

(10) In the case of an assessee being a company, nothing contained in sub-section (*1*) shall affect the determination of the amounts in relation to the relevant tax year to be carried forward to the subsequent year or years under the provisions of—

(a) section 33(*11*); or

(b) section 111; or

(c) section 112(*1*); or

(d) section 113; or

(e) section 115.

(11) Every assessee to which this section applies, shall furnish a report in the prescribed form from an accountant, certifying that the book profit in the case of a company, or adjusted total income in any other case, has been computed as per the provisions of this section—

(a) before the specified date referred to in section 63; or

(b) along with the return of income furnished in response to a notice under section 268(*1*) in the case of an assessee being a company.

(12) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee mentioned in this section.

(13) Where any tax is paid under sub-section (*1*) by an assessee, then, credit shall be allowed to him of an amount which shall be the difference of the tax paid for any tax year under sub-section (*1*) and tax payable by the assessee on his total income computed as per the other provisions of this Act.

(14) While allowing credit under sub-section (13),—

(a) no interest shall be payable on the tax credit so allowed; and

(b) where tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 159(*1*) or (*2*), allowed against the tax payable under the provisions of sub-section (*1*) exceeds such tax credit admissible against the tax payable by the assessee on its income as per the other provisions of this Act, then, while computing the credit under sub-section (*13*), such excess amount shall be ignored.

(15) Tax credit determined under sub-section (*13*) shall be carried forward and—

(a) set off in a year, when tax becomes payable on the total income computed as per the provisions of this Act exceeds tax determined under sub-section (*1*); and

(b) such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (*1*) for that tax year,

and such carry forward shall not be allowed beyond the fifteenth tax year immediately succeeding the tax year in which the tax credit becomes allowable under sub-section (*13*).

(16) Where as a result of any order passed under this Act, tax payable under this Act is reduced or increased, tax credit allowed under sub-section (13) shall also be increased or reduced accordingly.

(17) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008, the provisions of this section shall not apply to the successor limited liability partnership. 6 of 2009.

(18) The provisions of this section shall not apply to—

(a) a person, being a company having income accruing or arising from life insurance business referred to in section 194(*1*)(Table: Sl. No. 6); or

(b) a person, who has exercised the option under—

(i) section 200(5); or

(ii) section 201(*2*); or

(iii) section 203(*5*); or

(iv) section 204(*2*); or

(c) a person, whose income-tax payable in respect of the total income of such person is computed under section 202(*1*); or

(d) an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in section 2(*77*)(*g*), if the adjusted total income of such person does not exceed twenty lakh rupees; or

(e) any specified fund referred to in Schedule VI (Note 1).

(19) In this section,—

(a) "Adjudicating Authority" shall have the same meaning as assigned to it in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016; 31 of 2016.

(b) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(c) "net worth" shall have the meaning assigned to it in section 3(*1*)(*ga*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003; 1 of 1986. 1 of 2004.

(d) "private company" and "unlisted public company" shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008; 6 of 2009.

(e) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(f) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date, but not including the following:—

(i) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(ii) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(iii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109 adjusted on the convergence date;

(iv) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost as per paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(v) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost as per paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(vi) adjustments relating to cumulative translation differences of a foreign operation as per paragraph D13 of the Indian Accounting Standards 101 on the convergence date.

(g) "Tribunal" shall have the same meaning as assigned to it in section 2(*90*) of the Companies Act, 2013; 18 of 2013.

(h) "Unit" means a unit established in an International Financial Services Centre;

(i) "year of convergence" means the tax year within which the convergence date falls; and

(j) a company shall be a subsidiary of another company, if such other company holds more than half in the nominal value of equity share capital of the company.

E.—Special provisions relating to non-residents and foreign companies

Tax on dividends, royalty and technical service fees in case of foreign companies.

207. (*1*) The income-tax payable on the total income of a non-resident (not being a company) or a foreign company, which includes any income specified in the column B of the Table below, shall be the aggregate of income-tax specified in the column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend [other than dividends specified against serial number 2].	20%
2.	Dividend received from a unit in an International Financial Services Centre.	10%
3.	Interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency not being interest referred to against serial numbers 4 and 5.	20%
4.	Interest received from an infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
5.	Interest of the nature and extent referred to in section 393(*2*) (Table: Sl. No. 2), (Table: Sl. No. 3 and 4).	Rates specified in section 393(*2*) (Table: Sl. No. 2, 3 and 4).
6.	Distributed income being interest referred to in section 393(*2*) (Table: Sl. No. 6).	Rate specified in section 393(*2*) (Table: Sl. No. 6).
7.	Income received in respect of units, purchased in foreign currency, of a Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21) or of the Unit Trust of India.	20 %

A	B	C
8.	Total income as reduced by income referred to against serial numbers 1 to 7.	Income-tax chargeable on such income.

(2) Where the total income of a non-resident (not being a company) or of a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made after the 31st March,1976, other than income referred to in section 59(*1*), and—

(a) the agreement is approved by the Central Government where such agreement is with an Indian concern; or

(b) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, it is as per that policy,

then, subject to the provisions of sub-section (*3*), the income-tax payable shall be the aggregate of income-tax specified in column C of the Table below:—

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Royalty [other than income referred to in section 59(*1*)].	20%
2.	Fees for technical services [other than income referred to in section 59(*1*)].	20%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

(3) Where the royalty referred to in sub-section (*2*) is in consideration for the transfer or grant of all or any rights (including the granting of a licence)—

(a) in respect of copyright in any book to an Indian concern; or

(b) in respect of any computer software to a person resident in India,

then the provisions of sub-section (*2*) shall apply in relation to such royalty without application of provisions of clause (*a*) or (*b*) of that sub-section.

(4) In this section,—

(a) "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device; or any customised electronic data or any product or service of similar nature as notified by the Board, which is transmitted or exported from India to a place outside India by any means;

(b) "fees for technical services" shall have the meaning assigned to it in section 9;

(*c*) "royalty" shall have the meaning assigned to it in section 9.

(5) No deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 61 and section 93 for computing income referred to in sub-sections (*1*) and (*2*).

(6) Where the gross total income of an assessee—

(*a*) consists only of the income referred to in sub-section (*1*)(Table: Sl. No. 1 to 7), no deduction shall be allowed under Chapter VIII;

(*b*) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1 to 7), the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if such reduced amount were the gross total income of the assessee;

(7) the provisions of sub-section (*6*) shall not apply to a deduction allowed to Unit of an International Financial Services Centre under section 147.

(8) It shall not be necessary for an assessee to furnish a return of income under section 263(*1*), if—

(a) the total income during the tax year consisted only of income referred to in sub-sections (*1*)(Table: Sl. Nos. 1 to 7) and sub-section (*2*) (Table: Sl. Nos. 1 and 2); and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income at a rate not less than the rate specified in sub-sections (*1*) and (*2*).

Tax on income from units purchased in foreign currency or capital gains arising from their transfer.

208. (*1*) The income-tax payable on the total income of an assessee, being an overseas financial organisation (herein referred to as Offshore Fund), which includes income specified in column B of the Table below, shall be the aggregate of the amount specified in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income received in respect of units purchased in foreign currency.	10 %
2.	Long-term capital gains arising from the transfer of units purchased in foreign currency.	12.5%
3.	Total income as reduced by income referred to in against serial numbers 1 and 2.	Income-tax chargeable on such income.

(2) Where the gross total income of the Offshore Fund—

(a) consists only of income from units or income by way of long-term capital gains arising from the transfer of units, or both, no deduction shall be allowed to the assessee under sections 26 to 61 or section 93(*1*)(*a*) and (*e*) or under Chapter VIII;

(b) includes any income referred to in clause (*a*),—

(i) the gross total income shall be reduced by such income; and

(ii) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced were the gross total income of the assessee.

(3) In this section,—

(a) "overseas financial organisation" means any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India,—

(i) which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); and

(*ii*) such arrangement is approved by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992, for this purpose;

15 of 1992.

(b) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013;

18 of 2013.

(c) "unit" means unit of,—

(i) a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); or

(ii) the Unit Trust of India.

Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

209. (*1*) The income -tax payable, on the total income of an assessee, being a non- resident, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	From interest on— (a) bonds of an Indian company issued as per such scheme as notified by the Central Government; or (b) bonds of a public sector company sold by the Government, and purchased in foreign currency.	10 %
2.	From dividends on Global Depository Receipts— (a) issued as per such scheme as ***may be notified by*** the Central Government *(* *)* against the initial issue of shares of an Indian company and purchased in foreign currency through an approved intermediary; or (b) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or (c) issued or re-issued as per a scheme notified by the Central Government, against the existing shares of an Indian company purchased in foreign currency through an approved intermediary.	10 %
3.	Long-term capital gains arising from the transfer of bonds referred to against serial number 1 or Global Depository Receipts referred to against serial number 2.	12. 5%
4.	Total income as reduced by income referred to against serial numbers 1 to 3.	Income-tax chargeable on such income.

(2) Where the gross total income of the non-resident—

(a) consists only of income by way of interest or dividends in respect of—

(i) bonds referred to in sub-section (*1*) (Table: Sl. No. 1); or **(**)**

(ii) Global Depository Receipts referred to in sub-section (*1*) (Table: Sl. No. 2), no deduction shall be allowed under sections 26 to 61 or section 93(*1*)(*a*) or 93(*1*)(*e*) or under Chapter VIII;

(b) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1) to (Table: Sl. No. 3),—

(i) the gross total income shall be reduced by the such income; and

(ii) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced, were the gross total income of the assessee.

(3) The provisions of section 72(*6*) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset being bonds or Global Depository Receipts referred to in sub-section (*1*) (Table: Sl. No. 3).

(4) It shall not be necessary for a non-resident to furnish a return of his income under section 263(*1*), if—

(a) his total income during the tax year consisted only of income referred to in sub-sections (*1*) (Table: Sl. No. 1) and (Table: Sl. No. 2); and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, as per the provisions of sub-section (*1*), the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

(6) In this section,—

(a) "approved intermediary" means an intermediary which is approved as per a scheme notified by the Central Government; and

(b) "Global Depository Receipts" shall have the meaning assigned to it in section **(***)**193(*4*)(*a*).

Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

210. (*1*) The income-tax payable on total income of an assessee, being a specified fund or Foreign Institutional Investor, which includes income referred to in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income, in respect of securities other than units referred to in section 208.	(a) 20 % in case of Foreign Institutional Investor; (b) 10 % in case of specified fund.
2.	Short-term capital gains (not being short-term capital gains referred to in section 196) arising from the transfer of such securities.	30 %
3.	Short-term capital gains referred to in section 196 arising from the transfer of such securities	20 %
4.	Long-term capital gains (not being long-term capital gains referred to in section 198 arising from the transfer of such securities)	12.5 %
5.	Long-term capital gains referred to in section 198 arising from the transfer of such securities which exceeds ₹ 1,25,000.	12.5 %
6.	Total income as reduced by income referred to against serial numbers 1 to 5.	Income-tax chargeable on such income.

(*2*) In case of specified fund, provisions of this section shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of such non-resident in India) calculated in the manner as prescribed, irrespective of the provisions of sub-section (*1*).

(3) Irrespective of anything contained in sub-section (*1*), where the specified fund—

(a) is investment division of an offshore banking unit as specified in Schedule VI (Table: Sl. No. 1); and

(b) fulfills the conditions referred to in Schedule VI (Note 1),

the provisions of this section shall apply to the extent of income that is attributable to such investment division, calculated in the manner, as prescribed.

(4) Where the gross total income of the specified fund or Foreign Institutional Investor—

(a) consists only of income in respect of securities referred in sub-section (*1*) (Table: Sl. No. 1), no deduction shall be allowed to it under sections 26 to 61 or section 93(*1*)(*a*) or (*e*) or under Chapter VIII;

(b) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1) to (Table: Sl. No. 5),—

(i) the gross total income shall be reduced by the amount of such income; and

(ii) the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced, were the gross total income of the specified fund or Foreign Institutional Investor.

(5) The provisions of section 72(*6*) shall not apply for the computation of capital gains arising out of the transfer of securities referred to in sub-section (*1*) (Table: Sl. No. 2) to (Table: Sl. No. 5).

(6) In this section,—

(a) "Foreign Institutional Investor" means an investor so specified in a notification by the Central Government;

(b) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(c) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(d) "specified fund" shall have the meaning assigned to it in Schedule VI [Note 1]

Tax on non-resident sportsmen or sports associations.

211. (*1*) Where the total income of an assessee,—

(a) being a sportsman (including an athlete), who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(i) participation in India in any game [other than a game the winnings from which are taxable as specified in section 194(*1*) (Table: Sl. No. 1)] or sport; or

(ii) advertisement; or

(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(b) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game, other than a game the winnings from which are taxable as specified in section 194(*1*) (Table: Sl. No. 1) or sport played in India; or

(c) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,

then, the income-tax payable by the assessee shall be the aggregate of amounts mentioned in column C of the Table below:—

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income referred to in clause (*a*) or (*b*) or (*c*).	20 %
2.	Total income as reduced by income referred to in clause (*a*) or (*b*) or (*c*).	Income-tax chargeable on such income.

(2) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in sub-section (*1*).

(3) It shall not be necessary for the assessee to furnish a return of his income under section 263(*1*), if—

(a) his total income during the tax year consisted only of income referred to in sub-section (*1*); and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

Interpretation

212. In sections 213 to 218,—

(a) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(b) "investment income" means any income derived from a foreign exchange asset;

(c) "long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(d) "non-resident Indian" means an individual, who is not a resident and is—

(i) a citizen of India; or

(ii) a person of Indian origin;

(e) "specified asset" means any of the following assets:—

(i) shares in an Indian company; or

(ii) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 2013; or

18 of 2013.

(iii) deposits with an Indian company which is not a private company as defined in the Companies Act, 2013; or

18 of 2013.

(iv) any security of the Central Government as defined in section 2(*c*) of the Public Debt Act, 1944; or

18 of 1944.

(v) such other assets as the Central Government may specify in this behalf by notification.

Special provision for computation of total income of non-residents.

213. (*1*) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(2) In the case of an assessee, being a non-resident Indian, where—

(a) the gross total income consists only of investment income or income by way of long-term capital gains or both then no deduction shall be allowed under Chapter VIII;

(b) the gross total income includes any income referred to in clause (*a*),—

(i) the gross total income shall be reduced by such income; and

(ii) the deductions under Chapter VIII shall be allowed as if the gross total income as so reduced was the gross total income of the assessee.

Tax on investment income and long-term capital gains.

214. The Income-tax payable, on the total income of an assessee, being a non-resident Indian, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income from investment **(**)**.	***Income-tax calculated at*** 20 % ***of such income***
2.	Income from long-term capital gains on specified asset.	***Income-tax calculated at*** 12.5 % ***of such income***
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

Capital gains on transfer of foreign exchange assets not to be charged in certain cases.

215. (*1*) Where, in case of an assessee, being a non-resident Indian,—

(a) any long-term capital gains arises from the transfer of a foreign exchange asset (herein referred as original asset); and

(b) within six months after the date of such transfer, he has invested the whole or any part of the net consideration in any specified asset (herein referred as new asset),

then the capital gains shall be dealt with in the following manner:—

(i) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 67;

(ii) if the cost of the new asset is less than the net consideration in respect of the original asset, then the capital gain computed by the following formula shall not be charged under section 67:—

$$A = B \times \frac{C}{D}$$

Where,

A = the capital gains not to be charges being computed;

B = whole of the capital gain;

C = cost of acquisition of the new asset;

D = net consideration in respect of the original asset.

(2) **(**)** In sub-section (*1*),—

(a) "cost", in relation to any new asset, being a deposit referred to in section 212(*e*)(iii)(*v*), means the amount of such deposit;

(b) "net consideration" in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(3) Where the new asset is transferred or converted (otherwise than by transfer) into money, within three years from date of its acquisition, the capital gain arising from transfer of original asset not so charged under section 67 shall be deemed to be income by way of capital gains of the tax year in which such transfer or conversion takes place relating to capital assets other than short-term capital assets of the tax year in which the new asset is transferred or converted (otherwise than by transfer) into money.

Return of income not to be furnished in certain cases.

216. It shall not be necessary for a non-resident Indian to furnish a return of his income under section 263(*1*), if—

(a) his total income during the tax year consisted only of investment income or income by way of long-term capital gains or both; and

(b) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

Benefit to be available in certain cases even after assessee becomes resident.

217. (**)Where a non-resident Indian in any tax year,—

(a) becomes assessable as a resident in India in a subsequent year; and

(b) furnishes a declaration in writing to the Assessing Officer along with his return of income under section 263 for the tax year for which he is so assessable, to the effect that provisions of sections 212 to 218 shall continue to apply to him in relation to the investment income derived from any foreign exchange asset referred to in section 212(e) other than a share in an Indian company,

then the provisions of sections 212 to 218 shall continue to apply in relation to such income for the tax year and every subsequent year until the transfer or conversion (otherwise than by transfer) of such assets into money.

Provisions not to apply if the assessee so chooses.

218. (*1*) A non-resident Indian may choose not to be governed by the provisions of sections 212 to 217 for any tax year by declaring it in his return of income under section 263 for such tax year, and if he does so,—

(a) the provisions of sections 212 to 217 shall not apply to him for that tax year, and

(b) his total income for that tax year shall be computed and charged to tax according to the other provisions of this Act.

Conversion of an Indian branch of foreign company into subsidiary Indian company.

219. (*1*) Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary Indian company as per the scheme framed by the Reserve Bank of India, then, irrespective of anything contained in this Act and subject to the conditions as notified by the Central Government,—

(a) the capital gains arising from such conversion shall not be chargeable to tax in the tax year in which such conversion takes place; and

(b) the provisions of this Act relating to—

(i) treatment of unabsorbed depreciation, set off or carry forward and set off of losses;

(ii) tax credit in respect of tax paid on deemed income relating to certain companies; and

(iii) computation of income of the foreign company and subsidiary Indian company,

shall apply with such exceptions, modifications and adaptations as specified in that notification.

(2) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (*1*), all the provisions of this Act shall apply to the foreign company and the said subsidiary Indian company without any benefit, exemption or relief under the said sub-section.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted as per the provisions of sub-section (*1*) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under the said sub-section then,—

(a) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment; and

(c) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*8*) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

Foreign company said to be resident in India.

220. (*1*) Where a foreign company is said to be a resident in India in any tax year and such company has not been a resident in India in earlier tax years, then, irrespective of anything in this Act and subject to the conditions as notified by the Central Government in this behalf, the provisions of this Act relating to—

(a) the computation of total income;

(b) treatment of unabsorbed depreciation;

(c) set off or carry forward and set off of losses;

(d) collection and recovery; and

(e) special provisions relating to avoidance of tax,

shall apply with such exceptions, modifications and adaptations as specified in that notification for such tax years;

(2) Where the determination regarding foreign company to be resident in India has been made in the assessment proceedings for any tax year, then, the provisions of sub-section (*1*) shall also apply to any other tax year succeeding such tax year, which ends on or before the date of completion of such assessment proceeding.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted to the foreign company as per the provisions of sub-section (*1*), and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under the said sub-section, then,—

(a) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(b) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment as if the exceptions, modifications and adaptation referred to in sub-section (*1*) did not apply; and

(c) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*8*) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

F.—Special provisions relating to pass-through entities

Tax on income from securitisation trusts.

221. (*1*) Irrespective of anything contained in this Act, where a person being an investor of a securitisation trust, receives any income or any income accrues or arises to him, out of investments made in the securitisation trust, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(2) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the securitisation trust during the tax year.

(3) The income accruing or arising to, or received by, the securitisation trust during a tax year, if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person—

(a) on the last day of the tax year; and

(b) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(4) The person responsible for crediting or making payment of the income on behalf of securitisation trust, and the securitisation trust, shall furnish, within such period, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(5) Any income which has been included in the total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the securitisation trust.

(6) In this section,—

(a) "investor" means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust;

(b) "securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(c) "securitised debt instrument" shall have the same meaning as assigned to it in regulation 2(*1*)(*s*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956; 15 of 1992. 42 of 1956.

(d) "securitisation trust" means a trust, being a—

(i) "special purpose distinct entity" as defined in regulation 2(*1*)(*u*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956 and regulated under the said regulations; or 15 of 1992. 42 of 1956.

(ii) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; or

(iii) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India, 54 of 2002.

which fulfils such conditions, as prescribed;

(e) "security receipt" shall have the same meaning as assigned to it in section 2(*1*)(*zg*) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. 54 of 2002.

Tax on income in case of venture capital undertakings.

222. (*1*) Irrespective of anything contained in any other provision of this Act, where a person, out of investments made in a venture capital company or venture capital fund, receives any income, or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had he made investments directly in the venture capital undertaking.

(2) The person responsible for crediting or making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(3) The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the tax year.

(4) The provisions of Chapter XIX-B shall not apply to the income paid by a venture capital company or venture capital fund under this **(***) section**.

(*5*) The income accruing or arising to or received by the venture capital company or venture capital fund during a tax year from investments made in venture capital undertaking, if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person—

(a) on the last day of the tax year; and

(*b*) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(6) Any income which has been included in total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the venture capital company or the venture capital fund.

(7) Nothing contained in this section shall apply in respect of any income accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in section 224(*10*)(*a*).

(8) For the purposes of this section, "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in Schedule V (Note 4).

Tax on income of unit holder and business trust.

223. (*1*) Irrespective of anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(*2*) Subject to the provisions of sections 196, (**) 197 **and 198,** the total income of a business trust shall be charged to tax at the maximum marginal rate.

(*3*) If in any tax year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in Schedule V (Table: Sl. No. 3) or (Table: Sl. No. 4), then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the tax year.

(*4*) The provisions of sub-section (*1*) shall not apply in respect of any sum referred to in section 92(*2*)(*k*) received by a unit holder from a business trust.

(5) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder, shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner, as

prescribed, giving the details of the nature of the income paid during the tax year and such other details, as prescribed.

Tax on income of investment fund and its unit holders.

224. (*1*) Irrespective of anything contained in any other provision of this Act and subject to the provisions of this section, where a person, being a unit holder of an investment fund, out of investments made in the investment fund, receives any income or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments made by the investment fund been made directly by him.

(2) Where in any tax year, the net result of computation of total income of the investment fund, without giving effect to the provisions of Schedule V (Table: Sl. No. 1), is a loss under any head of income and such loss cannot be or is not wholly set off against income under any other head of income of the said tax year, then out of such loss,—

(a) the loss arising to the investment fund as a result of the computation under the head "Profits and gains of business or profession", if any, shall be—

(i) allowed to be carried forward and it shall be set off by the investment fund as per the provisions of Chapter VII; and

(ii) ignored for the purposes of sub-section (*1*);

(b) the loss other than the loss referred to in clause (*a*), if any, shall also be ignored for the purposes of sub-section (*1*), if such loss has arisen in respect of a unit which has not been held by the unit holder for at least twelve months.

(3) The loss other than the loss under the head "Profits and gains of business or profession", if any, accumulated at the level of investment fund as on the 31st March, 2019, shall be—

(a) deemed to be the loss of a unit holder who held the unit on the 31st March, 2019 in respect of the investments made by him in the investment fund, in the same manner as provided in sub-section (*1*); and

(b) allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in as per the provisions of Chapter VII.

(4) The loss so deemed under sub-section (*3*) shall not be available to the investment fund on or after the 1st April, 2019.

(5) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the investment fund during the tax year subject to the provisions of sub-section (*2*).

(6) The total income of the investment fund shall be charged to tax—

(a) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(b) at maximum marginal rate, in any other case.

(7) The income accruing or arising to, or received by, the investment fund, during a tax year, if not paid or credited to the person referred to in sub-section (*1*), shall subject to the provisions of sub-section (*2*), be deemed to have been credited to the account of the said person on the last day of the tax year in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(8) Any income, which has been included in total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the investment fund.

(9) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(10) In this section,—

(a) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been **granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the —**

15 of 1992. ***(i) Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under Securities and Exchange Board of India Act, 1992; or***

50 of 2019. ***(ii) International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019;***

(b) "trust" means a trust established under the Indian Trusts Act, 1882 or under any other law in force; and

(c) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

G.—Special provisions relating to income of shipping companies

2 of 1882.

Income from business of operating qualifying ships.

225. Irrespective of anything contained in sections 26 to 54, in the case of a company, the income from the business of operating qualifying ships—

(a) may, at its option, be computed as per provisions of this Part; and

(b) such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

Tonnage tax scheme.

226. (1) In this Part, a company shall—

(a) be regarded as operating a ship or inland vessel, as the case may be, if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship or inland vessel, as the case may be, has been chartered in by it in an arrangement such as slot charter, space charter or joint charter; and

(b) not be regarded as operating a ship or inland vessel, as the case may be, which has been chartered out by it on bareboat charter-*cum*-demise terms or on bareboat charter terms for a period exceeding three years.

(2) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(3) The tonnage tax business shall be considered as a separate business distinct from all other activities or business carried on by the company.

(4) The profits referred to in sub-section (*2*) shall be computed separately from the profits and gains from any other business.

(5) The tonnage tax scheme shall apply only if an option to that effect is made as per section 231.

(6) Where a company engaged in the business of operating qualifying ships,—

(a) is not covered under the tonnage tax scheme; or

(b) has not made an option in respect of the tonnage tax scheme as per section 231,

the profits and gains of such company from such business shall be computed as per other provisions of this Act.

(7) Subject to the other provisions of this Part,—

(a) the tonnage income, shall be—

(i) computed as per section 227; and

(ii) deemed to be the profits chargeable under the head "Profits and gains of business or profession"; and

(b) the relevant shipping income referred to in section 228(*1*) shall not be chargeable to tax.

Computation of tonnage income.

227. (*1*) The tonnage income of a tonnage tax company for a tax year shall be the aggregate of the tonnage income of each qualifying ship computed as per sub-sections (*2*) and (*3*).

(2) For the purposes of sub-section (*1*), the tonnage income of each qualifying ship shall be computed as per the following formula:—

TI= DTI x N

where,—

TI = the tonnage income of each qualifying ship;

DTI = the daily tonnage income of each qualifying ship;

N = the number of days, in the tax year, or in part of the tax year in case the ship is operated by the company as a qualifying ship for only part of the tax year.

(3) For the purposes of sub-section (*2*), the daily tonnage income of a qualifying ship having tonnage referred to in column A of the Table below shall be the amount specified in the corresponding entry in column B thereof.

Table

Sl. No.	Qualifying ship having net tonnage	Amount of daily tonnage income
A	B	C
1.	Up to 1,000.	₹ 70 for each 100 tons.
2.	Exceeding 1,000 but not more than 10,000.	₹ 700 *plus* ₹ 53 for each 100 tons exceeding 1,000 tons.
3.	Exceeding 10,000 but not more than 25,000.	₹ 5,470 *plus* ₹ 42 for each 100 tons exceeding 10,000 tons.
4.	Exceeding 25,000.	₹ 11,770 *plus* ₹ 29 for each 100 tons exceeding 25,000 tons.

(4) In this Part, the tonnage shall—

(a) mean the tonnage of a ship or inland vessel, as the case may be, indicated in the certificate referred to in sub-section (*9*); and

(b) include the deemed tonnage, being the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel, computed in the manner, as prescribed.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and if the tonnage so rounded off, as per clause (*a*), is not a multiple of hundred, then, if the last figure in that amount is,—

(a) fifty tons or more, the tonnage shall be increased to the next higher tonnage;

(b) less than fifty tons, the tonnage shall be reduced to the next lower tonnage,

which is a multiple of hundred and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) No deduction or set off shall be allowed in computing the tonnage income under this Part, irrespective of anything contained in any other provision of this Act.

(7) Where a qualifying ship is operated by two or more companies by way of—

(a) joint interest in the ship; or

(b) an agreement for the use of the ship,

and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(8) Subject to the provisions of sub-section (*7*), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

(9) In this Part,—

(a) the tonnage of a ship or inland vessel, as the case may be, shall be determined as per the valid certificate indicating its tonnage;

(b) "valid certificate" means,—

(i) in case of ships registered in India,—

(A) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958;

44 of 1958.

(B) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the said Act;

(ii) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration, where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship;

44 of 1958.

(iii) in case of inland vessel registered in India, a certificate issued under the Inland Vessels Act, 2021.

24 of 2021.

Relevant shipping income and exclusion from book profit.

228. (1) In this Part, the relevant shipping income of a tonnage tax company means—

(a) its profits from core activities referred to in sub-section (*3*); and

(b) its profits from incidental activities referred to in sub-section (*7*).

(2) Where the aggregate of all such incomes specified in sub-section (*1*)(*b*) exceeds 0.25% of the turnover from core activities referred to in sub-section (*3*), such excess shall not form part of the relevant shipping income for the purposes of this Part and shall be taxable under the other provisions of this Act.

(3) The core activities of a tonnage tax company shall be—

(a) its activities from operating qualifying ships; and

(b) other ship-related or inland vessel related activities, as the case may be, as follows:—

(i) shipping contracts in respect of—

(A) earning from pooling arrangements;

(B) contracts of affreightment;

(ii) specific shipping trades, being—

(A) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on-board;

(B) slot charters, space charters, joint charters, feeder services and container box leasing of container shipping.

(4) In sub-section (*3*)(*b*)(*i*),—

(a) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships or inland vessels as the case may be, and sharing earnings or operating profits on the basis of mutually agreed terms; and

(b) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period.

(5) The Central Government, if it considers necessary or expedient so to do, may, by notification, exclude any activity referred to in sub-section 3(*b*) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(6) Every notification issued under this Part shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(7) The incidental activities shall be the activities which are incidental to the core activities and as prescribed for the purpose.

(8) Where a tonnage tax company operates any ship or inland vessels as the case may be, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed under other provisions of this Act.

(9) Where any goods or services held for the purposes of—

(a) tonnage tax business are transferred to any other business carried on by a tonnage tax company; or

(b) any other business carried on by such tonnage tax company are transferred to the tonnage tax business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(*10*) In sub-section (*9*), "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(11) Where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner specified in sub-section (*9*) presents exceptional difficulties, he may compute such income on such reasonable basis as he considers fit.

(12) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Part, take income as may reasonably be deemed to have been derived therefrom.

(*13*) In this Part, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

(14) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(15) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purposes of the tonnage tax business and for the other business.

(16) The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (*1*), shall be excluded from the book profit of the company for the purposes of section 206.

Depreciation and gains relating to tonnage tax assets.

229. (*1*) For the purposes of computing depreciation under section 230(*1*)(*d*), the depreciation for the first tax year of the tonnage tax scheme (herein referred to as the first tax year) shall be computed on the written down value of the qualifying ships as specified under sub-section (*2*).

(2) The written down value of the block of assets, being ships or inland vessels as the case may be, as on the first day of the first tax year, shall be divided in the ratio of the book written down value of the qualifying ships (herein referred to as the qualifying assets) and the book written down value of the non-qualifying ships (herein referred to as the other assets), as per the following formula:—

$$D = A \times \frac{B}{B+C}$$

$$E = A \times \frac{C}{B+C}$$

where,—

D = the written down value of the block of qualifying assets as on the first day of the tax year;

E = the written down value of the block of other assets as on the first day of the tax year;

A = the written down value of the existing block of assets, being ships as on the last day of the immediately preceding tax year;

B = the aggregate of book written down value of qualifying assets as on the last day of the preceding tax year; and

C = the aggregate of the book written down value of other assets as on the last day of the preceding tax year.

(3) The block of qualifying assets as determined under sub-section (*2*) shall constitute a separate block of assets for the purposes of this Part.

(4) Where an asset forming part of a block of,—

(a) qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets as per the following formula:—

$$A = B \times \frac{C}{D}$$

where,—

A = the appropriate portion to be added to the block of the other assets;

B = the written down value of block of qualifying assets as on the first day of the tax year;

C = the book written down value of qualifying asset which begins to be used for purpose other than the tonnage tax business; and

D = the aggregate of book written down value of all the assets forming the block of qualifying assets;

(b) other assets, begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset as per the following formula:—

$$E = F \times \frac{G}{I}$$

where,—

E = the appropriate proportion to be added to the block of qualifying asset;

F = the written down value of block of other assets as on the first day of the tax year;

G = book written down value of the other asset which begins to be used for tonnage tax business; and

I = the aggregate of book written down value of all the assets forming the block of other assets.

(5) For the purposes of computing depreciation under section 230(*1*)(*d*) in respect of an asset mentioned in sub-sections (*4*)(*a*) and (*b*), the depreciation computed for the tax year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

(6) For the removal of doubts, it is hereby declared that for the purposes of this Act, the depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (*2*) had been brought forward from the preceding tax year.

(7) In this section,—

(a) "book written down value" means the written down value as per books of accounts; and

(b) "written down value" means the written down value as calculated for purposes of income-tax.

(8) Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax as per sections 67 and 74, and the capital gains so arising shall be computed as per sections 67 to 81.

(9) For the purposes of computing such profits or gains, as referred to in sub-section (*8*), the provisions of section 74 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

(10) In this section, "written down value of the block of qualifying assets" means the written down value computed as per sub-section (*2*).

Exclusion of deduction, loss, set off etc.,

230. (*1*) Irrespective of anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any tax year (herein referred to as the "relevant tax year") in which it is chargeable to tax as per this Part—

(a) sections 28 to 52 shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant tax years, had been given full effect to for that tax year itself;

(b) no loss referred to in section 108(1) or (2)(a) or 109 or 112(1) or 116(1), in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the tax years when the company is under the tonnage tax scheme;

(c) no deduction shall be allowed under Chapter VIII in relation to the profits and gains from the business of operating qualifying ships; and

(d) in computing the depreciation allowance under section 33, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant tax years.

(2) Section 112 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the tax years when the company is under the tonnage tax scheme.

(3) The losses referred to in sub-section (*2*) shall not be available for set off against any income other than relevant shipping income in any tax year beginning on or after the company exercises its option under section 231.

(4) Any apportionment necessary to determine the losses referred to in sub-section (*2*) shall be made on a reasonable basis.

Method of opting of tonnage tax scheme and validity.

231. (*1*) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner, as prescribed, for such scheme.

(2) A qualifying company may make an application within three months, of the date of its incorporation, or of the date on which it becomes a qualifying company for the first time.

(3) A Unit of an International Financial Services Centre which has availed of deduction under section 147 may make an application within three months from the date on which such deduction ceases.

(4) On receipt of an application for option for tonnage tax scheme under sub-section (*1*), the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he shall pass an order in writing––

(a) approving the option for tonnage tax scheme; or

(b) refusing to approve the option for tonnage tax scheme, if he is not so satisfied,

and a copy of such order shall be sent to the applicant.

(5) No order under sub-section 4(*b*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(6) Every order under sub-section (*4*) shall be passed before the expiry of three months from the end of the quarter in which the application under sub-section (*1*) was received.

(7) Where an order granting approval is passed under sub-section (*4*), the provisions of this Part shall apply from the tax year in which the option for tonnage tax scheme is exercised.

(8) An option for tonnage tax scheme, after it has been approved under sub-section (*4*), shall remain in force for ten years from the date on which such option has been exercised and shall be taken into account from the tax year in which such option is exercised.

(9) An option for tonnage tax scheme shall cease to have effect from the tax year, in which—

(a) the qualifying company ceases to be a qualifying company;

(b) a default is made in complying with the provisions contained in section 232(*1*) to (*20*);

(c) the tonnage tax company is excluded from the tonnage tax scheme under section 234;

(d) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Part may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed as per other provisions of this Act.

(10) An option for tonnage tax scheme approved under sub-section (*4*) may be renewed within one year from the end of the tax year in which the option ceases to have effect.

(11) The provisions of sub-sections (*1*) to (*10*) shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

(12) A qualifying company,—

(a) which on its own, opts out of the tonnage tax scheme; or

(b) which makes a default in complying with the provisions contained in sections 232(*1*) to (*20*); or

(c) whose option has been excluded from tonnage tax scheme in pursuance of an order made under section 234(*4*),

shall not be eligible to opt for tonnage tax scheme for ten years from the date of opting out or default or order.

Certain conditions for applicability of tonnage tax scheme.

232. (*1*) A tonnage tax company shall, subject to and as per the provisions of this section, be required to credit to a reserve account (herein referred to as the Tonnage Tax Reserve Account) an amount, being 20% or more of the book profit derived from the activities referred to in section 228(*1*)(*a*) and (*b*) in each tax year to be utilised in the manner laid down in sub-section (*6*).

(2) In this section, "book profit" shall have the meaning assigned to it in section 206(*2*) so far as it relates to the income derived from the activities referred to in section 228(*1*)(*a*) and (*b*).

(3) Where the company has—

(a) book profit from the business of operating qualifying ships; and

(b) book loss from any other sources,

and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (*1*), the company shall create the reserves to the extent possible in that tax year and the shortfall, if any, shall be added to the reserves required to be created for the following tax year and such shortfall shall be deemed to be part of the reserve requirement of that following tax year.

(4) For the purposes of sub-section (*3*), to the extent the shortfall in creation of reserves during a particular tax year is carried forward to the following tax year under the said sub-section, the company shall be considered as having created sufficient reserves for the first mentioned tax year.

(5) Nothing contained in sub-section (*4*) shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive tax years.

(6) The amount credited to the Tonnage Tax Reserve Account under sub-section (*1*) shall be utilised by the company before the expiry of eight years following the tax year in which the amount was credited—

(a) for acquiring a new ship or new inland vessel, as the case may be, for the purposes of the business of the company; and

(b) until the acquisition of a new ship or new inland vessel, as the case may be, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(7) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (*1*),—

(a) has been utilised for any purpose other than that referred to in sub-section (*6*); or

(b) has not been utilised for the purpose specified in sub-section (*6*)(*a*); or

(c) has been utilised for the purpose of acquiring a new ship or new inland vessel, as the case may be, as specified in sub-section (*6*)(*a*), but ***such*** ***(**)(*\)*** ship or ***(*\)*** inland vessel, as the case may be, is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the tax year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (*1*) shall be taxable under the other provisions of this Act—

(i) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (*b*), in the year immediately following eight years specified in sub-section (*6*); or

(iii) in a case referred to in clause (*c*), in the year in which the sale or transfer took place.

(8) The income so taxable under the other provisions of this Act, referred to in sub-section (*7*), shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(9) Irrespective of anything contained in any other provision of this Part, where the amount credited to the Tonnage Tax Reserve Account as per sub-section (*1*) is less than the minimum amount required to be credited under sub-section (*1*), an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (*1*), shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(10) If the reserve required to be created under sub-section (*1*) is not created for any two consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the failure to create the reserve under sub-section (*1*) had occurred.

(11) In this section, "new ship" or "new inland vessel", as the case may be, includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

(12) A tonnage tax company, after its option has been approved under section 231(*4*), shall comply with the minimum training requirement in respect of trainee officers as per the guidelines made by the Director-General of Shipping and notified by the Central Government.

(13) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping in the form and manner as prescribed, along with the return of income under section 263 to the effect that such company has complied with the minimum training requirement as per the guidelines referred to in sub-section (*12*) for the tax year.

(14) If the minimum training requirement is not complied with for any five consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the fifth consecutive tax year in which the failure to comply with the minimum training requirement as per sub-section (*12*) had occurred.

(15) In the case of every company which has opted for tonnage tax scheme, not more than 49% of the net tonnage of the qualifying ships operated by it during any tax year shall be chartered in.

(16) The proportion of net tonnage referred to in sub-section (*15*) in respect of a tax year shall be calculated based on the average of net tonnage during that tax year.

(17) For the purposes of sub-section (*16*), the average of net tonnage shall be computed in such manner, as prescribed, in consultation with the Director-General of Shipping.

(18) Where the net tonnage of ***(**)*** ships or ***(**)*** inland vessel, as the case may be,

chartered in exceeds the limit under sub-section (*15*) during any tax year, the total income of such company in relation to that tax year shall be computed as if the option for tonnage tax scheme does not have effect for that tax year.

(19) Where the limit under sub-section (*15*) had exceeded in any two consecutive tax years, the option for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the limit had exceeded.

(20) In this section, the term "chartered in" shall exclude a ***(**)*** ship or ***(**)*** inland vessel, as the case may be, chartered in by the company on bareboat charter-cum- demise terms.

(*21*) An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a tax year unless such company—

(a) maintains separate books of account in respect of the business of operating qualifying ships; and

(b) furnishes, before the specified date referred to in sections 63, the report of an accountant, in the prescribed form, duly signed and verified by such accountant.

(22) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Part.

(23) Where a qualifying company continues to operate a ***(**)*** ship or ***(**)*** inland vessel, as the case may be, which temporarily ceases to be a qualifying ship, such ship or inland vessel, as the case may be, shall not be deemed as a qualifying ship for the purposes of this Part.

Amalgamation and demerger.

233. (*1*) Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company, if it is a qualifying company.

(2) Where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under section 231(*1*) within three months from the date of the approval of the scheme of amalgamation.

(3) Where the amalgamating companies are tonnage tax companies, the provisions of this Part shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force.

(4) Where one of the amalgamating companies is a qualifying company as on the 1st October, 2004 and which has not exercised the option for tonnage tax scheme before the 1st January, 2005, the provisions of this Part shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed as per the other provisions of this Act.

(5) Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Part, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period, if it is a qualifying company.

(6) The option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

Avoidance of tax and exclusion from tonnage tax scheme.

234. (*1*) Subject to the provisions of this Part, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section (*1*), a transaction or arrangement shall be considered an abuse, if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(a) a person other than a tonnage tax company; or

(b) a tonnage tax company in respect of its non-tonnage tax activities.

(3) In this section, "tax advantage" includes—

(a) the determination of—

(i) the allowance for any expense or interest; or

(ii) any cost or expense allocated or apportioned,

which has the effect of reducing the income or increasing the loss, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the tax year in which the transaction was entered into; or

(b) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

(4) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (*1*), the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme.

(5) The Assessing Officer shall pass an order under sub-section (*4*), after—

(a) giving an opportunity to the company by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme; and

(b) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner.

(6) The provisions of this section shall not apply where the company satisfies the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Part.

(*7*) Where an order has been passed under sub-section (*4*) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the tax year in which the transaction or arrangement was entered into.

Interpretation.

235. In this Part,—

(a) "bareboat charter" means hiring of a ship or inland vessel, as the case may be, for a stipulated period on terms which give the charterer possession and control of the ship or **(**)** inland vessel, as the case may be, including the right to appoint the master and crew;

(b) "bareboat charter-*cum*-demise" means a bareboat charter where the ownership of the ship or inland vessel, as the case may be, is intended to be transferred after a specified period to the company to whom it has been chartered;

(c) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under section 7(*1*) of the Merchant Shipping Act, 1958;

44 of 1958.

(d) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(e) "fishing vessel" shall have the meaning assigned to it in section 3(*12*) of the Merchant Shipping Act, 1958;

44 of 1958.

(f) "inland vessel" shall have the meaning assigned to it in section 3(*q*) of the Inland Vessels Act, 2021;

24 of 2021.

(g) "pleasure craft" means a ship or inland vessel, as the case may be, of a kind whose primary use is for the purposes of sport or recreation;

(h) "qualifying company" means a company, if—

(i) it is an Indian company;

(ii) the place of effective management of the company is in India;

(iii) it owns at least one qualifying ship; and

(iv) the main object of the company is to carry on the business of operating ships,

and for the purposes of sub-clause (*ii*), "place of effective management of the company" means—

(A) the place where the board of directors of the company or its executive directors, make their decisions; or

(B) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

(i) "qualifying ship" means a ship or inland vessel, as the case may be, if—

(i) it is a seagoing ship or vessel or inland vessel, as the case may be, of fifteen net tonnage or more;

(ii) it is a ship registered under the Merchant Shipping Act, 1958, or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or 407 of said Act or an inland vessel registered under the Inland Vessels Act, 2021, as the case may be; and

44 of 1958.

24 of 2021.

(iii) a valid certificate in respect of such ship or inland vessel, as the case may be, indicating its net tonnage is in force,

but does not include—

(A) a seagoing ship or vessel or inland vessel, as the case may be, if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(B) fishing vessels;

(C) factory ships;

(D) pleasure crafts;

(E) harbour and river ferries;

(F) offshore installations; and

(G) a qualifying ship which is used as a fishing vessel for more than thirty days during a tax year;

(j) "seagoing ship" means a ship, if it is certified as such by the competent authority of any country;

(k) "tonnage income" means the income of a tonnage tax company computed as per the provisions of this Part;

(l) "tonnage tax activities" means the activities referred to in section 228(*3*) and (*7*);

(m) "tonnage tax business" means the business of operating qualifying ships giving rise to relevant shipping income as referred to in section 228(*1*);

(n) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(o) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Part

CHAPTER XIV

TAX ADMINISTRATION

A.—Authorities, jurisdiction and functions

Income-tax authorities.

236. For the purposes of this Act, there shall be the following classes of income-tax authorities:—

(a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(b) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax;

(c) Directors General of Income-tax or Chief Commissioners of Income-tax;

(d) Principal Directors of Income-tax or Principal Commissioners of Income-tax;

(e) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);

(f) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals);

(g) Joint Directors of Income-tax or Joint Commissioners of Income-tax or Joint Commissioners of Income-tax (Appeals);

(h) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax;

(i) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax;

(j) Income-tax Officers;

(k) Tax Recovery Officers; and

(l) Inspectors of Income-tax.

Appointment of income-tax authorities.

237. (*1*) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(2) The Central Government may, subject to the rules and its orders regulating the conditions of service of persons in public services and posts, authorise the Board, or a Principal Director General or Director General, or a Principal Chief Commissioner or Chief Commissioner, or a Principal Director or Director, or a Principal Commissioner or Commissioner, to appoint income-tax authorities below the rank of a Deputy Commissioner or Assistant Commissioner.

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board, may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

Control of income-tax authorities.

238. The Board may, by notification, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as specified in such notification.

Instructions to subordinate authorities.

239. (*1*) The Board may issue such orders, instructions and directions to other income-tax authorities as it considers fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions.

(2) No orders, instructions or directions under sub-section (*1*) shall be issued to—

(a) require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) interfere with the discretion of the Joint Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(3) Without prejudice to the foregoing power, the Board may,—

(a) if it considers necessary or expedient so to do for the proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of section 263, 270, 271, 279, 280, 287, **<u>288,</u>** 298, 398(*3*), 406, 407, **<u>408,</u>** 423, 424, 425, 427, 428, 439, 448, 449 or otherwise), general or special orders in respect of any class of incomes or class of cases,—

(i) setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties; and

(ii) any such order may, if the Board is of the opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) if it considers desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, not being a Joint Commissioner (Appeals) or a Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified in this Act for making such application or claim and deal with the same on merits as per law;

(c) if it considers desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or VIII, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions:—

(i) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(ii) the assessee has complied with such requirement before the completion of assessment in relation to the tax year in which such deduction is claimed.

(4) The Central Government shall cause every order issued under sub-section (*3*)(*c*) to be laid before each House of Parliament.

Taxpayer's Charter.

240. The Board shall adopt and declare a Charter for Taxpayers and issue such orders, instructions, directions or guidelines to other income-tax authorities as it considers fit for the administration of such Charter.

Jurisdiction of income-tax authorities.

241. (*1*) The income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or assigned to, such authorities under this Act as per such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(2) Any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise the powers and perform the functions of an income-tax authority lower in rank and any such direction issued by the Board shall be deemed to be a direction issued under sub-section (*1*).

(3) The directions of the Board under sub-section (*1*) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(4) In issuing the directions or orders referred to in sub-sections (*1*), (*2*) and (*3*), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria:—

(a) territorial area;

(b) persons or classes of persons;

(c) incomes or classes of income; and

(d) cases or classes of cases.

(5) Without prejudice to sub-sections (*1*), (*2*) and (*3*), the Board may, by general or special order, subject to such conditions, restrictions or limitations as specified therein—

(a) authorise any Principal Director General or Director General or Principal Director or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the specified income-tax authority to issue orders in writing that the powers and functions assigned to the Assessing Officer under this Act in respect of any specified area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director.

(6) Where any order is made under sub-section (*5*)(*b*), references in any other provision of this Act or in any rule made thereunder, to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(7) The directions and orders referred to in sub-sections (*1*), (*2*) and (*3*) may, wherever considered necessary or appropriate for the proper management of work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, and—

(a) where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct; and

(b) references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(8) Irrespective of anything contained in any direction or order issued under this section, or in section 242, the Board may, by notification, issue any direction for the purposes of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons.

(9) The income-tax authority exercising and performing the powers and functions in relation to the person or class of persons referred to in sub-section (8) shall be such authority as specified in the notification issued under that sub-section.

Jurisdiction of Assessing Officers.

242. (*1*) Where an Assessing Officer has been vested with jurisdiction over any area by virtue of any direction or order issued under section 241(*1*) or (*2*) or (*3*), he shall have jurisdiction within the limits of such area,—

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situated within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situated within the area; and

(b) in respect of any other person residing within the area.

(*2*) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the specified income-tax authority.

(3) Where under this section, a question arises relating to areas within the jurisdiction of different specified income-tax authorities, the question shall be determined—

(a) by the specified income-tax authorities concerned; or

(b) if they are not in agreement, by the Board or by such specified income-tax authority as the Board may, by notification, specify.

(4) No person shall call in question the jurisdiction of an Assessing Officer,—

(a) where he has made a return under section 263(*1*), after the expiry of one month from the date on which he was served with a notice under section 268(*1*) or 270(*8*) or after the completion of the assessment, whichever is earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under section 268(*1*) or 280(*2*) for the making of the return or by the notice under section 271(*2*) to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;

(c) where an action has been taken under section 247 or 248, after the expiry of one month from the date on which he was served with a notice under section 153C(*2*) of the Income-tax Act, 1961 or section 294(*1*)(*a*) or after the completion of the assessment, whichever is earlier.

(5) Subject to the provisions of sub-section (*4*), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (*2*) or (*3*) before the assessment is made.

(6) Irrespective of anything contained in this section or in any direction or order issued under section 241, every Assessing Officer shall have all the powers conferred under this Act, on an Assessing Officer in respect of the income, **if any,** accruing or arising or received within the area **(**)** over which he has been vested with jurisdiction by virtue of the directions or orders issued under section 241(*1*) or (*2*) or (*3*) or **(**)** (4).

Power to transfer cases.

243. (*1*) The specified income-tax authority may transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) subordinate to him.

(2) If the Assessing Officer or Assessing Officers, from whom the case is to be transferred and the Assessing Officer or Assessing Officers, to whom the case is to be transferred are not subordinate to the same specified income-tax authority, and the concerned specified income-tax authorities—

(a) are in agreement, then the specified income-tax authority from whose jurisdiction the case is to be transferred may pass the order;

(b) are not in agreement, the order transferring the case may be passed by the Board or any such specified income-tax authority as the Board may, by notification, specify.

(3) The order of transfer under sub-section (*1*) or (*2*) may be passed by the specified income-tax authority after giving the assessee a reasonable opportunity of being heard wherever it is possible to do so and after recording his reasons therefor.

(2) Nothing in sub-section (*1*) or (*2*) or (*3*) shall be considered to require any opportunity of being heard to be given, where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(3) The transfer of a case under sub-section (*1*) or (*2*) may be made at any stage of the proceedings, and it shall not be necessary to re-issue any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

(4) For the purposes of section 241 and this section, "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year, which may—

(a) be pending on the date of that order or direction; or

(*b*) have been completed on or before such date; or

(*c*) be commenced after the date of such order or direction in respect of any year.

(5) For the purposes of sections 241, 242 and this section, "specified income-tax authority" means the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Change of incumbent of an office.

244. (*1*) Whenever, in respect of any proceeding under this Act, an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

(2) Before the proceeding referred to in sub-section (*1*) is so continued, the assessee concerned may demand that—

(a) the previous proceeding or any part thereof be reopened; or

(*b*) he be reheard before any order of assessment is passed against him.

Faceless jurisdiction of income-tax authorities.

245. (*1*) The exercise of following powers for the purposes mentioned in sub-section (*2*) shall be as per a Scheme made by the Central Government:—

(a) all or any of the powers and performance of all or any of the functions conferred on, or, assigned to, income-tax authorities under this Act referred to in section 241; or

(b) vesting the jurisdiction with the Assessing Officer under section 242; or

(c) power to transfer cases under section 243; or

(d) exercise of jurisdiction in case of change of incumbency under section 244.

(2) The purposes of the Scheme referred to in sub-section (*1*) shall be to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, with dynamic jurisdiction.

(3) The Central Government may, for the purpose of giving effect to the Scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in such notification.

(4) Every notification issued under sub-sections (*1*) and (*3*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

B.—Powers

Power regarding discovery, production of evidence, etc.

246. (1) The Assessing Officer, Joint Commissioner, Joint Commissioner (Appeals), Commissioner (Appeals), Commissioner or Principal Commissioner, or Chief Commissioner or Principal Chief Commissioner and the Dispute Resolution Panel referred to in section 275(*17*)(*a*), shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

(a) discovery and inspection; 5 of 1908.

(b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(c) compelling the production of books of account and other documents; and

(d) issuing commissions.

(2) The powers conferred under sub-section (*1*) may also be exercised, in respect of any person or class of persons ***within his jurisdiction***, even when there are no proceedings pending with respect to such person or class of persons, by the following income-tax authorities:—

(a) any income-tax authority (not below the rank of Assistant Commissioner of Income-tax) notified by the Board, for the purposes of making any inquiry or investigation in relation to an agreement referred to in section 159;

(b) the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director for the purposes of making any inquiry or investigation, if he has the reason to suspect that any income has been concealed, or is likely to be concealed; and

(c) the authorised officer referred to in section 247(*1*), before taking action under section 247(1)**(***)**(*i*) to (*viii*), or during the course of such action.

(3) Any income-tax authority exercising the powers referred to in sub-sections (*1*) and (*2*) may, subject to the rules made in this behalf, impound any books of account or other documents produced before it in any proceeding under this Act.

(4) The Assessing Officer or the Assistant Director shall record the reasons for impounding any books of account or other documents under sub-section (*3*) and may retain such impounded books of account or other documents up to fifteen days (exclusive of holidays), or for such further period, with the prior sanction of the approving authority.

(5) The income-tax authority exercising the powers referred to in sub-sections (*1*) and (*2*) shall have the same powers as vested in a court under the Code of Civil Procedure, 1908, when trying a suit in a respect of the following matters :—

(a) **discovery and inspection;**

(b) **enforcing the attendance of any person, including any officer of a banking company and examining him on oath;**

(c) **compelling the production of books of account and other documents; and**

(d) **issuing commissions.**

5 of 1908.

Search and seizure.

247. (*1*) Where the competent authority, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a summons under section 246(*1*) or a notice under section 268(*1*),—

(i) was issued to produce, or cause to be produced, any books of account or other documents or any information stored in any electronic media or a computer system, has omitted or failed to produce, or cause to be produced, such books of account or other documents or such information as required by such summons or notice; or

(ii) has been issued or might be issued, will not, or would not, produce or cause to be produced, any books of account or other documents or any information stored in an electronic media or a computer system which will be useful for, or relevant to, any proceedings under this Act; or

(b) any person is in possession of any asset or information in relation to any asset and such asset represents either wholly or partly, income or property which has not been, or would not be, disclosed, for the purposes of this Act, or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, (herein referred to as the undisclosed income or property in this section),

22 of 2015.

then the approving authority may authorise any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner, so authorised, may authorise any Assistant Director or Assistant Commissioner or Income-tax Officer, hereinafter referred to as the authorised officer to—

(i) enter and search any building, place, vessel, vehicle, aircraft where he has reason to suspect that such assets, books of account, other documents, or any information stored in an electronic media or computer systems are kept;

(ii) require any person, who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record [as defined in section 2(*1*)(*ha*), (*i*), (*j*), (*k*), (*l*), (*r*), and (*t*) of the Information Technology Act, 2000], on computer systems, any information stored in an electronic media or computer systems, to afford the authorised officer with such reasonable technical and other assistance (including access code, by whatever name called) as may be necessary to enable the authorised officer to inspect any information, electronic records and communication or data contained in or available on such computer systems;

21 of 2000.

(iii) break open the lock of any door, box, locker, safe, almirah, or other receptacle for exercising the powers conferred by clause (*i*), to enter and search any building, place, etc., where the keys thereof or the access to such building, place, etc., is not available, or gain access by overriding the access code to any said computer system, or virtual digital space, where the access code thereof is not available;

(iv) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, computer systems or asset;

(v) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom and also from computer systems;

(vi) make a note or an inventory of any such asset, and stock-in-trade of the business, found as a result of such search;

(vii) seize any such books of account, other documents, computer systems, or asset (other than stock-in-trade of the business), found as a result of such search;

(viii) serve an order of deemed seizure, on the owner or the person who is in immediate possession or control thereof, of any valuable article or thing, which is not stock-in-trade, not to remove, part with or otherwise deal with it, except with the previous permission of the authorised officer, if it is not possible or practicable to take physical possession or removal to a safe place of such article or thing, due to its volume, weight, or other physical characteristics or it being of a dangerous nature.

(2) If any building, place, vessel, vehicle or aircraft referred to in sub-section (*1*)(*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such income-tax authority has no jurisdiction over the person referred to in sub-section (*1*)(*a*) or(*b*), then, irrespective of the fact that he has no jurisdiction, it shall be competent for him to exercise the powers under sub-section (*1*), where he has reason to believe that any delay in getting the authorisation from the income-tax authority having jurisdiction over such person may be prejudicial to the interests of the revenue.

(3) If any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, or any information stored in an electronic media or computer systems, or asset in respect of which an officer has been authorised by the competent authority to take action under sub-section (*1*)(*i*) to (*viii*) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (*1*), then such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, irrespective of anything contained in section 241, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

(4) The authorised officer may, where it is not practicable to seize, any such books of account, other documents, computer systems, asset, bank locker, bank account, for reasons other than deemed seizure under of sub-section (*1*) (*viii*),—

(a) serve an order on the owner or the person who is in immediate possession or control thereof, not to remove, part with or otherwise deal with it except with the previous permission of such officer and take such steps as may be necessary for ensuring compliance with the order; and

(b) such order shall not remain in force for a period exceeding sixty days from the date of the order and serving of such order shall not be deemed to be seizure of such books of account, other documents or assets under sub-section (*1*)(vii),

(5) The authorised officer may requisition the services of—

(a) any police officer or any officer of the Central Government, or of both; or

(b) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, as per **(**)** such procedure, as prescribed,

to assist him for all or any of the purposes specified in sub-sections (*1*) and (*3*) and it shall be the duty of every such officer or person or entity to comply with such requisition.

(6) The authorised officer may, during the course of any search or seizure, examine on oath any person who is found to be in possession or control or access holder of any computer systems, books of account, other documents or asset, or any other person who is present in the premises or is being searched, and—

(a) any statement made by the such person, during such examination may thereafter be used in evidence in any proceeding under this Act; and

(b) the examination of any such person may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under this Act.

(7) Where any books of account (in physical form or electronic form), other documents or asset, is found in the possession or control of any person in the course of a search, it may be presumed—

(a) that such books of account, computer systems, virtual digital space, other documents or asset, belong or belongs to such person;

(b) that the contents of such books of account, other documents, electronic content, records or communication found on such computer systems or virtual digital space, are true;

(c) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person; and

(d) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested, and that the electronic records, data, communication, and information exchange carried out using such electronic devices is presumed to be exchanged between the parties thereto.

(8) The authorised officer may, by order in writing, provisionally attach any property belonging to the assessee, during the course of the search or seizure, or within sixty days from the date of execution of the last of the authorisations for the search and such provisional attachment shall—

(a) be made, if the authorised officer is satisfied, after recording the reasons in writing, that it is necessary to do so in the interest of the revenue, with the prior approval of Principal Director General or Director General or the Principal Director or Director;

(b) be valid for six months from the end of the month in which the order of provisional attachment is made, and the rules prescribed as referred to in section 413 shall, *mutatis mutandis*, apply to such provisional attachment.

(9) The authorised officer may, during the course of the search or seizure, or within sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer, or any person registered as a **valuer** under section 514, or any person or entity registered by or under any law **(**) in force**, **as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, *in accordance with the procedure, as may be prescribed in this regard,*** requiring him to—

(a) estimate the fair market value of the property in the manner, as prescribed; and

(b) submit a report of the estimate to the authorised officer or the Assessing Officer, within sixty days from the date of receipt of such reference.

(10) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 relating to searches and seizure shall apply, so far as may be, to search and seizure under this section. 46 of 2023.

(11) The Board may make rules in relation to any search or seizure under this section including providing for the procedure to be followed by the authorised officer—

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available; and

(b) for ensuring safe custody of any books of account or other documents or assets seized.

Powers to requisition.

248. (*1*) Where the approving authority, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a summons under section 246(*1*), or notice under section 268(*1*) was issued to produce, or cause to be produced, any books of account or other documents or any information stored in an electronic media or a computer systems has omitted or failed to produce, or cause to be produced, such books of account or other documents, or any information stored in an electronic media or a computer systems as required by such summons or notice and the said books of account or other documents or such electronic media or computer systems have been taken into custody by any officer or authority under any other law in force; or

(b) any books of account or other documents or any information stored in an electronic media or a computer systems will be useful for, or relevant to, any proceeding under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents or any information stored in an electronic media or a computer system on the return of such books of account or other documents or such electronic media or computer system by any officer or authority by whom or which such books of account or other documents or such electronic media or computer system have been taken into custody under any other law in force; or

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law in force,

then, the approving authority may authorise any, Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer (hereinafter in this section and in section 489(*2*) referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or (b) or (*c*), to deliver such assets or books of account, other documents or such electronic media or computer system to the requisitioning officer.

(2) On a requisition being made under sub-section (*1*), the officer or authority referred to in clause (*a*) or (*b*) or (*c*), of that sub-section, shall deliver such assets or books of account or other documents or electronic media or computer system to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(3) Where any assets or books of account or other documents or electronic media or computer system have been delivered to the requisitioning officer, the provisions of sections 247(*7*) to (*11*), 250 and 251shall, so far as may be, apply as

if such books of account or other documents or electronic media or computer system or assets had been seized under section 247 by the requisitioning officer from the custody of the person referred to in sub-section (*1*) (*a*) or (*b*) or (*c*), and as if for the words "the authorised officer", occurring in any of the aforesaid sections 247(*7*) to (*11*), 250and 251, the words "the requisitioning officer" were substituted.

Reasons not to be disclosed.

249. The reason to believe or reason to suspect, as referred to in section 247 or 248, recorded by the income-tax authority shall not be disclosed to any person or authority or the Appellate Tribunal.

Application of seized or requisitioned assets.

250. (*1*) The Assessing Officer may recover the tax liability (including penalty or interest payable other than advance tax) out of the assets seized under section 247 or requisitioned under section 248, and such liability shall be the aggregate of—

(a) any existing liability under this Act, or under the Income-tax Act, 1961 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;

43 of 1961.

22 of 2015.

(b) any liability determined under the Acts referred to in clause (*a*), up to the date of completion of the assessment or reassessment or recomputation in consequence to the search or the requisition;

(c) any liability in respect of which such person is in default or deemed to be in default under this Act or under the Income-tax Act, 1961, determined on or after the completion of the assessment or reassessment or recomputation in consequence of the search or the requisition, and till the date of release of the assets; and

43 of 1961.

(d) any liability arising on an application made before the Interim Board of Settlement under section 245C(*1*) of the Income-tax Act, 1961.

43 of 1961.

(2) The Assessing Officer may release the assets seized or portion of such asset to the person from whose custody the assets were seized, on an application made by the person concerned within thirty days from the end of the month in which the asset was seized, after fulfilment of the following requirements:—

(a) satisfying himself about the nature and source of acquisition of any such asset;

(b) recovering any existing liability referred to in sub-section (*1*);

(c) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

(3) The assets referred to in sub-section (*2*) shall be released within one hundred and twenty days from the date on which the last of the authorisations for the search or requisition was executed.

(4) If the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in sub-section (*1*) and the assessee shall be discharged of such liability to the extent of the money so applied.

(5) The assets, other than money, may also be applied for discharge of liabilities referred to in sub-section (*1*) as remains undischarged and shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or Tax Recovery Officer under authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the recovery of any liability out of such assets shall be effected in the manner as prescribed.

(6) The mode of recovery of liabilities under sub-section (*1*) shall not preclude the recovery of liabilities aforesaid by any other mode laid down in this Act.

(7) Any assets or proceeds thereof, which remain after the liabilities referred to in sub-section (*1*) are discharged shall be forthwith made over or paid to the concerned person.

(8) The Central Government shall pay simple interest at the rate of 0.5% for every month or part of a month for the period on the amount determined in accordance with the following formula:—

(A-B)+(C-D)

where —

A = the aggregate amount of money seized under section 247 or requisitioned under section 248;

B = the amount of money, if any, released under sub-section (*2*);

C = the proceeds, if any, of the assets sold towards the discharge of the liability under sub-section (*1*); and

D = the aggregate amount required to meet the liabilities referred to in sub-section (*1*).

(9) The interest referred to in sub-section (*8*) shall run from the date immediately following the expiry of one hundred and twenty days from the date on which the last of the authorisations for the search under section 247 or requisition under section 248, was executed to the date of completion of the assessment or reassessment or recomputation.

Copying, extraction, retention and release of books of account and documents seized or requisitioned.

251. (*1*) Where, the authorised officer, referred to in section 247(*1*)(*b*) has no jurisdiction over the person from whom the assets or books of account or other documents or electronic media or computer system were seized or requisitioned under section 247(*1*) or 248, he shall hand over the seized or requisitioned assets or books of account or other documents or electronic media or computer system to the Assessing Officer having jurisdiction over such person and such Assessing Officer thereupon shall exercise the powers under sub-sections (*2*) to (*4*).

(2) The authorised officer or the Assessing Officer referred in sub-section (*1*), shall, on an application made by the person referred to therein, allow him to make copies or take extracts from, the material seized or requisitioned, at such place and time as appointed, and in the presence of a person empowered by such officer in this behalf.

(3) The authorised officer may—

(a) retain the material seized or requisitioned, under section 247 or 248, up to one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made;

(b) retain such material seized or requisitioned, beyond the period specified in clause (*a*), after recording reasons in writing and obtaining approval from the approving authority.

(4) The approving authority shall not allow the retention of material seized or requisitioned, beyond thirty days from the date on which all the proceedings under this Act in respect of the years for which the material seized or requisitioned are relevant, are completed.

(5) If a person legally entitled to the material seized or requisitioned under section 247(*1*) or section 248, objects for any reason, to the approval given by approving authority under sub-section (*3*)(*b*), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the material seized or requisitioned and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

Power to call for information.

252. (*1*) The Assessing Officer, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of this Act, require any—

(a) person, including a banking company or any officer thereof, to furnish, within such time, requisite information or to furnish statements of account and affairs verified in such manner specified by such authority, giving such information in relation to such matters as, in the opinion of such authority, will be useful for, or relevant to, any enquiry or proceedings under this Act;

(b) firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(c) Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(d) person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(e) assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any tax year, rent, interest, commission, royalty or brokerage, or any annuity ***(not being any annuity taxable under the head "Salaries")***, **(**)** amounting to more than ten thousand rupees, or such higher amount as prescribed, together with particulars of all such payments made;

(f) dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts.

(2) The powers conferred under sub-section (*1*)(*a*) may also be exercised by the competent authority or the Assistant Director.

(3) The powers under sub-section (*1*)—

(a) shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Assistant Director, without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner or Commissioner, in a case where no proceeding is pending.

(b) may be exercised by an income-tax authority notified under section 246(*2*)(*a*), for the purposes of an agreement referred to in section 159, even if no proceedings are pending before it or any other income-tax authority.

Powers of survey.

253. (*1*) Irrespective of anything contained in any other provision of this Act, an income-tax authority may enter any place at which a business or profession, or activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, where such place—

(a) is within the limits of the area assigned to such authority; or

(b) is occupied by any person in respect of whom such authority exercises jurisdiction; or

(c) in respect of which such authority is authorised for the purposes of this section by income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,

and, upon entry into such a place, may require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—

(i) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents, or computer system, or any other material connected with such system including virtual digital space, as may be required and which may be available at such place;

(ii) to provide the necessary facility to check or verify the asset, stock, which may be found therein; and

(iii) to furnish such information as such authority may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

(2) For the purposes of this section, a place where a business or profession, or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on such business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing or computer system relating to such business or profession or activity for charitable purpose, are or is kept.

(3) An income-tax authority may enter any place of business or profession or activity for charitable purpose referred to in sub-section (*1*), only during the hours at which such place is open for the conduct of business or profession or activity for charitable purpose and, in the case of any other place, only after sunrise and before sunset.

(4) An income-tax authority acting under this section may, for the purposes of verifying that tax has been deducted or collected at source as per the provisions of Chapter XIX-B of this Act, after sunrise and before sunset, enter—

(a) any office, or any other place where business or profession or activity for charitable purpose is carried on, within the limits of the area assigned to such authority; or

(b) any place in respect of which such authority is authorised for the purposes of this section by an income-tax authority who is assigned the area within which such place is situated or where books of account or documents are kept,

and on entry to such office or place, the income-tax authority may require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work—

(i) to provide the necessary facility to inspect such books of account or other documents, and access to electronic media or computer system, or virtual digital space, as may be required; and

(ii) to furnish such information as may be required in relation to such matter.

(5) An income-tax authority acting under this section may—

(a) place marks of identification on the books of account or other documents inspected by such authority and make or cause to be made extracts or copies therefrom or from electronic media or computer system;

(b) record the statement of any person on oath which may be useful for, or relevant to, any proceeding under this Act;

(c) impound and retain in custody any books of account or other documents inspected by it, after recording reasons for doing so, for a period—

(i) of fifteen days (exclusive of holidays); or

(ii) exceeding fifteen days (exclusive of holidays) with the prior approval of the approving authority;

(d) make an inventory of any asset or stock checked or verified by such authority.

(6) The income-tax authority acting under sub-section (*4*) shall only undertake the actions referred under sub-sections (*5*)(*a*) and (*5*)(*b*).

(7) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein it has entered, any asset or stock.

(8) The income-tax authority having regard to the nature and scale of expenditure incurred, for the purposes of verifying the expenditure made by the person in connection with any function, ceremony or event, if it is of the opinion that it is necessary and expedient to do so, after such function, ceremony or event, may—

(a) require the person by whom such expenditure has been incurred or any other person who is likely to possess the information regarding such expenditure, to furnish such information which may be useful for, or relevant to, any proceeding under this Act;

(b) record the statements of the person or any other person on oath in this behalf; and

(c) any statement so recorded may thereafter be used as evidence in any proceeding under this Act.

(9) If a person is required to provide facility to the income-tax authority to inspect books of account or other documents in any form or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded, either refuses or evades to do so, the income-tax authority shall have all the powers under section 246(*1*) for enforcing compliance with the requirement.

(10) The action under this section shall be taken by an income-tax authority with the prior approval of the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner.

(11) In this section, "income-tax authority" means—

(a) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and

(*b*) includes an Inspector of Income-tax, for the purposes of sub-sections, (*1*)(*i*), (*5*)(*a*) and (*8*),

who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as specified by the Board.

Power to collect certain information.

254. (*1*) Irrespective of anything contained in any other provision of this Act, an income-tax authority may, for the purposes of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—

(a) any building or place within the limits of the area assigned to such authority; or

(b) any building or place occupied by any person in respect of whom such authority exercises jurisdiction,

at which a business or profession is carried on, regardless of the fact that such place be the principal place or not of such business or profession and require any proprietor or employee or any other person, who may at that time and place, be attending in any manner to, or helping in, or carrying on of such business or profession, to furnish such information as prescribed.

(2) The income-tax authority may enter any place of business or profession referred to in sub-section (*1*) only during the hours at which such place is open for the conduct of business or profession.

(3) The income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein it has entered, any books of account or other documents or any cash or stock or other valuable article or thing.

(4) In this section, "income-tax authority" means—

(a) a Joint Commissioner, or a Joint Director or an Assistant Director or an Assessing Officer; and

(b) an Inspector of Income-tax, authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

Power to inspect registers of companies.

255. The Assessing Officer, assessment unit, verification unit, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals), or any person subordinate thereof and authorised in writing in this behalf by such officer or authority, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

Power of competent authority.

256. The competent authority shall be competent to make any enquiry under this Act, and for this purpose, shall have all the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

Proceedings before income-tax authorities to be judicial proceedings.

257. (*1*) Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

(*2*) Every income-tax authority shall be deemed to be a Civil Court for the purposes of section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023. 46 of 2023.

Disclosure of information relating to assessees.

258. (*1*) The Board or any other income-tax authority specified by it by an order in this behalf, may furnish or cause to be furnished to—

(a) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or dealings in foreign exchange as defined in section 2(*n*) of the Foreign Exchange Management Act, 1999; or

42 of 1999.

(b) such officer, authority or body performing functions under any other law, if in the opinion of the Central Government it is necessary so to do in the public interest, as it may specify by notification in this behalf,

any such information received or obtained by any income-tax authority in the performance of its functions under this Act, as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body, to perform his or its functions under that law.

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may furnish or cause to be furnished to a person, the information relating to any assessee received or obtained by any income-tax authority in the performance of his functions under this Act,—

(a) on an application made by such person to the aforesaid authorities in the prescribed form and on being satisfied that it is in the public interest so to do; and

(b) the decision of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf, shall be final and shall not be called in question in any court of law.

(3) Irrespective of anything contained in sub-section (*1*) or (*2*) or any other law in force, the Central Government may, having regard to the practices and usages, customary or any other relevant factors, by notification, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees except to such authorities as specified in that notification.

Power to call for information by prescribed income-tax authority.

259. (*1*) For the purposes of verification of information in the possession of the prescribed income-tax authority, such authority may issue a notice requiring any person to furnish any information as may be useful for, or relevant to, any inquiry or proceeding under this Act in such form and manner and within such time, as specified in such notice.

(*2*) The prescribed income-tax authority may process and utilise such information and document received by him as per the scheme notified under section 260.

Faceless collection of information.

260. (*1*) The Central Government may make a scheme, by notification, for the purposes of calling for information under section 252, collecting certain information under section 254, or calling for information by prescribed income-tax authority under section 259, or exercise of power to inspect register of companies under section 255, or exercise of power of Assessing Officer under section 256 so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based exercise of powers, including to call for, or collect, or process, or utilise, the information, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to this scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(3) Every notification issued under sub-sections (*1*) and (*2*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Interpretation.

261. For the purposes of this Chapter, the expressions—

(a) "approving authority" means—

(i) the Principal Director General or the Director General; or

(ii) the Principal Chief Commissioner or the Chief Commissioner; or

(iii) the Principal Director or the Director; or

(iv) the Principal Commissioner or the Commissioner;

(b) "asset" includes any money, bullion, jewellery or other valuable article or thing, held in physical or virtual form;

(c) "authorised officer" means—

(i) the Joint Director or the Additional Director;

(ii) the Joint Commissioner or the Additional Commissioner;

(iii) the Assistant Director or the Deputy Director;

(iv) the Assistant Commissioner or the Deputy Commissioner; or

(v) the Income-tax Officer or the Tax Recovery Officer;

(d) "competent authority" means—

(i) the Principal Director General or the Director General; or

(ii) the Principal Chief Commissioner or the Chief Commissioner; o

(iii) the Principal Director or the Director; or

(iv) the Principal Commissioner or the Commissioner; or

(v) the Joint Director or the Additional Director; or

(vi) the Joint Commissioner or the Additional Commissioner;

(e) "computer system" means computers, computer systems, computer networks, computer resources, communication devices, digital or electronic data storage devices, used on stand-alone mode or part of a computer system, linked through a network, or utilised through intermediaries for information creation or processing or storage or exchange, and includes the remote server or cloud server or virtual digital space;

(f) "date on which the last of the authorisations for search was executed" means—

(i) in the case of search, the date of conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(ii) in the case of requisition under section 248, the date of actual receipt of the books of account or other documents or assets by the requisitioning officer;

(g) "material seized" means books of account or other documents or digital data storage devices, computer systems, and extracts seized from a person during the course of search under section 247 or requisitioned under section 248, and includes seizure of backup taken from any specialised programs like tally software, excel sheets, word files and all electronic records including data and information in the electronic form containing figures and any other relevant noting, and shall be construed to mean as book of accounts maintained by the said person;

(h) "proceeding" means any proceeding in respect of any year, whether under the Income-tax Act, 1961or under this Act, which may be pending on the date on which a search under section 247 or requisition under section 248 is authorised or powers under section 253 are exercised, as the case may be, or which may have been completed on or before such date and includes all proceedings under this Act or the Income-tax Act, 1961which may be commenced after such date in respect of any year; 43 of 1961. 43 of 1961.

(i) "virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital realm that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet, worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes—

(i) email servers;

(ii) social media account;

(iii) online investment account, trading account, banking account, etc.;

(iv) any website used for storing details of ownership of any asset;

(v) remote server or cloud servers;

(vi) digital application platforms; and

(vii) any other space of similar nature.

CHAPTER XV

RETURN OF INCOME

A.—Allotment of Permanent Account Number

262.(*1*) Every person who has not been allotted a Permanent Account Number shall, within such time as prescribed, apply to the Assessing Officer for its allotment if he fulfils any of the following conditions:— Permanent Account Number.

(a) his total income or the total income of any other person for which he is assessable under this Act during any tax year exceeded the maximum amount not chargeable to income-tax;

(b) he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any tax year;

(c) he is required to furnish a return of income under section 263 for any tax year; or

(d) he is a resident, other than an individual, which enters into a financial transaction aggregating to two lakh fifty thousand rupees or more in a tax year; or

(e) he is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (*d*) or any person competent to act on behalf of the person referred to in clause (*d*).

(2) Any person, not covered under sub-section (*1*) may apply to the Assessing Officer for the allotment of a Permanent Account Number after which the Assessing Officer shall allot a Permanent Account Number to such person.

(3) Every person shall quote Permanent Account Number in all his returns to, or correspondence with, any income-tax authority and in all challans for the payment of any sum due under this Act.

(4) Every person shall intimate the Assessing Officer of any change in his address or in the name and nature of his business on the basis of which the Permanent Account Number was allotted to him.

(5) Every person who is eligible to obtain Aadhaar number shall quote such number in the application form for allotment of Permanent Account Number and in the return of income.

(*6*)(*a*) Every person who has been allotted Permanent Account Number and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the prescribed income-tax authority in such form and manner, as prescribed;

(*b*) if a person fails to intimate his Aadhaar number as per clause (*a*), the Permanent Account Number allotted to that person shall be made inoperative in such manner as prescribed.

(7) Every person who is required to furnish or intimate or quote his Permanent Account Number under this Act, and who—

(a) has not been allotted a Permanent Account Number but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number *in lieu* of the Permanent Account Number, and such person shall be allotted a Permanent Account Number in the manner, as prescribed;

(b) has been allotted a Permanent Account Number, and who has intimated his Aadhaar number as per sub-section (*6*) may furnish or intimate or quote his Aadhaar number *in lieu* of the Permanent Account Number.

(8) A person who has already been allotted a Permanent Account Number cannot apply, obtain or possess another Permanent Account Number.

(*9*)(*a*) Every person entering into such transaction, as prescribed, shall quote his Permanent Account Number or Aadhaar number, in the documents pertaining to such transactions and also authenticate such Permanent Account Number or Aadhaar number, in the manner, as prescribed;

(*b*) every person receiving any document relating to the transactions referred to in clause (*a*), shall ensure that Permanent Account Number or Aadhaar number, has been duly quoted in such document and that such Permanent Account Number or Aadhaar number is authenticated as prescribed.

(10) The Board may make rules providing for—

(a) the form, manner and time in which an application may be made for the allotment of Permanent Account Number and the particulars which such application shall contain;

(b) class or classes of persons who shall be required to apply for allotment of Permanent Account Number;

(c) categories of documents pertaining to business or profession in which Permanent Account Number shall be quoted by every person;

(d) the form and manner in which the person who has not been allotted a Permanent Account Number shall make his declaration;

(e) manner of authentication of Permanent Account Number or Aadhaar number;

(f) class or classes of persons to whom the provisions of this section shall not apply having regard to the transactions or the circumstances.

(*11*)(*a*) The Central Government may, by notification, specify any class or classes of persons who shall apply to the Assessing Officer for the allotment of Permanent Account Number within such time as mentioned in such notification;

(b) the class or classes of persons in clause (*a*) may include such persons—

(i) by whom tax is payable under this Act; or

(ii) by whom any tax or duty is payable under any other law in force; or

(iii) being importers and exporters, even when no tax is payable by them.

(12) The provisions of sub-sections (*5*) and (*6*) shall not apply to such person or class or classes of persons or any State or part of any State, as notified by the Central Government.

(13) In this section,—

(a) "Aadhaar number" shall have the same meaning as assigned to it in section 2(*a*) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

18 of 2016.

(b) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting permanent account number;

(c) "authentication" means the process by which the Permanent Account Number or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

B.—Filing of return of income and processing

Return of income.

263. (*1*)(*a*) The following persons shall furnish a return of income for the tax year under this Act, on or before the due date:—

(i) a company;

(ii) a firm;

(iii) a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the tax year, without giving effect to the provisions of Chapter XVII-B or provisions of Schedule VIII (Table: Sl. No. 1) or deductions allowable under ***section 82 or section 83 or section 84 or section 85 or section 86 or section 87 or section 88 of*** Chapter IV-E (Capital Gains) or Chapter VIII, as the case may be, exceeded the maximum amount which is not chargeable to income-tax;

(iv) a specified entity, if its total income without giving effect to the provisions of section 11 exceeds the maximum amount which is not chargeable to income-tax;

(v) aUniversity, college or otherinstitution as referred to in section 45(*3*)(*a*);

(vi) a business trust;

(vii) an investment fund as referred to in section 224;

(viii) a person who has sustained a loss in the tax year under the head "Profits and gains of business or profession" or under the head "Capital gains" and who intends to claim that such loss, or any part thereof, is to be carried forward as per this Act;

(ix) **(**);**

(x) a person, who is a resident, other than not ordinarily resident, and who at any time during the tax year,—

(A) holds, as a beneficial owner or otherwise, any asset (including any financial interest in an entity) located outside India, or has signing authority in any account located outside India; or

(B) is a beneficiary of any asset (including any financial interest in an entity) located outside India, except where any income arising from such asset is includible in the income of person referred to in item (*A*);

(xi) a person, other than a company or firm, who during the tax year, fulfils such conditions as prescribed;

(b) for the purposes of this section, "due date" means the date of the financial year succeeding the relevant tax year as mentioned in the corresponding entry of column C of the Table below in respect of the persons mentioned in column B of the said Table below:

(**) Table

Sl. No.	Person	Due date
A	B	C
1.	***Assessee, including the partners of the firm or the spouse of such partner (if section 10 applies to such spouse), who is required to be furnished a report referred to in section 172***	***30th November***
2.	***Company (in cases other than those mentioned in Sl. No. 1)***	***31st October***
3.	***Person (other than a company) whose accounts whose accounts are required to be audited under this Act or under any other law in force (in cases other than those mentioned in Sl. No. 1)***	***31st October***
4.	***Partner of a firm whose accounts are required to be audited under this Act or under any other law in force; or the spouse of such partner (if section 10 applies to such spouse) (in cases other than those mentioned in Sl. No.1)***	***31st October***
5.	***Any other assessee***	***31st July***

(*2*)(*a*) The Board may make rules providing for the prescribed form for furnishing return of income, manner of its verification and such other particulars including—

(i) the class or classes of persons who shall be required to furnish the return in electronic form or otherwise;

(ii) the form and the manner in which the return may be furnished, whether in electronic form or otherwise;

(iii) the documents, statements, receipts, certificates, audited reports or any other documents which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(iv) the computer resource or the electronic record to which the return in electronic form may be transmitted;

(b) the particulars prescribed under clause (*a*) may also include—

(i) income exempt from tax;

(ii) assets of the prescribed nature and value held by the assessee as a beneficial owner or otherwise or in which he is a beneficiary;

(iii) bank account and credit card held by the assessee;

(iv) expenditure exceeding the prescribed limit incurred by the assessee under prescribed heads;

(v) such other outgoings as prescribed;

(vi) the report of any audit referred to in section 63 or a copy thereof;

(vii) the particulars of the location and style of the principal place of the business or profession and all the branches thereof;

(viii) the names and addresses of the partners, if any, in the business or profession;

(ix) the names of the other members of the association of person or the body of individuals and the extent of the share of the assessee and the shares of all such members in the profits of the business or profession and any branches thereof.

(3) The Central Government may, by notification, exempt any class or classes of persons, from the obligation to file a return of income under this section, subject to the conditions specified therein.

(4) Any person who has not furnished a return within the time allowed to him under sub-section (*1*), may furnish the return for any tax year at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(5) If any person, having furnished a return under sub-section (*1*) or sub-section (*4*), discovers any omission or any wrong statement therein, he may furnish a revised return at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(*6*)(*a*) Any person, whether or not he has furnished a return under sub-section (*1*) or (*4*) or (*5*) for a tax year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, at any time within forty-eight months from the end of the financial year succeeding the relevant tax year;

(b) the provisions of clause (*a*) shall continue to apply for a tax year if any person has sustained a loss in the said tax year and has furnished a return of loss within the due date specified under sub-section (*1*) and the updated return is a return of income;

(c) the provisions of clause (*a*) shall not apply for a tax year for any person, if—

(i) the updated return is a return of loss;

(ii) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (*1*) or (*4*) or (*5*) for the said tax year;

(iii) the updated return results in refund where no refund was due or increases the refund due on the basis of return furnished under sub-section (*1*) or (*4*) or (*5*) for the said tax year;

(iv) an updated return has already been furnished;

(v) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the said tax year;

(vi) the Assessing Officer is in the possession of information in respect of such person for the said tax year regarding violation of specified laws and the same has been communicated to him prior to the date of furnishing of updated return;

(vii) information for the said tax year has been received under an agreement referred to in section 159 in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return;

(viii) any prosecution proceedings under the Chapter XXII have been initiated for the said tax year in respect of such person, prior to the date of furnishing of updated return; or

(ix) thirty-six months have expired from the end of the financial year succeeding the relevant tax year, and any notice to show-cause under section 281has been issued in his case, except where an order has been passed under section 281(*3*) determining that it is not a fit case to issue notice under section 280; or

(x) he is such person or belongs to such class of persons, as notified by the Board in this regard;

(d) a person shall also not be eligible to furnish an updated return of income, where—

(i) a search has been initiated under section 247 or books of account or other documents or any assets are requisitioned under section 248 in the case of that person;

(ii) a survey has been conducted under section 253, other than sub-section (*4*) of the said section, in the case of that person; or

(iii) a notice has been issued to the effect that any money, bullion, jewellery, virtual digital asset or valuable article or thing, seized or requisitioned under section 247 or 248 in the case of any other person, belongs to that person; or

(iv) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 247 or 248 in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, that person,

for the tax year in which such search is initiated or survey is conducted or requisition is made and any tax year preceding such tax year.

(7) A return of income furnished under this section, shall be treated as defective if it is not in conformity with all the conditions as prescribed and shall be dealt with in the following manner:—

(a) where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within fifteen days from the date of such intimation or within a further period as may be allowed on an application made by the assessee in this behalf;

(b) if the defect is not rectified within the period allowed under clause (*a*), then the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return;

(c) where the assessee rectifies the defect after the expiry of the period allowed under clause (*a*), but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

(*8*)(*a*) The provisions of this section shall also apply to a return of income which is furnished in pursuance of an order passed under section 239**(**)**(*3*)(*b*);

(*b*) the provisions of this section shall not apply to a specified senior citizen, as referred to in section 402(*39*), for the relevant tax year in which tax has been deducted at source under section 393(*1*) [Table: Sl. No. 8 (*iii*)].

(*9*) In this section,—

(a) "beneficial owner", in respect of an asset means an individual who has

provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person;

(b) "beneficiary", in respect of an asset means an individual who derives benefit from the asset during the tax year and the consideration for such asset has been provided by any person other than such beneficiary;

(c) "specified entity" means—

(i) research association referred to in Schedule III (Table: Sl. No. 23);

(ii) association or institution referred to in Schedule III (Table: Sl. No. 24);

(iii) person referred to in Schedule VII (Table: Sl. No. 2);

(iv) institution referred to in Schedule III (Table: Sl. No. 25);

(v) any University or other educational institution or any hospital or other medical institution referred to in Schedule VII (Table: Sl. Nos. 17, 18 and 19);

(vi) Mutual Fund referred to in Schedule VII (Table: Sl. No. 20 and 21);

(vii) securitisation trust referred to in Schedule III (Table: Sl. No. 26);

(viii) Investor Protection Fund referred to in Schedule III (Table: Sl. No. 28 and 29);

(ix) Core Settlement Guarantee Fund referred to in Schedule III (Table: Sl. No. 30);

(x) venture capital company or venture capital fund referred to in Schedule V (Table: Sl. No. 6);

(xi) trade union or association referred to in Schedule III (Table: Sl. No. 31);

(xii) Board or Authority referred to in Schedule VII (Table: Sl. No. 33 and 40);

(xiii) Body or Authority or Board or Trust or Commission (by whatever name called) referred to in Schedule III (Table: Sl. No. 36);

(xiv) infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46);

(d) "specified laws" shall refer to the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, or the Prohibition of *Benami* Property Transactions Act, 1988, or the Prevention of Money-laundering Act, 2002, or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

13 of 1976.
45 of 1988.
15 of 2003.
22 of 2015.

Scheme for submission of returns through tax return preparers.

264. (*1*) The Board may make a Scheme for furnishing returns of income through a tax return preparer and such Scheme shall be notified, which—

(a) may enable any specified class or classes of persons in preparing and furnishing returns of income through a tax return preparer authorised to act as such under the Scheme;

(b) may be made irrespective of provisions of section 263.

(2) In this section,—

(a) "tax return preparer" means any individual, not being a person referred to in section 515(*3*)(*a*)(*ii*) or an employee of the "specified class or classes of persons", who has been authorised to act as a tax return preparer under the Scheme made under this section;

(b) "specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 63 or under any other law, who is required to furnish a return of income under this Act.

(3) Every notification for the Scheme referred to in sub-section (*1*) shall be issued as per section 534 of this Act.

Return by whom to be verified.

265. The return of income under section 263 required to be furnished by the person specified in column B of the Table below shall be verified by the person specified in corresponding entry in column C of the said Table:

Table

Sl. No.	Person furnishing return of income	To be verified
A	B	C
1.	An individual.	(i) By the individual himself; (ii) where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; (iii) where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him through a valid power of attorney.
2.	A Hindu undivided family.	(i) By the *karta*; (ii) where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family.
3.	A company [in cases other than those mentioned at serial numbers 4, 5,6 and 7].	(i) By the managing director of the company; (ii) where there is no managing director, or the managing director is not able to verify the return due to any unavoidable reason, by any director of the company or any other person as prescribed for verifying the return.

A	B	C
4.	A company not being resident in India.	By any person holding a valid power of attorney from the company to do so.
5.	A company which is being wound up by the Court or otherwise, or where any person has been appointed as receiver of any assets of the company.	By the liquidator as referred to in section 322(*1*).
6.	A company whose management has been taken over by the Central Government or any State Government under any law.	By the principal officer of the company.
7.	A company, for which application seeking corporate insolvency resolution process has been admitted by the Adjudicating Authority under sections 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).	By the insolvency professional appointed by such Adjudicating Authority, where— Note.—"Insolvency professional" and "Adjudicating Authority" shall have the same meanings as assigned to them respectively in sections 3(*19*) and 5(*1*) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).
8.	A firm.	(i) By the managing partner of the firm; (ii) where the managing partner is not able to verify the return due to any unavoidable reason, or there is no managing partner as such, by any partner of the firm, not being a minor.
9.	A limited liability partnership.	(i) By the designated partner of the limited liability partnership; (ii) where the designated partner of the limited liability partnership is not able to verify the return due to any unavoidable reason, or where there is no designated partner, by any partner of the limited liability partnership or any other person as prescribed for verifying the return.
10.	A local authority.	By the principal officer of the local authority.
11.	A political party as referred to in section 263(*1*)(*a*)(*iii*).	By the chief executive officer of such political party (whether the chief executive officer is known as secretary or by any other designation).
12.	Any other association.	(i) By any member of the association; or (ii) by the principal officer of the association.
13.	Any other person.	(i) By the person himself; or (ii) by any person competent to act on his behalf.

Self-assessment.

266. (*1*) Where, after taking into account the amounts referred to in sub-section (*2*), any tax is payable on the basis of any return required to be furnished under section 263 or 268 or 280 or 294, then—

(a) the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return; and

(b) the return shall be accompanied by proof of payment of tax, interest and fee.

(2) The amounts referred to in sub-section (*1*) shall be,—

(a) the amount of tax, if any, already paid under any provision of this Act;

(b) any tax deducted or collected at source;

(c) any relief of tax claimed under section 157;

(d) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India;

(e) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section;

(f) any tax credit claimed to be set off as per section 206(*13*); and

(g) any tax or interest payable according to the provisions of section 391(*2*).

(3) Where the amount paid by the assessee under sub-section (*1*) falls short of the aggregate of the tax, interest and fee as payable under the said sub-section, the amount so paid shall be adjusted towards the fee payable and thereafter towards the interest payable and the balance, if any, shall be adjusted towards the tax payable.

(4) For the purposes of sub-section (*1*), interest payable under section 423 shall be computed on the tax on the total income as declared in the return as reduced by the amount of,—

(a) advance tax, if any, paid;

(b) any tax deducted or collected at source;

(c) any relief of tax claimed under section 157;

(d) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India;

(e) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and

(f) any tax credit claimed to be set off as per the provisions of section 206(*13*);

(5) For the purposes of sub-section (*1*), interest payable under section 424 shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

(6) In sub-section (*5*), "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of,—

(a) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(b) any relief of tax claimed under section 157;

(c) any relief of tax or deduction of tax claimed under section 159(*1*) or section 160 on account of tax paid in a country outside India;

(d) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and.

(e) any tax credit claimed to be set off as per the provisions of section 206(*13*).

(7) After a regular assessment under section 270 or 271 or an assessment under section 294 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such regular assessment or assessment.

(8) If any assessee fails to pay the whole or any part of such tax, interest or fee as per the provisions of sub-section (*1*), he shall be deemed to be an assessee in default in respect of the tax, interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

(9) The provisions of sub-section (*8*) shall apply without prejudice to any other consequences which the assessee may incur.

Tax on updated return.

267. (*1*) Where no return of income under section 263(*1*) or (*4*) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (*2*), tax is payable on the basis of return to be furnished by such assessee under section 263(*6*), then—

(a) the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax;

(b) such tax, interest and fee shall be payable along with the payment of additional income-tax computed as per sub-section (*5*), before furnishing the return; and

(c) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(2) The amounts referred to in sub-section (*1*) shall be,—

(a) the amount of tax, if any, already paid as advance tax;

(b) any tax deducted or collected at source;

(c) any relief of tax claimed under section 157;

(d) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India;

(e) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section; and

(f) any tax credit claimed to be set off as per the provisions of section 206(*13*).

(*3*) Where, return of income under section 263(*1*) or (*4*) or (*5*) (referred to as earlier return) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (*4*) [as increased by the amount of refund, if any, issued in respect of such earlier return], tax is payable on the basis of return to be furnished by such assessee under section 263(*6*) then—

(a) the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax;

(b) such tax, interest and fee shall be payable along with the payment of additional income-tax, as computed as per sub-section (*5*), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return; and

(c) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(4) The sums referred to in sub-section (*3*) shall be the following,—

(a) the amount of relief or tax referred to in section 266(*1*), the credit for which has been taken in the earlier return;

(b) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;

(c) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(d) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return; and

(e) any tax credit claimed, to be set off as per the provisions of section 206(*13*), which has not been claimed in the earlier return.

(5) For the purposes of sub-sections (*1*) and (*3*), the additional income-tax payable at the time of furnishing the return under section 263(*6*) shall be equal to,—

(a) 25% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after expiry of the time available under section 263(*4*) or (*5*) and before completion of twelve months from the end of the financial year succeeding the relevant tax year; or

(b) 50% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of twelve months but before completion of twenty-four months from the end of the financial year succeeding the relevant tax year;

(c) 60% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of twenty-four months, but before completion of thirty-six months, from the end of the financial year succeeding the relevant tax year; or

(d) 70% of aggregate of tax and interest payable, as determined in sub-section (*1*) or (*3*), as the case may be, if such return is furnished after the expiry of thirty-six months, but before completion of forty-eight months, from the end of the financial year succeeding the relevant tax year.

(6) For the purposes of computation of "additional income-tax" under this section, tax shall include surcharge and cess, by whatever name called, on such tax.

(7) Irrespective of anything contained in section 424(*2*), for the purposes of sub-section (*3*), interest payable under section 424 shall be computed on an amount equal to the assessed tax where, "assessed tax" means the tax on the total income as declared in the return to be furnished under section 263(*6*),—

(a) after taking into account,—

(i) the amount of relief or tax referred to in section 266(*1*), the credit for which has been claimed in the earlier return, if any;

(ii) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

(iii) any relief of tax or deduction of tax claimed under section 159(*1*) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(iv) any relief of tax claimed under section 159(*2*) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(v) any tax credit claimed, to be set off as per section 206(*13*), which has not been claimed in the earlier return; and

(b) as increased by refund, if any, issued in respect of such earlier return.

(8) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, by notification, issue guidelines removing the difficulty.

(9) No guidelines under sub-section (*8*) shall be issued after the expiration of two years from the 1st April, 2026.

(10) Every guideline issued by the Board under sub-section (*8*) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(11) For the purposes of this section,—

(a) interest payable under section 423, for the purposes of sub-section (*1*), shall be computed on the amount of tax on the total income as declared in the return, under section 263(*6*), as per section 266(*4*);

(b) interest payable under section 425, for the purposes of sub-section (*3*), shall be computed after taking into account the total income furnished in the return under section 263(*6*) as the returned income;

(c) interest payable, for the purposes of sub-section (*5*), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under section 263(*6*), as reduced by interest paid, as per the earlier return, if any.

(12) ***For the purposes of sub-section (11)(c), the interest paid in the earlier return shall be nil in case of an updated return referred to in sub-section (1).***

CHAPTER-XVI

PROCEDURE FOR ASSESSMENT

A.—Procedure for assessment

Inquiry before assessment.

268. (*1*) For the purpose of making an assessment under this Act, the Assessing Officer may serve on any person who has made a return under section 263 or in whose case the time allowed under section 263(*1*) for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(a) where such person has not made a return within the time allowed under section 263(*1*) or before the end of the financial year succeeding the relevant tax year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in such form and verified in such manner and setting forth such other particulars as prescribed;

(b) to produce, or cause to be produced, such accounts or documents as the Assessing Officer may require;

(c) to furnish in writing and verified in the manner as prescribed information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the Assessing Officer may require.

(2) For the purposes of sub-section (*1*),—

(a) the previous approval of the Joint Commissioner shall be obtained by the Assessing Officer before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(b) the Assessing Officer shall not require the production of any accounts relating to a period more than three years prior to the relevant tax year.

(3) A notice under sub-section (*1*)(*a*) may also be served by the prescribed income-tax authority.

(4) For the purposes of obtaining full information in respect of the income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

(5) If, at any stage of the proceedings before him, the Assessing Officer, having regard to—

(a) the nature and complexity of the accounts;

(b) volume of the accounts;

(c) doubts about the correctness of the accounts;

(d) multiplicity of transactions in the accounts; or

(e) specialised nature of business activity of the assessee,

and interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, after giving the assessee a reasonable opportunity of being heard, direct him to get either or both of the following—

(i) to get the accounts audited by an accountant, and to furnish a report of such audit in the **(**) prescribed** form duly signed and verified by such accountant and setting forth such particulars, as prescribed, and such other particulars as the Assessing Officer may require;

(ii) to get the inventory valued by a cost accountant, and to furnish a report of such inventory valuation in the prescribed form as duly signed and verified by such cost accountant and setting forth such particulars, as prescribed, and such other particulars as the Assessing Officer may require.

(6) The accountant or the cost accountant as referred to in sub-section (*5*) shall be nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner for the purposes of the said sub-section.

(7) The provisions of sub-section (*5*) shall have effect irrespective of whether or not accounts of the assessee have been audited under any other law in force or otherwise.

(8) Every report under sub-section (*5*) shall be furnished by the assessee to the Assessing Officer within such period as specified by the Assessing Officer.

(9) The Assessing Officer may, on his own motion, or on an application made in this behalf by the assessee and for any good and sufficient reason, subject to the provisions of sub-section (*10*), extend the period referred to in sub-section (*8*) by such further period or periods as he thinks fit.

(10) The aggregate of the period originally fixed under sub-section (*8*) and the period or periods so extended, as referred to in sub-section (*9*), shall not, in any case, exceed six months from the end of the month in which the direction under sub-section (*5*) is received by the assessee.

(11) The expenses of any audit or inventory valuation under sub-section (*5*) (including incidental expenses and remuneration of the accountant or the cost accountant) shall be—

(a) determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as per such guidelines as prescribed; and

(b) paid by the Central Government.

(12) The assessee shall, except where the assessment is made under section 271, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (*4*), or any audit or inventory valuation under sub-section (*5*) and proposed to be utilised for the purposes of the assessment.

(13) In this section, "cost accountant" means a cost accountant as defined in section 2(*1*)(*b*) of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under section 6(*1*) of the said Act. 23 of 1959.

Estimation of value of assets by Valuation Officer.

269. (*1*) The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including the fair market value, of any asset, property or investment and submit a copy of report to him.

(2) The Assessing Officer may make a reference to the Valuation Officer under sub-section (*1*) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

(3) (*a*) For estimating the value, including the fair market value, of the asset, property, or investment, the Valuation Officer or any engineer, overseer, surveyor, or assessor authorized by him, may, subject to any rules made in this regard and at such reasonable times, as prescribed,—

(i) enter any land within the limits of the area assigned to the Valuation Officer; or

(ii) enter any land, building, or other place belonging to or occupied by any person in connection with whose assessment a reference has been made to the Valuation Officer; or

(iii) inspect any asset, property, or investment in respect of which a reference has been made to the Valuation Officer.

(b) The Valuation Officer or any engineer, overseer, surveyor, or assessor, may require any person in charge of, or in occupation or possession of, such land, building, or other place or such asset, property, or investment to afford the necessary facility to:

(i) survey or inspect such land, building, or other place or such asset, property, or investment;

(ii) estimate its value; or

(iii) inspect any books of account, document, or record relevant for the valuation of such asset, property, or investment and gather other particulars relating to it.

(c) No Valuation Officer, engineer, overseer, surveyor, or assessor shall enter any land, building or place referred to in clause (*a*)(*ii*), or inspect any asset, property, or investment referred to in clause (*a*)(*iii*), except with the consent of the person in charge of, or in occupation or possession of, such land, building, place, or asset, property, or investment, without providing such person at least two days' notice in writing of their intention to do so.

(d) If a person who, under this sub-section, is required to afford any facility to the Valuation Officer or the engineer, overseer, surveyor, or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters,—

(i) discovery and inspection;

(ii) enforcing the attendance of any person, including any officer of a banking company, and examining him on oath;

(iii) compelling the production of books of account and other documents; and

(iv) issuing commissions.

(4) The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(5) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(6) The Valuation Officer shall send the report of the estimate made under sub-section (*4*) or (*5*), to the Assessing Officer and the assessee.

(7) With a view to rectifying any mistake apparent from the record, the Valuation Officer may amend any report made by him, as per section 287.

(8) The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

(9) The Valuation officer shall send the report referred to in sub-section (*6*) within six months from the end of the month in which the reference is made under sub-section (*1*).

(*10*) For the purposes of this Act,—

(a) the Central Government may appoint as many Valuation Officers, as necessary; and

(b) subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a Principal Chief Commissioner, or a Chief Commissioner, or a Principal Commissioner or a Commissioner may appoint as many engineers, overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.

Assessment.

270. (*1*) Where a return has been made under section 263, or in response to a notice under section 268(*1*) such return shall be processed in the following manner:—

(a) the total income or loss shall be computed after making the adjustments towards the following:—

(i) any arithmetical error in the return;

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(iii) disallowance of loss claimed, if return of the tax year for which set off of loss is claimed was furnished beyond the due date specified under section 263(*1*);

(iv) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return; or

(v) disallowance of deduction claimed under section 144 or under any of the provisions of Chapter VIII ***under the heading "C.—Deductions in respect of certain incomes"*** if the return is furnished beyond the due date specified under section 263(*1*);

(b) the tax, interest and fee, if any, shall be computed on the basis of the total income computed under clause (*a*);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (*b*) by—

(i) any tax deducted at source;

(ii) any tax collected at source;

(iii) any advance tax paid;

(iv) any rebate or relief allowable under Chapter IX;

(v) any tax paid on self-assessment; and

(vi) any amount paid otherwise by way of tax, interest or fee;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or refund due to, the assessee under clause (*c*); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (*c*) shall be granted to the assessee.

(2) Before making any adjustment under sub-section (*1*)(*a*),—

(a) an intimation is to be given to the assessee of such adjustments either in writing or in electronic mode;

(b) the response received from the assessee in this regard, if any, shall be considered; and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

(3) For the purposes of sub-section (*1*), an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him.

(4) No intimation under sub-section (*1*) shall be sent after the expiry of nine months from the end of the financial year in which the return is made.

(5) For the purposes of sub-sections (*1*) to (*4*),—

(a) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) "the acknowledgement of the return" shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under sub-section(*1*)(*c*), and where no adjustment has been made under sub-section(*1*)(*a*).

(6) For the purposes of processing of returns under sub-section (*1*), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(7) The scheme made under sub-section (*6*) shall, as soon as may be laid before each House of Parliament.

(8) Where a return has been furnished under section 263 or in response to a notice under section 268(*1*), the Assessing Officer or the prescribed income-tax authority, if, considers it necessary or expedient to ensure that the assessee—

(a) has not understated the income;

(b) has not computed excessive loss;

(c) has not under-paid the tax in any manner,

shall serve on the assessee a notice requiring him, on a date to be specified therein,—

(i) either to attend the office of the Assessing Officer; or

(ii) to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

(9) No notice under sub-section (*8*) shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

(10) On the day specified in the notice issued under sub-section (*8*), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer, subject to the provisions of sub-sections (*11*) and (*13*), shall—

(a) by an order in writing, make an assessment of the total income or loss of the assessee; and

(b) determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(11) In the case of entities referred to in sub-section (*12*), which are required to furnish the return of income under section 263(*1*)(*a*)(*iv*), no order under sub-section (*10*) making an assessment of the total income or loss of any such entity shall be made by the Assessing Officer, without giving effect to the provisions of section 11, unless—

(i) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions mentioned in Schedule III (Table: Sl. No. 23, 24 or 25), by such entity, where in his view such contravention has taken place; and

(ii) the approval granted to such entity has been withdrawn or notification issued in respect of such entity has been rescinded.

(12) For the purposes of sub-section (*11*), the entities shall be—

(a) a research association referred to in Schedule III (Table: Sl. No. 23);

(b) an association or institution referred to in Schedule III (Table: Sl. No. 24);

(c) an institution referred to in Schedule III (Table: Sl. No. 25).

(13) In the case of a registered non-profit organisation, where the Assessing Officer is satisfied that any such entity has committed any specified violation as mentioned in section 351(*1*), he shall—

(a) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration; and

(b) no order making an assessment of the total income or loss of such registered non-profit organisation shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under section 351(*2*)(*ii*)(*A*) or (*B*).

(14) For the purposes of sub-section (*10*), where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in section 45(*3*)(*a*) (hereinafter referred to as "entity") are not being carried out in accordance with all or any of the conditions subject to which such entity was approved, then—

(a) he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned entity, recommend to the Central Government to withdraw the approval; and

(b) that Government may by order, withdraw the approval and forward a copy of the order to the concerned entity and the Assessing Officer.

(15) Where a regular assessment under sub-section (*10*) or section 271 is made,—

(a) any tax or interest paid by the assessee under sub-section (*1*) shall be considered to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (*1*) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be considered to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

Best judgment assessment.

271.(*1*) If any person—

(a) fails to make the return required under sub-section 263(1) and has not made a return or a revised return under section 263(4) or (5) or an updated return under section 263(*6*);

(b) fails to comply with all the terms of a notice issued under section 268(*1*) or fails to comply with a direction issued under section 268(*5*);

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section 270(*8*),

the Assessing Officer, after taking into account all relevant materials which he has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

(2) The Assessing Officer before making an assessment under sub-section (*1*) shall, subject to the provisions of sub-section (*3*), serve a notice on the assessee to show cause, on a date and time to be specified in the notice, as to why assessment should not be completed to the best of his judgment.

(3) It shall not be necessary to give the opportunity referred to in sub-section (*2*) in a case where a notice under section 268(*1*) has been issued prior to the making of an assessment under this section.

Power of Joint Commissioner to issue directions in certain cases.

272. (*1*) A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may—

(a) issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment; and

(b) such directions shall be binding on the Assessing Officer.

(2) No directions which are prejudicial to the assessee shall be issued under sub-section (*1*) without giving an opportunity of being heard to the assessee.

(3) For the purposes of this section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

Faceless Assessment.

273.(*1*) Irrespective of anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under section 270(*10*) or 271 or 279, as the case may be, with respect to the cases referred to in sub-section (*2*), shall be made in a faceless manner as per such procedure, as prescribed in this behalf.

(2) The faceless assessment under sub-section (*1*) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as specified by the Board.

(3) The Board may, for the purposes of faceless assessment, set up the following Centre and Units and specify their functions and jurisdiction:—

(a) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner including assigning the case selected for the purposes of faceless assessment under this section to a specific assessment unit, intimating the assessee that assessment in his case shall be completed in faceless manner, serving a notice to the assessee under section 268(*1*) or 270(*8*), and forwarding any response of the assessee to the assessment unit;

(b) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes analysis of the material furnished by the assessee or any other person, identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, determination of any variation prejudicial to the assessee, and such other functions as may be required for the purposes of making faceless assessment;

(c) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification;

(d) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 159, which may be required in a particular case or a class of cases, under this section;

(e) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of any variation proposed by the assessment unit (wherever it is so considered necessary by the National Faceless Assessment Centre), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review.

(*4*) In accordance with the procedure as prescribed under sub-section (*1*),—

(a) the verification unit, the technical unit and the review unit shall facilitate the conduct of faceless assessment; and

(b) the assessment unit shall—

(i) make the assessment of the total income or loss, by an order in writing after taking into account all relevant material which it has gathered and after giving the assessee an opportunity of being heard; and

(ii) determine the sum payable by the assessee or refund of any amount due to him on the basis of such assessment.

(5) For the purposes of this section, the terms "assessment unit", "verification unit", "technical unit" and "review unit" shall refer to an Assessing Officer having powers so assigned by the Board.

(6) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities:—

(a) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(b) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(c) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

(7) All communications, save as otherwise provided in sub-section (*8*),—

(a) among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;

(b) between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

(c) between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode.

(8) The provisions of sub-section (*7*) shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as specified by the Board in this behalf.

(9) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, as per the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of section 268(*5*) may be invoked in the case,—

(a) forward any reference received from an assessment unit in this regard to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly;

(b) transfer the case to the Assessing Officer having jurisdiction over such case as per sub-section (*12*).

(10) Where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-section (*9*)(*a*), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of section 268(*5*).

(11) Where a reference has not been forwarded as per sub-section (*9*)(*a*) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, the assessment unit shall proceed to complete the assessment as per the procedure laid down in this section.

(12) Irrespective of anything contained in sub-section (*1*) or (*2*), the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(13) In this section,—

(a) "designated portal" means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;

(b) "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through registered account of the assessee in designated portal; and.

(c) "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal.

Reference to Principal Commissioner or Commissioner in certain cases.

274. (*1*) The Assessing Officer may make a reference to the Principal Commissioner or Commissioner at any stage of the assessment or reassessment proceedings before him, if, having regard to the material and evidence available with him, he considers that it is necessary to—

(a) declare an arrangement as an impermissible avoidance arrangement; and

(b) determine the consequence of such an arrangement within the meaning of Chapter XI.

(2) The Principal Commissioner or Commissioner shall, on receipt of a reference under sub-section (*1*), if he is of the opinion that the provisions of Chapter XI are required to be invoked,—

(a) issue a notice to the assessee, setting out the reasons and basis of such opinion, for submitting objections, if any; and

(b) provide an opportunity of being heard to the assessee within such period, not exceeding sixty days, as specified in the said notice.

(3) If the assessee fails to furnish any objection to the notice within the time specified in the notice issued under sub-section (*2*), the Principal Commissioner or Commissioner shall issue such directions as he deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(4) In case the assessee objects to the proposed action, and the Principal Commissioner or Commissioner, after hearing the assessee in the matter, is not satisfied by the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(5) If the Principal Commissioner or Commissioner is satisfied, after having heard the assessee that the provisions of Chapter XI are not to be invoked, he shall by an order in writing, communicate the same to the Assessing Officer with a copy to the assessee.

(6) The Approving Panel, on receipt of a reference from the Principal Commissioner or Commissioner under sub-section (*4*), shall—

(a) issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement as per the provisions of Chapter XI; and

(b) specify the tax year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(7) No direction under sub-section (*6*) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interests of the revenue, as the case may be.

(8) The Approving Panelmay, before issuing any direction under sub-section (*6*),—

(a) if it is of the opinion that any further inquiry in the matter is necessary, direct the Principal Commissioner or Commissioner to make such inquiry or cause the inquiry to be made by any other income-tax authority and furnish a report containing the result of such inquiry to it; or

(b) call for and examine such records relating to the matter as it deems fit; or

(c) require the assessee to furnish such documents and evidence as it may direct.

(9) If the members of the Approving Panel differ in opinion on any point, such point shall be decided according to the opinion of the majority of the members.

(10) The Assessing Officer, on receipt of directions of the Principal Commissioner or Commissioner under sub-section (*3*) or of the Approving Panel under sub-section (*6*), shall proceed to complete the proceedings referred to in sub-section (*1*) as per such directions and the provisions of Chapter XI.

(11) If any direction issued under sub-section (*6*) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any tax year other than the tax year to which the proceedings referred to in sub-section (*1*) pertains, then,—

(a) the Assessing Officer while completing any assessment or reassessment proceedings relevant to such other tax year shall do so as per such directions and the provisions of Chapter XI; and

(b) it shall not be necessary for him to seek fresh direction on the issue for the relevant tax year.

(12) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Principal Commissioner or Commissioner, if any tax consequences have been determined in the order under the provisions of Chapter XI.

(13) The Approving Panel shall, subject to sub-sections (*14*) and (*15*), issue directions under sub-section (*6*) within six months from the end of the month in which the reference under sub-section (*4*) was received.

(14) In computing the period referred to in sub-section (*13*), the following shall be excluded:—

(a) the period commencing from the date on which the first direction is issued by the Approving Panel to the Principal Commissioner or Commissioner for getting the inquiries conducted through the authority competent under an agreement referred to in section 159 and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less;

(b) the period commencing on the date on which the proceeding of the Approving Panel is stayed by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the Approving Panel.

(15) If immediately after the exclusion of the period as per sub-section (*14*), the remaining period available to the Approving Panel for issue of directions is less than sixty days, such remaining period shall be extended to sixty days and the period of six months mentioned in sub-section (*13*) shall be deemed to have been extended accordingly.

(16) The directions issued by the Approving Panel under sub-section (*6*) shall be binding on—

(a) the assessee; and

(b) the Principal Commissioner or Commissioner and the income-tax authorities subordinate to him.

(17) No appeal under the Act shall lie against directions issued by the Approving Panel under sub-section (*6*), irrespective of anything contained in any other provision of the Act.

(18) The Central Government shall, for the purposes of this section, constitute one or more Approving Panels as may be necessary and each panel shall consist of three members including a Chairperson.

(19) The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court, and—

(a) one member shall be a member of Indian Revenue Service not below the rank of Principal Chief Commissioner or Chief Commissioner of Income-tax; and

(*b*) one member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.

(20) The term of the Approving Panel shall ordinarily be for one year and may be extended from time to time up to three years.

(21) The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the panel and shall be paid such remuneration as prescribed.

(22) In addition to the powers conferred on the Approving Panel under this section, the powers which are vested in the Board for Advance Rulings under section 387 shall apply *mutatis mutandis* to the Approving Panel.

(23) The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under this Act.

(24) The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (*4*).

Reference to Dispute Resolution Panel.

275. (*1*) The Assessing Officer shall, irrespective of anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee, if he proposes to make any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of its receipt,—

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,—

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objection is received within the period specified in sub-section (*2*).

(4) The Assessing Officer shall, irrespective of anything contained in section 286, pass the assessment order under sub-section (*3*) within one month from the end of the month in which,—

(a) the acceptance is received; or

(b) the period of filing of objections under sub-section (*2*) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (*2*), issue such directions, as it thinks fit, for guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions as referred to in sub-section (*5*), in writing, stating the points of determination, the decision thereon and the reason for such decision.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (*5*),—

(a) make such further enquiry, as it thinks fit; or

(b) cause any further enquiry to be made by any income-tax authority, and report the result of the same to it.

(8) The Dispute Resolution Panel may, confirm, reduce or enhance the variations proposed in the draft order, so however, that it shall not set aside any proposed variation, or issue any direction under sub-section (*5*) for further enquiry and passing of the assessment order.

(9) For the purposes of sub-section (*8*), the power of the Dispute Resolution Panel to enhance the variation shall include the power to consider any matter arising out of the assessment proceedings relating to the draft order, irrespective of the fact that such matter was not raised by the eligible assessee.

(10) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided as per the opinion of the majority of the members.

(11) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(12) No direction under sub-section (*5*) shall be issued unless an opportunity of being heard is given to the assessee, and the Assessing Officer, on such directions which are prejudicial to the interest of the assessee, or the interest of the revenue, respectively.

(13) No direction under sub-section (*5*) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(14) Upon receipt of the directions issued under sub-section (*5*), the Assessing Officer shall, in conformity with the directions, complete, irrespective of anything to the contrary contained in section 286, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(15) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (*2*) by the eligible assessee.

(16) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in section 274(*12*).

(17) In this section, subject to the provisions of sub-section (*18*),—

(a) "Dispute Resolution Panel" means a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,—

(i) any person in whose case the variation referred to in sub-section (*1*) arises as a consequence of the order of the Transfer Pricing Officer passed under section 166(*6*);

(ii) any non-resident (not being a company), or any foreign company.

(18) The eligible assessee referred to in sub-section (*17*) shall not include person referred to in section 292(*1*) or other person referred to in section 295.

(*19*) The provisions of this section shall not apply to any proceedings under Chapter XVI-B.

Method of accounting.

276. (*1*) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (*2*), be computed as per either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify income computation and disclosure standards to be followed by any class of assessees or in respect of any class of income.

(3) The Assessing Officer may make an assessment in the manner provided in section 271, where—

(a) he is not satisfied about the correctness or completeness of the accounts of the assessee;

(b) the method of accounting provided in sub-section (*1*) has not been regularly followed by the assessee; or

(c) income has not been computed as per the standards notified under sub-section (*2*).

Method of accounting in certain cases.

277. (*1*) For the purposes of determining the income chargeable under the head "Profits and gains of business or profession",—

(i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed as per the income computation and disclosure standards notified under section 276(*2*);

(ii) the valuation of purchase and sale of goods or services and valuation of inventory shall be adjusted to include any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(iii) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised as per the income computation and disclosure standards notified under section 276(*2*);

(iv) the inventory being securities other than those referred to in clause (*iii*), shall be valued at lower of actual cost or net realisable value as per the income computation and disclosure standards notified under section 276(*2*).

(2) For the purposes of sub-section (*1*), the inventory being securities held by a scheduled bank or public financial institution shall be valued as per the income computation and disclosure standards notified under section 276(*2*) after taking into account the extant guidelines issued by the Reserve Bank of India in this regard.

(3) For the purposes of sub-sections (*1*) and (*2*), the comparison of actual cost and net realisable value of securities shall be made category-wise.

(4) For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law in force, shall include all such payment irrespective of any right arising as a consequence to such payment.

(5) In this section, "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013. 18 of 2013.

Taxability of certain income.

278. (*1*) The interest received by an assessee on any compensation or on enhanced compensation, shall be deemed to be the income of the tax year in which it is received, irrespective of anything to the contrary contained in section 276.

(2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the tax year in which reasonable certainty of its realisation is achieved.

(3) The income referred to in section 2(*49*)(*w*) shall be treated as the income of the tax year in which it is received, if not charged to income-tax in any earlier tax year.

Income escaping assessment.

279. (*1*) If, in the case of an assessee, any income chargeable to tax has escaped assessment for any tax year (hereinafter referred to as "the relevant tax year" in this section and sections 280 to 286**)**, the Assessing Officer may, subject to the provisions of sections 280 to 286, for the relevant tax year,—

(a) assess or reassess income;

(b) recompute the loss or the depreciation allowance or any other allowance or deduction.

(2) For the purposes of the assessment or reassessment or recomputation under this section, Assessing Officer may assess or reassess—

(a) the income which has escaped assessment; **(***)**

(b) income in respect of other issues which come to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of sections 280, 281 and 284 were not complied with.

Issue of notice.

280. (*1*)(*a*) Before making the assessment, reassessment or recomputation under section 279, the Assessing Officer shall, subject to the provisions of section 281, issue a notice to the assessee, along with a copy of the order passed under section 281(*3*).

(b) the notice referred to in clause (*a*) shall require the assessee to furnish, within such period as may be specified therein, a return of his income or income of any other person in respect of whom he is assessable under this Act during the relevant tax year; and.

(c) the period specified in the notice referred to in clause (*a*) shall not exceed three months from the end of the month in which such notice is issued.

(2) The return of income required under sub-section (*1*) shall be furnished in such form, verified in such manner and setting forth such other particulars, as prescribed, and the provisions of this Act shall apply accordingly, as if such return were a return required to be furnished under section 263.

(3) Any return of income required under sub-section (*1*), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 263.

(4) No notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant tax year.

(5) No notice under this section shall be issued without prior approval of the specified authority, where the Assessing Officer has received—

(a) information under the scheme notified under section 260; or

(b) directions from the Approving Panel under section 274(*6*); or

(c) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(*6*) For the purposes of this section and section 281, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means—

(a) any information in the case of the assessee for the relevant tax year as per the risk management strategy formulated by the Board from time to time;

(b) any audit objection to the effect that the assessment in the case of the assessee for the relevant tax year has not been made as per this Act;

(c) any information received under an agreement referred to in section 159 of this Act;

(*d*) any information made available to the Assessing Officer under the scheme notified under section 260;

(e) any information which requires action in consequence of the order of a Tribunal or a Court;

(f) any information in the case of the assessee emanating from the survey conducted under section 253, other than under sub-section (*4*) of the said section;

(g) any directions in the case of the assessee given by the Approving Panel under section 274(*6*);

(h) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

Procedure before issuance of notice under section 280.

281. (*1*) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant tax year, he shall, before issuing any notice under section 280 provide an opportunity of being heard to such assessee by serving upon him a show cause notice.

(*2*) The notice to show cause referred to in sub-section (*1*) shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant tax year, and on receipt of such notice, the assessee may furnish his reply within such period, as specified **(**)** therein.

(*3*) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (*2*), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 280.

(*4*) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any tax year in the case of an assessee, where the Assessing Officer has received—

(a) information under the scheme notified under section 260;

(b) directions issued by the Approving Panel under section 274(*6*);

(c) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

Time limit for notices under sections 280 and 281.

282. (*1*) No notice under section 280 shall be issued for the relevant tax year,—

(a) if four years and three months have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(b) if four years and three months, but not more than six years and three months, have elapsed from the end of the relevant tax year, unless the Assessing Officer has **in his possession** books of account or other documents or evidence related to any asset or expenditure or transaction or entry which shows that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more.

(*2*) No notice to show cause under section 281 shall be issued for the relevant tax year,—

(a) if four years have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(b) if four years, but not more than six years, have elapsed from the end of the relevant tax year, unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to fifty lakh rupees or more.

(3) No notice under section 280 or 281 shall be issued within one year from the end of any tax year.

Provision for cases where assessment is in pursuance of an order on appeal, etc.

283. (*1*) Irrespective of anything contained in sections 280 and 282, the notice under section 280 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to—

(a) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law; or

(b) the directions issued by the Approving Panel under section 274(*6*).

(2) The provisions of sub-section (*1*) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to a tax year in respect of which an assessment, reassessment or recomputation could not have been made, by reason of any other provisions limiting the time within which any action for assessment, reassessment or recomputation may be taken, at the time when,—

(a) the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made; or

Sanction for issue of notice.

(b) the reference from the jurisdictional Principal Commissioner or Commissioner is made to the Approving Panel under section 274(*4*).

Other provisions.

284. The specified authority for the purposes of sections 280 and 281 shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

285. (*1*) In an assessment, reassessment or recomputation made under section 279, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(2) The Assessing Officer (***) **shall** drop the proceedings initiated under section 279 on a claim made by the assessee ***and on his showing*** to the effect that—

(a) he had been assessed on an amount not lower than what he would be rightly liable for, even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made; and

(b) he has not impugned any part of the original assessment order for the relevant **tax** year under section 356 or 357 or 378.

(3) Where a claim has been made by an assessee under sub-section (*2*), he shall not be entitled to reopen matters concluded by an order under section 287 or 288 or 365(*10*) or 368 or 377.

Time limit for completion of assessment, reassessment and recomputation.

286. (*1*) No order in respect of proceedings mentioned in column B of the Table below shall be made after expiry of the period specified in column D of the said Table and calculated from the date as mentioned in column C thereof.

Table

Sl. No.	Nature of Proceedings or orders	Date from which time limit for completion is to be calculated	Time limit for completion
A	B	C	D
1.	Assessment order under section 270(*10*) or section 271.	End of the financial year succeeding the relevant tax year.	One year.
2.	Assessment order under section 270(*10*) or 271, where an updated return of income is furnished under section 263(*6*).	End of the financial year in which such updated return was furnished.	One year.
3.	Assessment order under section 270(*10*) or 271, where return is furnished in consequence of order under section 239(*3*)(*b*).	End of the financial year in which such return was furnished.	One year.
4.	Assessment, reassessment or recomputation order under section 279.	End of the financial year in which notice under section 280 was served.	One year.
5.	Fresh assessment order or fresh order under section 166 in pursuance to an order under section 359, or 363, or 377, or 378 setting aside or canceling an assessment order or an order under section 166.	End of the financial year in which order under section 359 or 363 is received, or order under section 377 or 378 is passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
6.	Assessment or reassessment which stands revived, as per section 153A(*2*) of Income-tax Act, 1961 (43 of 1961), or section 292.	End of the month in which such assessment or reassessment stands revived.	One year.

A	B	C	D
7.	Assessment required to be made in the hands of partner, in consequence of an assessment made on the firm under section 279.	End of the month in which assessment order in the case of firm is passed.	One year.
8.	Assessment, reassessment or recomputation required to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order— (i) under section 359 or 363 or 365(*10*), or 368, or 377 or 378; or (ii) of any Court in a proceeding otherwise than by way of appeal or reference under this Act.	End of the month in which such order is received, or passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
9.	Order giving effect to an order under section 359 or 363 or 365(*10*) or 368 or 377 or 378, otherwise than by making a fresh assessment or reassessment or fresh order under section 166, where— (i) verification of any issue by way of submission of any document by the assessee or any other person is to be carried out; or (ii) an opportunity of being heard is to be given to the assessee.	End of the month in which order under section 359 or 363 or 365(*10*) or 368 is received, or order under section 377 or 378 is passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.

A	B	C	D
10.	Order giving effect to an order under section 359 or 363 or 365(*10*) or 368 or 377 or 378 otherwise than by making a fresh assessment or reassessment or fresh order under section 166.	End of the month in which order under section 359 or 363 or 365(*10*) or 368 is received, or order under section 377 or 378 is passed by the jurisdictional Principal Commissioner or Commissioner.	Six months, extendable to nine months with the approval of authorities as per section 2(*62*) and (*64*)
11.	Modification of assessment, reassessment or recomputation to give effect to the order passed under section 166 read with section 377	End of the month in which such order under section 166 is received by the Assessing Officer.	Two months.

(2) Time limit for completion of any assessment or reassessment as provided in sub-section (*1*), in a case where reference is made to the Transfer Pricing Officer for determining the arm's length price under section 166(*1*), shall be extended by an additional period of twelve months.

(3) For the purposes of this section, in computing the time limit for completion, the following period shall be excluded,—

(a) the time taken in reopening the whole or any part of the proceeding on request of the assessee or in giving an opportunity to the assessee to be re-heard under section 244;

(b) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner;

(c) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. No. 23, 24, 25) or section 270(*11*)(*i*), and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those provisions is received by the Assessing Officer;

(d) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(*5*) and—

(*i*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that section; or

(*ii*) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner;

(e) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(*1*) and ending with the date on which the report of the Valuation Officer is received by him;

(f) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under section 375(*1*) and ending with the date on which the order under section 375(*3*) is made by him;

(g) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 383(*1*) and ending with the date on which the order either rejecting the application or the advance ruling pronounced by it, is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*5*) or (*8*), as the case may be;

(h) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 159 and ending with the date on which the information requested is last received by the jurisdictional Principal Commissioner or Commissioner, or one year, whichever is less;

(i) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(*1*) and ending on the date on which a direction under sub-section (*3*) or (*6*) or an order under sub-section (*5*) of the said section is received by the Assessing Officer;

(j) the period (not exceeding one hundred eighty days) commencing from the date on which a search is initiated under section 247 or a requisition is made under section 248 and ending on the date on which the seized items or the requisitioned items, are handed over to the Assessing Officer having jurisdiction over the assessee,—

(i) in whose case such search is initiated under section 247 or such requisition is made under section 248; or

(ii) to whom any money, bullion, jewellery, virtual digital asset or other valuable article or thing seized or requisitioned belongs to; or

(iii) to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to;

(k) the period commencing from the date on which the Assessing Officer makes a reference to the jurisdictional Principal Commissioner or Commissioner under the section 270(*13*) and ending with the date on which copy of the order under of section 351(*2*)(*ii*)(*A*) or (*B*), is received by the Assessing Officer.

(4) Where immediately after exclusion of the period as mentioned in sub-section (*3*), the remaining period for completion available to the Assessing Officer, as specified in sub-section (*1*), for making an order of assessment, reassessment or recomputation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limits for completion shall be deemed to have been extended accordingly.

(5) Where the period available to the Transfer Pricing Officer is extended to sixty days as per section 166(*8*) and the remaining period for completion available to the Assessing Officer under this section, for making an order of assessment, reassessment or re-computation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limit for completion shall be deemed to have been extended accordingly.

(6) Where a proceeding before the Interim Board for Settlement abates under section 245HA of the Income-tax Act, 1961 and the remaining period of limitation available to the Assessing Officer under this section for making an order of assessment, reassessment or re-computation, after the exclusion of the period under section 245HA(*4*) of the Income-tax Act, 1961, is less than one year, such remaining period shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 282, 287, 288 and 296 and for the purposes of payment of interest under section 437, this sub-section shall also apply accordingly.

43 of 1961.

(7) In a case where the remaining time period for making an order of regular or reassessment, after excluding the time period specified in sub-section (*3*)**(*i*),** ends before the end of the month, the remaining period shall be extended to the end of such month, and the specified time limit for completion shall be deemed to have been extended accordingly.

(8) For the purposes of this section and section 283, where by an order referred to in entry in sub-section (*1*) (Table: Sl. No. 8.A)—

(i) any income is excluded from the total income of the assessee for a tax year, then, an assessment of such income for another tax year shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order; or

(ii) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.

Rectification of mistake.

287. (*1*) An income-tax authority referred to in section 236, for rectifying any mistake apparent from the record, may amend any—

(a) order passed by it under the provisions of this Act;

(b) intimation or deemed intimation under section **270(*1*);**

(c) intimation under section 399.

(2) Irrespective of anything contained in any law in force, the authority concerned may, amend any order **or intimation** under sub-section (*1*) in relation to any matter, other than the matter considered and decided in any proceeding by way of appeal or revision, relating to such order.

(3) Subject to the other provisions of this section, the authority concerned,—

(a) may make an amendment under sub-section (*1*) of its own motion; and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by—

(i) the assessee or the deductor or the collector; or

(ii) the Assessing Officer, if the authority concerned is the Joint Commissioner (Appeals) or the Commissioner (Appeals).

(4) No amendment that enhances an assessment, reduces a refund or otherwise increases the liability of the assessee or the deductor or the collector, shall be made under this section by the authority concerned without giving—

(a) a notice of its intention of making such amendment; and

(b) a reasonable opportunity of being heard.

(5) The income-tax authority concerned shall pass an order in writing, if an amendment is made under this section.

(6) The Assessing Officer shall make refund which may be due to the assessee or the deductor or the collector, where an amendment reduces the assessment or otherwise reduces the liability of such assessee or the deductor or the collector.

(7) The Assessing Officer shall serve on the assessee or the deductor or the collector, a notice of demand in such form as prescribed specifying the sum payable,—

(a) where an amendment enhances the assessment or reduces a refund already made or otherwise increases the liability of such assessee or the deductor or the collector; and

(b) such notice shall be deemed to be issued under section 289 and the provisions of this Act shall apply accordingly.

(8) No amendment under this section, except as provided in section 288, shall be made after four years from the end of the financial year in which the order **or intimation** sought to be amended was passed.

(9) Subject to sub-section (*8*), an income-tax authority referred to in sub-section (*1*), shall pass an order for making the amendment or refusing to allow the claim within six months from the end of the month in which the application for amendment under this section is received by it from the assessee or the deductor or the collector.

Other amendments.

288. The Assessing Officer, may carry out such actions as are specified in column B of the Table below for reasons mentioned therein, subject to the conditions as specified in column C, within four years (except serial number 12) referred to in section 287(*8*) which shall be reckoned from the time as specified in column D, and the provisions of section 287 shall, so far as may be, apply to such amendment:—

Table

Sl.No.	Actions	Conditions	Time
A	B	C	D
1.	Amendment of order of assessment of the partner of a firm so as to adjust the income of the partner corresponding to the amount not deductible under section 35(e)	Where any remuneration to any partner determined in completed assessment of the firm is subsequently found not deductible under section 35(e) in terms of— (a) assessment or reassessment of the firm;or (b) any reduction or enhancement made in the income of the firm under this section or section 287 or 356 or 363 or 365or 368 or 377 or 378; or (c) any order passed under section 245D (*4*) of the Income-tax Act, 1961 on the application made	From the end of the financial year in which the subsequent order was passed in the case of the firm.

A	B	C	D
2.	Amendment of order of assessment of the member of an association of persons or of a body of individuals; so as to include the share of the member in the assessment or the corrections thereof	Where the share of the member in the income of the association of persons or body of individuals determined in completed assessment is subsequently found not included in the assessment of the member or, if included, is not correct in terms of — (a) assessment or reassessment of the association or body; (b) any reduction or enhancement made in the income of the association or body under this section or section 287 or 359 or 363 or 365 or 368 or 377 or 378; or (c) any order passed under section 245D (*4*) of the Income-tax Act, 1961 (43 of 1961) on the application made by the association or body.	From the end of the financial year in which the subsequent order was passed in the case of the association or body.
3.	Total income of the assessee in respect of succeeding year or years referred to in column C, to be recomputed and necessary amendment made consequent to proceedings initiated under section 279 for any tax year.	(a) Recomputation of loss or depreciation; and (b) in consequence to such recomputation, recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of section 112(*1*) or 113(*2*) or 111(*1*) and (*2*) or 115(*1*)	From the end of the financial year in which the order under section 279 was passed.
4.	The total income of the transferor company for the tax year referred to in column C, to be recomputed and necessary amendment made.	Where in the assessment for any tax year,— (*a*) the capital gain arising from the transfer of a capital asset is not charged under section 67 in terms of section 70(*1*)(*c*) or (*d*);	From the end of the year— (*i*) in which the capital asset was converted or treated as stock-in trade; or

A	B	C	D
		(b) such gains are deemed under section 71(*1*) as "Capital gains" of the tax year in which the transfer took place at any time before the expiry of the period of eight years from the date of such transfer by reason of— (i) such capital asset being converted by the transferee company into, or being treated by it, as stock-in trade of its business; or (ii) the parent company or its nominees or, the holding company ceasing to hold the whole of the share capital of the subsidiary company.	(ii) in which the parent company or its nominees or, the holding company ceased to hold the whole of the share capital of the subsidiary company.
5.	The order of assessment to be amended; so as to exclude the capital gain not chargeable to tax under any of the sections referred to in section 89.	Where in the assessment for any tax year, a capital gain on transfer of original asset, referred to in section 89 is charged to tax and within the period extended under that section— (a) the assessee acquires the new asset referred to in that section; or (b) deposits or invests such capital gain.	From the end of the financial year in which the compensation was received by the assessee.
6.	The order of assessment to be amended - to allow deduction - in respect of such income or part thereof as is so received in, or brought into, India.	Where in the assessment for any year, any deduction under section 144 has not been allowed on the ground that— (a) such income has not been received in convertible foreign exchange in India; or	From the end of the financial year in which such income is so received in, or brought into, India.

A	B	C	D
		(*b*) having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange, and subsequently such income or part thereof has been or is received in, or brought into, India in the manner specified in (*b*) above.	
7.	The order of assessment or any intimation or deemed intimation under section 270(*1*), -to be amended, - to give credit for income-tax - for the year in which such income is offered to tax or assessed to tax in India.	Where in the assessment for any tax year or in any intimation or deemed intimation under section 270(*1*) for any tax year,— (a) credit for income-tax paid in any country outside India or a specified territory outside India referred to in Chapter IX-B has not been given on the ground that the payment of such tax was under dispute; and (b) subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer— (i) evidence of settlement of dispute and evidence of payment of such tax; and	From the end of the financial year in which such dispute is settled.

A	B	C	D
		(*ii*) an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other tax year.	
8.	The order of assessment -to be amended -to compute the capital gain by taking the full value of the consideration to be the value as so revised in appeal or revision or reference.	Where, in the assessment for any year, a capital gain arising from the transfer of a capital asset, being land or building or both, is computed— (a) by taking the full value of the consideration received or accruing as a result of the transfer to be the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty as per section 78(*1*); and (b) subsequently such value is revised in any appeal or revision or reference referred to in section 78(*2*)(*b*).	From the end of the financial year in which the order revising the value was passed in appeal or revision or reference.
9.	The order of assessment -to be amended - to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration.	(a) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset being a transfer referred to in clause (*b*) is computed— (i) by taking the compensation or consideration as referred to in section 67(*12*)(*a*) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in section 67(*12*)(*b*), to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset; and (ii) subsequently such compensation or consideration is reduced by any court, Tribunal or other authority.	From the end of the financial year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

A	B	C	D
		(b) The transfer and consideration referred to in clause (*a*) shall be (i) Transfer by way of compulsory acquisition under any law; (ii) consideration that was determined or approved by the Central Government or the Reserve Bank of India.	
10.	Amendment to total income to disallow the deduction allowed under section 152.	Where a deduction has been allowed to an assessee in any tax year undersection 152 in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970 (39 of 1970),— (a) the patent was revoked, or (b) the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which name of the assessee was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed.	From the end of the financial year in which the order of the Controller under section 2(*1*)(*b*), or the High Court under section 2(*1*)(*i*), of the Patents Act, 1970 (39 of 1970), was passed.
11.	Amendment of the order of assessment or any intimation - to allow credit of such tax deducted at source in the tax year referred to in column C, and the credit of such tax deducted at source not to be allowed in any other tax year.	(a) Where any income has been included in the return of income furnished by an assessee under section 263 for any tax year, and tax on such income has been deducted at source and paid to the credit of the Central Government as per the provisions of Chapter XIX-B in a subsequent tax year; and (b) an application is made by an assessee in such form, as prescribed, within two years from the end of the tax year in which such tax was deducted at source.	From the end of the financial year in which such tax has been deducted.

A	B	C	D
12.	The order of assessment or any intimation or deemed intimation under section **270** to be amended for two consecutive tax years to give effect to the order passed under section 166(*6*) or directions issued under section 275(*5*)	Where the Transfer Pricing Officer under section 166(*9*) declares the option of the assessee, for determining the arm's length price of similar international or specified domestic transaction for the two consecutive tax years immediately following the relevant tax year, as valid.	(i) Within three months from the end of the month in which the assessment is completed in the case of the assessee for the relevant tax year, and section 165(*7*) and (*8*) is applicable. (ii) If the order of assessment or any intimation or deemed intimation under section 270(*1*), for the two consecutive tax years is not made within the said three months, such recomputation shall be made within three months from the end of the month in which such order of assessment or intimation or deemed intimation, is made.

Notice of demand.

289. (*1*) When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the assessee a notice of demand in such form, as prescribed, specifying the sum so payable.

(2) Where any sum is determined to be payable by the assessee or the deductor or the collector under section 270 or 399, the intimation under the said sections shall be deemed to be a notice of demand for the purposes of this section.

(3) Where the income of the assessee of any tax year includes income of the nature specified in section 17(*1*)(*d*) and such specified security or sweat equity shares referred to in the said section are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in section 140, the tax or interest on such income included in the notice of demand referred to in sub-section (*1*) shall be payable by the assessee within fourteen days—

(a) after the expiry of sixty months from the end of the relevant tax year; or

(b) from the date of the sale of such specified security or sweat equity share by the assessee; or

(c) from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,

whichever is the earliest.

Modification and revision of notice in certain cases.

290. (*1*) The Assesssing Officer shall serve on the assessee a modified notice of demand specifying the sum payable, if any, and such notice shall be treated as a notice under section 289 and the provisions of this Act shall accordingly, apply in relation to such notice, where—

(a) any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued earlier under section 289; and

(b) such tax, interest, penalty, fine or any other sum is reduced as a result of an order of the Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

(*2*) The modified notice of demand as referred to in sub- section (*1*) shall be revised where the order referred to in sub-section (*1*)(*b*) is modified by the National Company Law Appellate Tribunal or the Supreme Court.

Intimation of loss.

291. The Assessing Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of section 111(*1*) or (*2*) or 112 or 113(*2*) or 115(*1*), where—

(a) in the course of the assessment of the total income of any assessee, it is established that a loss has taken place; and

(b) the assessee is entitled to have carried forward and set off such loss under the provisions of the said sections.

B.—Special procedure for assessment of search cases

Assessment of ***total undisclosed income as a result of search*** (**).

292. (*1*) Irrespective of any other provision of this Act, where on or after the commencement of this Act, in the case of any person, ***a*** search is initiated or requisition is made, then, the Assessing Officer shall proceed to assess or reassess the total ***undisclosed*** income of the block period as per ***Part B of*** this Chapter.

(2) The assessment or reassessment or recomputation proceedings under the provisions of this Act (other than ***Part B of*** this Chapter), if any, pertaining to any tax year falling in the block period, pending on the date of initiation of search, or the date of making of requisition, shall abate and shall be deemed to have been abated on such date.

(3) If any reference has been made under section 166(*1*) or order has been passed under section 166(*6*), the assessment or reassessment or recomputation proceedings, referred to in sub-section (*2*) together with such reference or order shall abate ***and shall be deemed to have abated*** on the date referred to in sub-section (*2*).

(4) If any assessment under the provisions of ***Part B of*** this Chapter is required to be made in the case of an assessee, in whose case a search is initiated or a requisition is made subsequently—

(a) such pending assessment shall be duly completed;

(b) assessment in respect of such subsequent search or requisition shall be made thereafter under the provisions of this Chapter; and

(c) if the period available for assessment in clause (*b*) is less than three months, such period shall be extended to three months from the end of the month in which the assessment, as referred to in clause (*a*) was completed.

(5) Irrespective of anything contained ***Part B of this Chapter or section 286, (**)*** if any proceeding initiated **(**)** under ***Part B of*** this Chapter ***or any order of assessment or reassessment made under section 294(1)(c)*** has been annulled in an appeal or any other legal proceeding, then—

(a) the assessment or reassessment or recomputation or reference or order ***relating to any tax year*** which has abated under sub-section (*2*) or (*3*), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner;

(b) the revival, as referred to in clause (*a*) shall cease to have effect, if such order of annulment is set aside.

(6) The income (other than undisclosed income) of the tax year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately as per other provisions of this Act.

(7) The total ***undisclosed*** income ***(**) relating*** to the block period, as referred to in section 293(*5*) shall be charged to tax at the rate specified in section 192, irrespective of the tax year or years to which such income **(**)** ***relates***.

Computation of total ***undisclosed*** income of block period.

293. (*1*) The total ***undisclosed*** income of the block period referred to in section 292(*1*) shall be the aggregate of the following:— 43 of 1961.

(a) **total** undisclosed income declared in the return furnished under section 294;

(b) ***undisclosed income determined by the Assessing Officer under sub-section (4).***

(2) The following income shall not be included in the total undisclosed income of the block period, namely:—

(a) the total income determined under section 270(1) or assessed under section 270(10) or section 271 or 279 of this Act, or section 153A or 153C of the Income-tax Act, 1961 or assessed earlier under section 294(1)(c) or section 245D(4) of the Income-tax Act, 1961, prior to the date of initiation of search or the date of requisition, in respect of any of the tax year comprising the block period;

(b) the total income declared in the return of income filed under section 263 or in response to a notice under section 268(1), prior to the date of initiation of the search or the date of requisition, in respect of any of the tax year comprising the block period, and not covered under clause (a);

(c) the income computed by the assessee, in respect of—

(i) a tax year, where such tax year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course before the date of initiation of search or the date of requisition;

(ii) the period commencing from the 1st day of April of the tax year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;

(iii) the period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the

authorisations;

(d) the total income referred to in section 207(8) or section 216 or section 393(1).

(3) For the purposes of sub-section (2) (c), where the Assessing Officer is of the opinion that any part of the income as computed by the assessee under the said sub-section is undisclosed, he may recompute such income.

(4) The undisclosed income falling within the block period, (**) shall be computed on the basis of following:—

(a) evidence found as a result of search or survey or requisition; and

(b) any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under Part B of this Chapter.

(5) The income relating to any international transaction or specified domestic transaction referred to in section 166, shall not be considered for the purposes of determining the total undisclosed income of the block period, and such income shall be considered in the assessment made under other provisions of this Act, if—

(a) ***such income pertains to the period beginning from the 1st April of the tax year in which last of the authorisations was executed and ending with the date of execution of the last of the authorisations; and***

(b) ***such income is required to be determined—***

(i) ***as a result of search or requisition of books of account or other documents; or***

(ii) ***based on any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under Part B of this Chapter; or***

based on entries relating to income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations.

(6) For the purposes of determination of undisclosed income,—

(a) ***of a firm, such income assessed for each of the tax years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration, by whatever name called, to any partner not being a working partner;***

(b) ***the provisions of sections 102, 103, 104 and 105 shall, so far as may be, apply and reference to tax year in those sections shall be construed as references to the relevant tax year falling in the block period;***

(c) ***the provisions of section 166 shall, so far as may be, apply and reference to tax year in that section shall be construed as reference to the relevant tax year falling in the block period excluding the period referred to in sub-section (5).***

(7) The tax referred to in section 292(7) shall be charged on the total undisclosed income pertaining to the block period determined in the manner specified in sub-sections (1), (2) and (3) (**).

(**)

(8) For the purposes of assessment, losses brought forward from the tax year (prior to the first tax year comprising the block period) under Chapter VII or unabsorbed depreciation under section 33(11) shall not be set off against the undisclosed income determined in the block assessment under Part B of this Chapter.

(9) Losses or unabsorbed depreciation as referred to in sub-section (7) may be carried forward for being set off in the tax year subsequent to the tax year in which the block period ends, for the remaining period, taking into account the block period and such tax year, and as per the provisions of this Act.

Procedure for block assessment.

294. (*1*) Where any search has been initiated or requisition is made in the case of any person, then,—

(a) the Assessing Officer shall, in respect of such search or requisition, issue a notice to such person, requiring him to furnish within a period specified in the notice, not exceeding sixty days, a return in the form and verified in the manner, as prescribed, setting forth his **(**)** undisclosed income, for the block period, and—

(i) such return shall be considered as if it was a return furnished under section 263 and thereafter notice under section 270(*8*) shall be issued;

(ii) any return furnished beyond the period allowed in the notice shall not be deemed to be a return under section 259;

(iii) no notice under section 280 is required to be issued for the purpose of proceeding under this Chapter;

(iv) a person who has furnished a return under this clause shall not be entitled to furnish a revised return;

(v) the time allowed for furnishing a return under this clause may be extended by a further period of thirty days, where,—

(A) in respect of a tax year immediately preceding the tax year in which the search is initiated or requisition is made, the due date for furnishing the return has not expired prior to the date of initiation of such search or requisition;

(B) the assessee was liable for audit under section 63 for such tax year;

(C) the accounts (maintained in normal course) of such tax year have not been audited on the date of issuance of such notice; and

(D) the assessee requests in writing for extension of time for furnishing such return to get such accounts audited;

(b) the Assessing Officer shall proceed to determine the total income including the undisclosed income of the block period in the manner laid down in section 293 and the provisions of sections 268, 270(*8*), 270(*10*), 271, 276, **(**)** ***277*** and **(**)** ***278*** shall, so far as may be, apply;

(c) the Assessing Officer, on determination of the total income of the block period as per this Chapter, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment, so, however ***that the provisions of section 275 shall not apply in respect of such order***;—

Undisclosed income of any other person.

(i) (**)

(ii) (**)

(d) the assets seized under section 247 or requisitioned under section 248 shall be dealt with as per section 250.

(2) The provisions of section 270(*1*) shall not apply to the return furnished under this section.

(3) The Assessing Officer, before issuance of notice under sub-section (*1*)(*a*), shall take prior approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

295. Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person ***(herein referred to as the "other person")***, other than the person ***(herein referred to as the "specified person" for the purposes of this section)*** with respect to whom search was initiated or

requisition was made, then—

(a) any money, bullion, jewellery, virtual digital asset or other valuable article or thing, or assets, or books of account, other documents, or any information contained therein, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person; and

(b) **Assessing Officer of the other person shall proceed (**)** under section 294 ***against such other person*** and the provisions of ***Part B of*** this Chapter shall apply accordingly.

(2) For the purposes of this section,—

(a) where there is one specified person relevant to such other person, the block period for such other person shall be the same as that for the specified person;

(b) where there is more than one specified persons relevant to such other person, the block period for such other person shall be the same as that for the specified person in whose case the block period ends on a later date.

(3) For the purposes of abatement under section 292(2) and 292(3) in case of other person, the reference to the date of initiation of the search or making of requisition shall be construed as reference to the date on which such money, bullion, jewellery, virtual digital asset or other valuable article or thing, or assets, or books of account, or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income were received by the Assessing Officer having jurisdiction over such other person.

Time-limit for completion of block assessment.

296. (*1*) Irrespective of the provisions of section **(**)** ***286***, the order under section 294 shall be passed within twelve months from the end of the **(**)** ***quarter*** in which the last of the authorisations for search was executed, or requisition was made.

(2) **(a)** Where search was initiated or requisition was made, and during the course of assessment or reassessment of the total **undisclosed** income of the relevant block period, any reference under section 166(*1*) is made, the period available for completion of such assessment or reassessment proceeding shall be extended by twelve months.

(b) Where in pursuance to section 294 (1)(a)(v), the time allowed under the said section for furnishing return is extended by a further period of thirty days, the provisions of sub-section (1) shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.

(3) In computing the period of limitation under sub-section (*1*), the period (not exceeding one hundred eighty days) commencing from the date on which a search is initiated or a requisition is made and ending on the date on which seized or requisitioned items are handed over to the Assessing Officer having jurisdiction over the assessee shall be excluded.

(4) If after exclusion of the period referred to in sub-section (*3*), the remaining period of limitation for completion of assessment or reassessment, expires before the end of a month, such period shall be extended to end of such month.

(5) The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 295 shall be twelve months from the end of the **(**)** ***quarter*** in which the notice under section 294 in pursuance of section 295, was issued to such other person.

(6) ***(a)*** The period available for completion of assessment or reassessment proceeding in respect of the block period in a case referred to in sub-section (*5*) shall be extended by twelve months, where a reference under section 166(*1*) is made in such case.

(b) Where in pursuance to section 294 (1)(a)(v), the time allowed under the said section for furnishing return is extended by a further period of thirty days, the provisions of sub-section (5) shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.

(7) In computing the period of limitation under this section, the following period shall be excluded,—

(a) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner;

(b) the period commencing from the date on which a first of the reference for exchange of information (made by an authority competent under an agreement referred to in section 159) is made and ending with the date on which such information requested is last received by the jurisdictional Principal Commissioner or Commissioner or one year, whichever is less;

(c) the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under section 244(*2*);

(d) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(*5*) and—

(i) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that sub-section; or

(ii) where such direction is challenged before a court, ending

with the date on which the certified copy of the order setting aside such direction is received by the jurisdictional Principal Commissioner or Commissioner;

(e) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(*1*) and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer;

(f) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. No. 23, 24 or 25) as referred to in section 270(*11*)(*i*) and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, under those clauses is received by the Assessing Officer;

(g) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner as per section 270(*13*) and ending with the date on which the copy of the order under section 351(*2*)(*ii*)(*A*) or (*B*), is received by the Assessing Officer;

(h) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(*1*) and ending on the date on which a direction under sub-section (*3*) or (*6*) or an order under sub-section (*5*) of the said section is received by the Assessing Officer;

(i) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 381(*1*) and ending with the date on which the order rejecting the application is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*5*);

(j) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 381(*1*) and ending with the date on which the advance ruling pronounced by it is received by the jurisdictional Principal Commissioner or Commissioner under section 384(*8*).

(8) Where immediately after the exclusion of the period referred to in sub-section (*7*), the remaining period of limitation referred to in sub-section (*1*) or (*5*) available to the Assessing Officer for completion of assessment under section 294 is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) Where after extension of the period referred to in sub-section (*8*), the period of limitation for making an order of assessment or reassessment, expires before the end of a month, such period shall be extended to the end of such month.

Certain interests and penalties not to be levied or imposed.

297. Interest under section 423, 424 or 425 or penalty under section 439 shall not be levied or imposed upon the assessee for the undisclosed income assessed or reassessed for the block period.

Levy of interest and penalty **in certain** cases.

298. (*1*) Where the return of **(**)** **undisclosed** income as required under a notice under section 294(*1*)(*a*), is not furnished within the period specified in such notice, or is not furnished, then,—

(a) the assessee shall be liable to pay simple interest at the rate of 1.5% of the tax on undisclosed income determined under clause (*c*) of said sub-section;

(b) the interest in clause (*a*) shall be paid for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in said notice, and ending on the date of completion of assessment under clause (*c*) of said sub-section.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under ***Part B of*** this Chapter, may direct that the person shall pay by way of penalty a sum which shall be equal to 50% of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under section 294(*1*)(*c*).

(3) The order imposing penalty under this section or section 444(*1*) or 450 or 451 or **(**)** ***453*** shall not be made for the block period in respect of a person, if—

(a) such person has furnished a return under section 294(*1*)(*a*);

(b) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(c) evidence of tax paid is furnished along with the return; and

(d) an appeal is not filed against the assessment of that part of income which is shown in the return.

(4) The provisions of the sub-section (*3*) shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined, which is in excess of income shown in the return.

(5) The order imposing a penalty under sub-section (*2*) shall not be made—

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, where penalty exceeds two lakh rupees except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director;

(c) in a case where the assessment is the subject-matter of an appeal under section 357 or 362,—

(i) after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed; or

(ii) six months from the end of the financial year in which the order of the Commissioner (Appeals) or the Appellate Tribunal is received by the jurisdictional Principal Commissioner or Commissioner,

whichever period expires later;

(d) in a case where the assessment is the subject-matter of revision under section 377, after the expiry of six months from the end of the financial year in which such order of revision is passed;

(e) in any case other than those mentioned in clause (*c*) and clause (*d*), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.

(6) In computing the period of limitation under this section, the following period shall be excluded—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*);

(b) the period commencing on the date on which stay on proceeding under sub-section (*2*) was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

(7) Where immediately after the exclusion of the period referred to in sub-section (*6*), the remaining period of limitation referred to in sub-section (*5*) available to the Assessing Officer for making an order under sub-section (*2*) of this section is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(8) If after exclusion of the period referred to in sub-section (*7*), the remaining period of limitation for making of an order for imposition of penalty expires before the end of a month, such remaining period shall be extended to the end of such month.

(9) An income-tax authority on making an order under sub-section (*2*) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.

Authority competent to make assessment of block period.

299. (*1*) The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director.

(*2*) The order referred to in sub-section (*1*) shall be passed with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, in respect of search initiated or requisition made on or after the commencement of this Act.

Application of other provisions of Act.

300. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.

Interpretation.

301. In this Chapter—

(a) "block period" means the aggregate of—

(i) the period comprising six tax years preceding the tax year in which the search was initiated or any requisition was made; and

(ii) the period starting from the 1st April of the tax year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;

(b) "requisition" means requisition of books of account, other documents or any assets under section 248;

(c) "requisitioned items" means the books of account, or other documents or money or bullion or jewellery or other valuable article or thing requisitioned under section 248;

(d) "search" means a search initiated under section 247;

(e) "seized items" means the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 247;

(f) "the last of the authorisations" shall be deemed to have been executed,—

(i) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued, irrespective of whether or not any seizure is recorded in such *panchnama*;

(ii) in the case of requisition, on the actual receipt of the books of account or other documents or assets by the Authorised Officer; and

(g) "undisclosed income" includes—

(i) any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, virtual digital asset, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, in respect of the block period; or

(ii) any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

CHAPTER XVII

SPECIAL PROVISIONS RELATING TO CERTAIN PERSONS

A.—Association of persons, firm, Hindu undivided family, etc.

1.—Legal representatives

Legal representative.

302. (*1*) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purposes of making an assessment (including an assessment, reassessment or recomputation under section 279) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative as per the provisions of sub-section (*1*), any proceeding—

(a) taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall be deemed to be an assessee for the purposes of this Act.

(*4*) Subject to the provisions of sub-sections (*5*), (*6*) and (*7*), the liability of a legal representative referred to in sub-section (*1*) shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

(5) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while such liability remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession.

(6) The liability of a legal representative referred to in sub-section (*5*) shall be limited to the value of the asset so charged, disposed of or parted with.

(*7*) The provisions of sections 304(*2*) and (*5*) and 305, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

2.—Representative assessees—General provisions

Representative assessee.

303. (*1*) For the purposes of this Act, "representative assessee" means—

(a) in respect of the income of a non-resident specified in section 9, the agent of the non-resident, including a person who is treated as an agent under section 306;

(b) in respect of the income of a minor or a person who is mentally ill or of unsound mind, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor or a person who is mentally ill or of unsound mind ;

(c) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, by whatever name called, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

(d) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees; 6 of 1913.

(e) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

(2) For the purposes of sub-section (*1*)(*d*), a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) shall be deemed to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Assessing Officer,— 6 of 1913.

(a) where the trust has been declared before the 1st June, 1981, within three months from that day; and

(b) in any other case, within three months from the date of declaration of the trust.

(3) For the purposes of sub-section (*1*)(*e*), "oral trust" means a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) and which is not deemed under sub-section (*2*) to be a trust declared by a duly executed instrument in writing. 6 of 1913.

(4) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

Liability of representative assessee.

304. (*1*) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and for this purpose,—

(a) the representative assessee shall be liable to assessment and any other proceedings under this Act, in his own name in respect of that income and any such proceedings shall be deemed to be made upon him in his representative capacity only; and

(b) the tax on such income shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from the representative assessee in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

(2) If any person, in respect of any income is assessable under this Chapter in the capacity of a representative assessee, then he shall not, in respect of that income, be assessed under any other provisions of this Act.

(3) Irrespective of the provisions of this Chapter, the Assessing Officer may directly assess the person on whose behalf or for whose benefit income therein referred to is receivable, or may recover from such person the tax payable in respect of such income.

(4) If only part of the income of a trust is chargeable under this Act, then the proportion of income receivable by a beneficiary from such trust derived from the chargeable part shall be determined as follows:—

$$\frac{A}{B} \times C,$$

Where,—

A = the chargeable part of the income of the trust;

B = the whole income of the trust; and

C = the income receivable by the beneficiary from the trust.

(5) The Assessing Officer shall have the same remedies in the same manner against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, whether the demand is raised against the representative assessee or against the beneficiary direct.

Right of representative assessee to recover tax paid.

305. (*1*) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (herein referred to as the principal), a sum equal to his estimated liability under this Chapter.

(3) In the event of any disagreement between such principal and such representative assessee or person with regard to the amount to be so retained as referred to in sub-section (*2*), such representative assessee or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(4) The amount recoverable from such representative assessee or person shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

3.—Representative assesses—Special cases

Who may be regarded as agent.

306. (*1*) For the purposes of this Act, "agent", in relation to a non-resident, includes—

(a) any person in India—

(i) who is employed by or on behalf of the non-resident; or

(ii) who has any business connection with the non-resident; or

(iii) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(iv) who is the trustee of the non-resident;

(b) any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India.

(2) A broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal, but deals with or through a non-resident broker shall not be deemed to be an agent under this section, in respect of such transactions, if the following conditions are fulfilled:—

(a) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(b) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

(3) A person shall not be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

(4) In this section, "business connection" shall have the meaning assigned to it in section 9(*8*)(*b*).

Charge of tax where share of beneficiaries unknown.

307. (*1*) Subject to the other provisions of this section, the income or any part thereof, in respect of the person mentioned in sections 303(*1*)(*c*) and (*d*) shall be chargeable to tax at the maximum marginal rate, if—

(a) such income or such part thereof is not specifically receivable on behalf or for the benefit of any one person; or

(b) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown.

(*2*) The income or any part thereof as referred to in sub-section (*1*), shall be chargeable to tax at the rate applicable to an association of persons, if,—

(a) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in case of an association of persons, or is a beneficiary under any other trust; or

(b) such income or part of such income is receivable under a trust declared by any person by will and such trust is the only trust declared by him; or

(c) such income or part of such income is receivable under a trust created before the 1st March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created *bona fide*—

(i) exclusively for the benefit of the relatives of the settlor; or

(ii) exclusively for the benefit of the members of such family, where the settlor is a Hindu undivided family,

in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(*d*) such income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession.

(3) Subject to the provisions of sub-section (*4*), where the income in respect of the person mentioned in section 303(*1*)(*d*) consists of, or includes, profits and gains of business, tax shall be charged at the maximum marginal rate on the whole of the income.

(4) Where the profits and gains referred to in sub-section (*3*) are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him, tax shall be charged at the rate applicable to an association of persons.

(5) For the purposes of this section,—

(a) such income or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the tax year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(b) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed and are ascertainable as such on the date of such order, instrument or deed.

Charge of tax in case of oral trust.

308. (*1*) The income of the person appointed under an oral trust as mentioned in section 303(*1*)(*e*) shall be chargeable to tax at the maximum marginal rate, irrespective of anything contained in any other provision of this Act.

(*2*) For the purposes of this section, "oral trust" shall have the meaning assigned to it in section 303(*3*).

4.—Association of persons and body of individuals

Method of computing a member's share in income of association of persons or body of individuals.

309. (*1*) For the purposes of this section, sections 310 and 311, an association of persons or body of individuals shall not include a company or a co-operative society or a society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India.

21 of 1860.

(*2*) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known, the share of a member in the income or loss of such association or body shall be computed in the following manner,—

(*a*) any interest, salary, bonus, commission or remuneration, by whatever name called, paid to any member in respect of the tax year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(b) the interest, salary, bonus, commission or remuneration referred to in clause (*a*), shall be,—

(i) added to the apportioned amount referred to in clause (*a*), if such apportioned amount is a profit; or

(ii) adjusted against the apportioned amount referred to in clause (*a*), if such apportioned amount is a loss,

and the resultant amount shall be treated as the share of the member in the income of such association or body.

(3) The share of a member in the income or loss of the association or body, as computed under sub-section (*2*), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(4) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

(5) For the purposes of this section, "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession".

Share of member of association of persons or body of individuals in income of association or body.

310. (*1*) Income-tax shall not be payable by an assessee (who is a member of an association of persons or body of individuals) in respect of his share in the income of the association of persons or body of individuals computed in the manner provided in section 309, except in a case referred to in sub-section (*2*).

(2) Where no income-tax is chargeable on the total income of the association of persons or body of individuals, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income.

(3) Where no income-tax is payable by an assessee under sub-section (*1*),—

(a) if the association of persons or body of individuals is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(b) in any other case, the share of a member computed as aforesaid shall form part of his total income.

Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

311. (*1*) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are indeterminate or unknown,—

(a) tax shall be charged on the total income of the association or body at the maximum marginal rate; or

(b) where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(2) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are determinate or known,—

(a) the total income of any member thereof for the tax year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(b) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate,—

(i) tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be; and

(ii) the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

(3) For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.

5.—Executors

Executor.

312. (*1*) The income of the estate of a deceased person shall be chargeable to tax in the hands of the executor as an individual, if there is only one executor, or as an association of persons, if the executors are more than one.

(2) The executor shall be deemed to be resident or non-resident according to the residential status of the deceased person for the tax year in which his death took place.

(3) For the purposes of this section, "executor" includes an administrator or other person administering the estate of the deceased person.

(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(5) Separate assessments shall be made under this section on the total income of each completed tax year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the total income of any tax year under this section, any income of the estate of that tax year distributed to, or applied to the benefit of, any specific legatee of the estate during that tax year shall be excluded; but the income so excluded, shall be included in the total income of the tax year of such specific legatee.

(7) The provisions of section 305 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him, as they apply in the case of a representative assessee.

6. —Succession to business or profession

Succession to business or profession otherwise than on death.

313. (*1*) Where a person carrying on any business or profession (herein referred to as the predecessor) has been succeeded therein by any other person (herein referred to as the successor) who continues to carry on that business or profession,—

(a) the predecessor shall be assessed in respect of the income of the tax year in which the succession took place up to the date of succession;

(b) the successor shall be assessed in respect of the income of the tax year after the date of succession.

(2) Irrespective of anything contained in sub-section (*1*), when the predecessor cannot be found, the assessment of the income of the tax year in which the succession took place up to the date of succession and of the tax year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) Irrespective of anything contained in sub-sections (*1*) and (*2*), where there is succession, the assessment or reassessment or any other proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

(4) When any sum payable under this section in respect of the income of such business or profession assessed on the predecessor,—

(a) for the tax year in which the succession took place up to the date of succession; or

(b) for the tax year preceding the year in which the succession took place,

cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(5) Without prejudice to the provisions of this section, where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 315.

(6) In this section,—

(a) "income" includes any gain accruing from the transfer, **(**)** **whatsoever**, of the business or profession as a result of the succession; and

(b) "pendency" means the period commencing from the date of filing of application for such succession of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016 and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, is received by the Principal Commissioner or the Commissioner. 31 of 2016.

Effect of order of tribunal or court in respect of business reorganisation.

314. (*1*) Irrespective of anything to the contrary contained in section 263, if prior to the date of order in respect of business reorganisation, any return of income has been furnished under the provisions of the said section by an entity for any tax year to which such order applies, the successor shall furnish, within six months from the end of the month in which the order was issued, a modified return in such form and manner, as prescribed, in accordance with and limited to the said order.

(2) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—

(a) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (*1*), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order and taking into account the modified return so furnished;

(b) are pending on the date of furnishing of the modified return as per sub-section (*1*), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order of the business reorganisation and taking into account the modified return so furnished.

(3) Subject to any other provisions of this section, in an assessment or reassessment made in respect of a tax year under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such tax year.

(4) In this section,—

(a) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(b) "order in respect of business reorganisation" means an order of a High Court or tribunal or an Adjudicating Authority as defined in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016; and

31 of 2016.

(c) "successor" means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.

7. —Partition

Assessment after partition of Hindu undivided family.

315. (*1*) A Hindu family, hitherto assessed as undivided, shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 270 or section 271, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the tax year,—

(a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and irrespective of anything contained against Schedule III (Table: Sl. No. 2), be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the tax year, the total income of the tax year of the joint family shall be assessed as if no partition had taken place, and the provisions of sub-section (*4*)(*b*), so far as may be, apply to the case.

(6) Irrespective of anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

(8) Irrespective of anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(a) a claim that such partial partition has taken place shall not be inquired into under sub-section (*2*) and no finding shall be recorded under sub-section (*3*) that such partial partition had taken place and any finding recorded under sub-section (*3*) to that effect at any time, shall be *null* and *void*;

(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place; and

(c) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition.

(9) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial and the provisions of this Act shall apply accordingly.

(10) In this section,—

(a) "partition" means,—

(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(b) "partial partition" means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

8.—Profits of non-residents from occasional shipping business

Shipping business of non-residents.

316. (*1*) Irrespective of anything in the other provisions of this Act, the provisions of this section shall apply for the purpose of levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

(2) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India,—

(a) 7.5 % of the amount paid or payable on account of such carriage shall be deemed to be income accruing in India to the owner or charterer or to any person on his behalf, on account of such carriage, whether that amount is paid or payable in or out of India; and

(b) the amount referred to in clause (*a*) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.

(*3*) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the person as mentioned in sub-section (*2*) on account of such carriage shipped at that port, since the last arrival of the ship thereat.

(*4*) The requirement of furnishing the return as per sub-section (*3*) shall be deemed to have been complied with, if—

(a) the Assessing Officer is satisfied that—

(i) it is not possible for the master of the ship to furnish the return before the departure of the ship from the port; and

(ii) the master of the ship has made satisfactory arrangements for filing of the return and payment of tax by any other person on his behalf; and

(b) the return is filed within thirty days of the departure of the ship by any person so authorised by the master.

(*5*) On receipt of the return, the Assessing Officer shall—

(*a*) assess the income referred to in sub-section (*2*); and

(*b*) determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in section 393(*1*)(Table: Sl. No. 7) and such sum shall be payable by the master of the ship.

(*6*) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (*5*) after the expiry of nine months from the end of the tax year in which the return under sub-section (*3*) is furnished.

(7) For the purposes of determining the tax payable under sub-section (*5*), the Assessing Officer may call for such accounts or documents as he may require.

(*8*) A port clearance shall not be granted to the ship until the Commissioner of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(9) Nothing in this section shall prevent the owner or charterer of a ship from claiming, before the end of the year following the tax year in which the date of departure of the ship from Indian port falls, that an assessment be made of his total income of the tax year as per other provisions of this Act, and tax payable be determined on the basis of such assessment.

(10) In a case falling under sub-section (*9*), any payment made under this section during the tax year, if so claimed, shall be treated as—

(a) tax paid in advance with respect to that year and adjusted against tax payable by such person; and

(b) the difference between the sum so paid and the amount of tax found so payable by him on such assessment shall be paid by him or refunded to him.

9. —Persons leaving India

Assessment of persons leaving India.

317. (*1*) Irrespective of anything contained in section 4, when it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry, with no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of departure from India (referred to as specified period in this section) shall be chargeable to tax in that current tax year.

(2) The total income of each completed tax year or part of any tax year included in the specified period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(3) The Assessing Officer may estimate the income of such individual for such specified period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purposes of making an assessment under sub-section (*1*), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as specified in the notice, a return in the same form and verified in the same manner as a return under section 268(*1*), setting forth his—

(a) total income for each completed tax year comprised in such specified period referred to therein; and

(b) estimated total income for any part of the tax year comprised in such specified period,

and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under section 268(*1*).

(5) Irrespective of anything contained in section 268(*1*) or 280, where the provisions of sub-section (*1*) are applicable, the Assessing Officer may issue any notice under section 268(*1*) or 280, requiring the furnishing of the return by such individual in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provisions of this Act.

10. —Association of persons or body of individuals or artificial juridical person formed for a particular event or purpose

Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.

318. (*1*) Irrespective of anything contained in the section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose in a tax year is likely to be dissolved in the same year or immediately after such year, the total income of such association or body or juridical person for the period beginning from the first day of that tax year up to the date of its dissolution shall be chargeable to tax in that tax year.

(*2*) For the purpose of sub-section (*1*), the provisions of section 317(*2*) to (*6*) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

11.—Persons trying to alienate their assets

Assessment of persons likely to transfer property to avoid tax.

319. (*1*) Irrespective of anything contained in section 4, where it appears to the Assessing Officer during any current tax year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period beginning from the first day of that current tax year up to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in the current tax year.

(2) For the purpose of sub-section (*1*), the provisions of section 317(*2*) to (*6*) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

12.—Discontinuance of business, or dissolution

Discontinued business.

320. (*1*) Irrespective of anything contained in section 4, where any business or profession is discontinued in any tax year, the income of the period beginning from the first day of that tax year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

(2) The total income of each completed tax year or part of any tax year included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(3) Any person discontinuing any business or profession shall give to the Assessing Officer notice of such discontinuance within fifteen days thereof.

(4) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.

(5) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the said person, had it been received before such discontinuance.

(6) Where an assessment is to be made under the provisions of this section, the Assessing Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under section 268(*1*) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under section 268.

(7) Irrespective of anything contained in section 268 or 280, where the provisions of sub-section (*1*) are applicable, the Assessing Officer may issue any notice under section 268 or 280, requiring the furnishing of the return by the person whose income is to be assessed in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(8) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

Association dissolved or business discontinued.

321. (*1*) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (*1*), if the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the persons referred to in sub-section (*3*) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of section 302(*4*).

Company in liquidation.

322. (*1*) Every person,—

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company, (herein referred to as the liquidator),

shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Assessing Officer who is entitled to assess the income of the company.

(2) The Assessing Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator—

(a) shall not, without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (*2*); and

(b) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands.

(4) The provisions of sub-section (*3*) shall not debar the liquidator from parting with such assets or properties for the purpose of—

(a) the payment of the tax payable by the company; or

(b) making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation; or

(c) meeting such costs and expenses of the winding up of the company,

as are in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, reasonable.

(5) If the liquidator fails to give the notice as per sub-section (*1*), or fails to set aside the amount as required by sub-section (*3*), or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay.

(6) In relation to sub-section (*5*), if the amount of any tax payable by the company is notified under sub-section (*2*), the personal liability of the liquidator under that sub-section shall be to the extent of such amount.

(7) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(8) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other law in force, except the provisions of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

13.—Private companies

18 of 2013.

323. (*1*) Irrespective of anything contained in the Companies Act, 2013, where any tax due from— Liability of directors of private company.

(a) a private company in respect of any income of any tax year; or

(b) any other company in respect of any income of any tax year during which such other company was a private company,

cannot be recovered, then, every person, who was a director of the private company at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) Where a private company is converted into a public company and the tax assessed in respect of any income of any tax year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (*1*) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any tax year commencing before the 1st April, 1961.

(3) In this section, "tax due" includes penalty, interest, fees or any other sum payable under the Act.

14.—Assessment of firms

324. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the rate as specified in the Finance Act of the relevant year. Charge of tax in case of a firm.

325. (*1*) A firm shall be assessed as a firm for the purposes of this Act, if— Assessment as a Firm.

(a) the partnership is evidenced by an instrument; and

(*b*) the individual shares of the partners are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (*1*) shall accompany the return of income of the firm of the tax year in respect of which assessment as a firm is first sought.

(3) For the purposes of sub-section (*2*), the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors), who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(4) Where a firm is assessed as such for any tax year, it shall be assessed in the same capacity for every subsequent year, if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the tax year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for such tax year, and all the provisions of this section shall apply accordingly.

(6) Irrespective of anything contained in any other provision of this Act, where, in respect of any tax year, there is on the part of a firm any such failure as is mentioned in section 271,—

(a) the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession"; and

(b) such payment shall not be chargeable to income-tax under section 26(*2*)**(**)<u>(g)</u>**.

Assessment when section 325 not complied with.

326. Irrespective of anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 325 for any tax year,—

(a) no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing its income chargeable under the head "Profits and gains of business or profession"; and

(b) such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under section 26(*2*)(*g*) in the hands of partners of such firm.

15.—Change in constitution, succession and dissolution

Change in constitution of a firm.

327. (*1*) Where at the time of making an assessment under section 270 or 271, it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.

(2) For the purposes of this section, there is a change in the constitution of the firm—

(a) if one or more of the partners cease to be partners; or

(b) one or more new partners are admitted, subject to the condition that at least one person who was partner of the firm before the change continues as partner after such change; or

(c) where all the partners continue with a change in their respective shares or in the shares of some of them.

(3) The provisions of sub-section 2(*a*) shall not apply to a case where the firm is dissolved on the death of any of its partners.

Succession of one firm by another firm.

328. Where a firm carrying on a business or profession is succeeded by another firm, except in a case covered by section 327, separate assessments shall be made on the predecessor firm and the successor firm as per the provisions of section 313.

Joint and several liability of partners for tax payable by firm.

329. Every person who was, during the tax year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the tax year, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

Firm dissolved or business discontinued.

330. (*1*) Where a firm is dissolved or any business or profession carried on by it has been discontinued, the Assessing Officer shall make an assessment of the total income of the firm, as if no such dissolution or discontinuance had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (*1*), if the Assessing Officer or Joint Commissioner (Appeals) or Commissioner (Appeals), in the course of any proceeding under this Act in respect of any such firm as referred to in that sub-section, is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(3) Every person who was at the time of such dissolution or discontinuance a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such dissolution or discontinuance takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the person referred to in sub-section (*3*) from the stage at which the proceedings stood at the time of such dissolution or discontinuance, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) The provisions of this section shall not affect the provisions of section 302(*4*).

16.—Liability of partners of limited liability partnership in liquidation

Liability of partners of limited liability partnership in liquidation.

331. Irrespective of anything contained in the Limited Liability Partnership Act, 2008, where any tax including penalty, interest, fees or any other sum payable under the Act is due, and cannot be recovered, from— 6 of 2009.

(a) the limited liability partnership in respect of any income of any tax year; or

(b) any other person in respect of any income of any tax year during which such other person was a limited liability partnership,

then, in such case, every such person who was a partner of such partnership at any time during the relevant tax year, shall be jointly and severally liable for the payment of such due amount, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

B.—Special provisions for registered non-profit organisation

I.—Registration

Application for registration.

332. (*1*) The following persons may, for claiming benefits under this Part as a registered non-profit organisation, make an application for registration in such form and manner, as prescribed, to the Principal Commissioner or Commissioner:—

(a) a public trust;

(b) a society registered under the Societies Registration Act, 1860, or under any law in force in India; 21 of 1860.

(c) a company registered under section 8 of the Companies Act, 2013 or the companies registered under section 25 of the Companies Act, 1956 and deemed to have been registered in pursuance of section 465 (*2*)(*g*) of the Companies Act, 2013; 18 of 2013. 1 of 1956.

(d) a University established by law or any other educational institution affiliated thereto or recognised by the Government;

(e) an institution financed wholly or in part by the Government or a local authority;

(f) any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in Schedule VII (Table: Sl. No. 10) to (Table: Sl. No. 19) and (Table: Sl. No. 42); or

(g) any other person notified by the Board.

(2) A person referred to in sub-section (*1*) shall be eligible for registration, if—

(a) such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in section 2(*23*) or one or more public religious purposes, or both; and

(b) the properties of such person are held under an irrevocable trust for the benefit of the general public,—

(i) wholly for charitable or religious purposes; or

(ii) partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961. 43 of 1961.

(3) Every application in respect of the cases specified in column B of the Table below shall be made to the Principal Commissioner or Commissioner within the time provided in column C of the said Table, who shall, on receipt of such application, follow the procedure provided in sub-sections (*6*) and (*7*) and shall pass an order within the time specified in column D of the said Table, and registration, if granted, shall be valid for a period specified in column E thereof.

Table

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
A	B	C	D	E
1.	Where the activities of the applicant have not commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year beginning from which registration is sought.	Three months from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year, beginning from which registration is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has been granted provisional registration and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional registration of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

A	B	C	D	E
5.	Where the registration of the applicant is due to expire, otherthancases mentioned at serial number 4.	At least six months prior to the expiry of the registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
6.	Where the registration of the applicant has become inoperative due to switching over of regime under section 333.	At any time during the tax year beginning from which the registration is sought to be made operative.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
7.	Where the applicant, being a registered non-profit organisation, has adopted or undertaken modification of its objects.	Within thirty days of the date of such adoption or modification.	Six months from the end of the quarter in which application is made.	Five tax years commencing from commencement of the tax year in which such application is made.

(4) In case the application under sub-section (*3*) is made beyond the time allowed in column C of the Table specified in the said sub-section, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in furnishing the application, condone such delay and such application shall be deemed to have been made within time.

(5) In case the application is made under sub-section (*3*)(Table: Sl. Nos. 3 to 7), and the total income of such applicant, without giving effect to the provisions of this Part, does not exceed five crore rupees during each of the two tax years, preceding the tax year in which such application is made, the provisions of (Table: Sl. Nos. 3.E to 7.E) of the said sub-section, shall have effect as if for the words "five years", the words "ten years" had been substituted.

(6) If any application for registration is not made within the time specified in sub-section (*3*)(Table: Sl. No. 3.C, 4.C, 5.C or 7.C) and the delay in filing such application is not condoned under sub-section (*4*), such person shall be liable to pay tax on accreted income under section 352.

(7) The Principal Commissioner or Commissioner shall, on an application made by an applicant in any of the cases specified in sub-section (*3*)(Table: Sl. Nos. 2 to 7), call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself as to the compliance of such requirements of any other law as are material for the purpose of achieving its objects, and the genuineness of activities and—

(a) if he is so satisfied about the objects and the genuineness of the activities and compliance of the requirements of any other law in force, shall pass an order granting registration; or

(b) if he is not so satisfied, after affording a reasonable opportunity of being heard to the applicant shall,—

(i) pass an order rejecting the application, where the application was made in the any of the cases specified in sub-section (*3*) (Table: Sl. No. 2 or 6); or

(ii) pass an order in writing rejecting the application and also cancelling the registration in any other case specified in sub-section (*3*)(Table: Sl. Nos. 3, 4, 5 or 7),

and send a copy of the said order to the applicant and the Assessing Officer.

(8) Where an application has been made in any of the cases specified in sub-section (*3*)(Table: Sl. No. 1), the Principal Commissioner or Commissioner shall grant provisional registration.

(9) Where the registration of a person, registered prior to the 1st April, 2021 under the specified provision of the Income-tax Act, 1961 has expired and such person makes an application for registration under this Part, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in making such application, condone such delay and grant registration to such person under this Part within three months from the end of the month in which the application is made, which shall be valid for five years from the commencement of the tax year 2021-2022. 43 of 1961.

(10) The order under sub-sections (*7*), (*8*) and (*9*) shall be passed in the form and manner, as prescribed.

Switching over of regimes.

333. (*1*) Nothing contained in section 11, other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for any tax year.

(2) The registration under section 332 shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45).

(3) A person, whose registration ceases to operate under sub-section (*2*), may apply for registration under section 332 subject to the condition that the notification granting exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

2. —Income of registered non-profit organisation

Tax on income of registered non-profit organisation.

334. (*1*) The Income-tax payable by a registered non-profit organisation on its total income for any tax year shall be the aggregate of the amounts calculated—

(a) at the rate of 30% on specified income for such tax year; and

(b) at the rate applicable on taxable regular income and any residual income for such tax year under other provisions of this Act.

(2) The provisions of this Chapter shall apply irrespective of anything to the contrary contained in any other provision of this Act other than section 96 to 98.

Regular income.

335. Regular income of any tax year of a registered non-profit organisation means—

(a) receipts from any charitable or religious activity, for which it is registered, carried out by such registered non-profit organisation in such tax year;

(b) receipts, other than those specified in clause (*d*), whether capital or revenue, derived from any property or investment held by such registered non-profit organisation in such tax year;

(c) voluntary contributions received by such registered non-profit organisation in such tax year; and

(d) gains of any commercial activity, other than the commercial activities restricted under sections 345 and 346, carried out by such registered non-profit organisation in such tax year, computed in such manner, as prescribed.

Taxable regular income.

336. The taxable regular income of a registered non-profit organisation for any tax year shall be—

(a) *nil*, where 85% or more of the regular income for such tax year has been applied or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and

(b) in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

Specified income.

337. The specified income of a registered non-profit organisation shall mean the income as specified in column B of the Table below and shall be taxable in the year provided in the column C thereof:—

Table

Sl. No.	Specified income	Tax year
A	B	C
1.	Any anonymous donation received by a registered non-profit organisation (other than a registered non-profit organisation created or established wholly for religious purposes) excluding the anonymous donations up to ₹1,00,000 or 5% of **the** **(**)** **total** donations received by it during the tax year, whichever is higher.	Tax year in which such anonymous donation is received.
2.	Any portion of income applied by it, directly or indirectly, for the benefit of any related person, computed in the manner, as prescribed.	Tax year in which such application is made.
3.	Any portion of income applied by it outside India in contravention to the provisions of section 338(*a*).	Tax year in which such application of income is made.
4.	Any investment made in contravention to the provisions of section 350 out of any income, accumulated income, deemed accumulated income, corpus, deemed corpus, or any other fund.	Tax year in which such investment is made.
5.	Any deemed corpus donation in respect of which any of the conditions specified in the section 340 is violated.	Tax year in which such violation is made.
6.	Any portion of accumulated income, if it is applied to purposes other than charitable or religious purposes for which it is accumulated or set apart.	Tax year in which it is so applied.

A	B	C
7.	Any portion of accumulated income, if it ceases to be accumulated or set apart for application to such purposes as specified under section 342(*1*).	Tax year in which it ceases to be so accumulated or set apart.
8.	Any portion of accumulated income, if it is not utilised for the purpose, for which it is accumulated or set apart within the period for which it was accumulated or set apart as specified in section 342(*1*).	Last of the tax years for which income was so accumulated or set apart.
9.	Any portion of accumulated income, if it is credited or paid to any other registered non-profit organisation.	Tax year in which it is so credited or paid.
10.	Any income applied to purposes other than charitable or religious purposes for which it is registered.	Tax year in which it is so applied.
11.	Any income determined by the Assessing Officer under section 344 in excess of income shown in the books of account of such business undertaking.	Tax year to which such income relates.

Income not to be included in regular income.

338. While computing the regular income of a registered non-profit organisation, the following income shall not be included:—

(a) income applied outside India, where the Board, by general or special order, directs that such income shall not be so included in its total income in case of a registered non-profit organisation—

(i) created before the 1st April, 1952 for charitable or religious purposes; or

(ii) created on or after the 1st April, 1952 for charitable purposes where such application of income outside India tends to promote international welfare in which India is interested;

(b) the corpus donation received by the registered non-profit organisation under section 339.

Corpus donation.

339. Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation where such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

Deemed corpus donation.

340. Where the property of a registered non-profit organisation includes any temple, mosque, gurdwara, church or other place notified under section 133(*1*)(*b*)(*vii*), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—

(a) maintains such corpus as separate identifiable;

(b) applies such corpus only for the purpose for which the contribution was made;

(c) invests or deposits such corpus in any of the modes permitted under section 350; and

(d) does not apply such corpus for making donation to any person.

Application of income.

341. (*1*) The following sums shall be allowed as application of income to a registered non-profit organisation:—

(a) any sum applied by it for charitable or religious purpose in India for which it is registered where such sum is,—

(i) paid during such tax year; and

(ii) such payment is allowable under sections 36(*4*), (*5*), (*6*) and (*7*) and 35(*b*)(*i*);

(b) 85% of the sum paid by way of donation made to any other registered non-profit organisation; and

(c) *nil*, with respect to any sum paid as a corpus donation to any other registered non-profit organisation.

(2) The application of income under sub-section (*1*) shall include the following:—

(a) the amount invested or deposited back during the tax year, in the modes permitted under section 350 maintained specifically for such corpus, if—

(i) such investment or depositing back is made within five years from the end of the tax year in which such application of income was made from the corpus; and

(ii) the application of income from the corpus is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 with respect to such application; 43 of 1961.

(b) the amount repaid, during the tax year, towards any loan or borrowing where,—

(i) such repayment is within five years from the end of the tax year in which such application of income was made from the loan or borrowing; and

(ii) the application of income from the loan or borrowing is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 with respect to such application. 43 of 1961.

(3) The following claims shall not be allowed as application of income under sub-sections (*1*) and (*2*):—

(a) the deduction or allowance by way of depreciation or otherwise claimed in respect of an asset acquisition of which has been claimed as an application of income in the same or any other tax year under this Part or under any corresponding provision of the Income-tax Act, 1961; or 43 of 1961.

(b) a claim of set off or deduction or allowance of any excess application of any of the years preceding the tax year.

(4) An application from corpus, loan or borrowing, accumulated income, specified income or deemed accumulated income shall not be considered as application for the purpose of sub-sections (*1*) and (*2*).

Accumulated income.

342. (*1*) A registered non-profit organisation may accumulate or set apart any part of its regular income during any tax year by furnishing a statement to the Assessing Officer in such form and manner, as prescribed, on or before the due date specified in section 263(*1*) for furnishing the return of income for such tax year stating therein the purpose and period, not exceeding five years, for which the income is being accumulated or set apart.

(2) The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income.

(3) The period during which the income is not be applied for the purpose for which it is so accumulated or set apart pursuant to an order or injunction of any court, shall be excluded from said period of five years.

(4) The income accumulated or set apart under sub-section (*1*) shall be invested or deposited in any of the modes permitted under section 350, or applied for the purposes as stated in the prescribed form referred to in sub-section (*1*).

(*5*) The registered non-profit organisation may, for the change of purpose for which income has been accumulated or set apart, make an application to the Assessing Officer, in such form and manner, as prescribed.

(6) The Assessing Officer may, on an application under sub-section (*5*) and subject to sub-section (*2*), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects.

(7) Where a registered non-profit organisation is dissolved, the Assessing Officer may, on an application made by such registered non-profit organisation in such form and manner, as prescribed, allow application of such income to be made to any other registered non-profit organisation for the year in which it is dissolved.

Deemed accumulated income.

343. (*1*) The regular income, as reduced by the application of income and accumulated income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income and shall be invested or deposited in any of the modes permitted under section 350.

(*2*) The deemed accumulated income under this section shall not be considered as accumulated income for the purposes of section 342.

3. —Commercial activities by registered non-profit organisation

Business undertaking held as property.

344. Where the property held by a registered non-profit organisation includes a business undertaking, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.

Restriction on commercial activities by a registered non-profit organisation.

345. No registered non-profit organisation **(**),** carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless—

(a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and

(b) separate books of account are maintained for such activities.

Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility.

346. No registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless,—

(a) such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility;

(b) the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and

(c) separate books of account are maintained by such registered non-profit organisation for such activities.

4.—Compliances

Books of account.

347. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as prescribed.

Audit.

348. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as prescribed.

Return of income.

349. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, it shall furnish the return of income for **(**)** **that** tax year as per the provisions of section 263(*1*)(*a*)(*iii*), within the time limit allowed under sub-section (*1*)(*b*) of that section**, and in accordance with provisions of section 263(2).**

Permitted modes of investment.

350. (*1*) The modes of investing or depositing the money under this Part, shall be such as specified in Schedule XVI.

(*2*) The modes of investing or depositing money under this Part, other than the modes specified in Schedule XVI, shall be specified by the Central Government, by notification.

5.—Violations

Specified violation.

351. (*1*) The following shall constitute specified violation by a registered non-profit organisation:—

(a) where any income of the registered non-profit organisation has been applied, other than for its objects; or

(b) it carries out any commercial activity in contravention of the provisions of section 345; or

(c) where it has applied any part of its total income for private religious purposes, which does not enure for the benefit of the public; or

(d) where a registered non-profit organisation, created or established after the commencement of this Act for charitable purpose, has applied any part of its income for the benefit of any particular religious community or caste other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children; or

(e) where any activity being carried out by the registered non-profit organisation is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the registered non-profit organisation has not complied with the requirements under section 332(*7*) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality; or

(g) the application referred to in section 332(*1*) contains any false or incorrect information.

(2) Where during any tax year,—

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations;

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under section 270(*13*) for any tax year; or

(c) a registered non-profit organisation has been selected as per the risk management strategy formulated by the Board,

the Principal Commissioner or Commissioner shall—

(i) call for such documents or information from the registered non-profit organisation, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

(ii) pass an order,—

(A) either cancelling the registration of such registered non-profit organisation, after affording a reasonable opportunity of being heard, for such tax year during which such specified violation took place and all subsequent tax years, if he is satisfied that one or more specified violations have taken place; or

(B) not cancelling the registration of such registered non-profit organisation, if he is not satisfied about the occurrence of any specified violation; and

(iii) forward a copy of the order passed under clause (*ii*) to the Assessing Officer and such registered non-profit organisation.

(3) The order under sub-section (*2*)(*ii*), shall be passed before the expiry of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, calling for any document or information, or for making any inquiry, under clause (*i*) of the said sub-section.

Tax on accreted income.

352. (*1*) Every specified person shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate in any of the cases specified in column B of the Table in sub-section (*5*).

(2) The Assessing Officer shall compute the accreted income on the date, specified in column C of the Table in sub-section (*5*) and after affording a reasonable opportunity of being heard to the assessee, pass on order that such income shall be charged to tax under sub-section (*1*).

(3) The accreted income referred to in sub-section (*1*) shall be computed using the following formula:—

A = B-C

where,—

A = Accreted income;

B = Aggregate fair market value of the total assets of the specified person, as on the date specified, in column C of the Table in sub-section (*5*), computed in accordance with such method of valuation, as prescribed;

C = Total liability of such specified person, as on the date specified in column C of the said Table, computed in accordance with such method of valuation, as prescribed.

(4) The accreted income, computed as per the provisions of sub-section (*3*) shall be reduced by such amount of accreted income as is attributable to specified assets, and liabilities, if any, related to such assets.

(5) The specified person and the principal officer or trustee of such specified person shall be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from the due date specified in column D of the Table below, or the date of order passed under sub-section (*2*).

Table

Sl. No.	Case		Specified date	Due date for the payment of tax on accreted income
A	B		C	D
	(i)	(ii)		
1.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has preferred an appeal against the order of cancellation.	The date of the order cancelling the registration.	Date of receipt of the order in any appeal, confirming the cancellation of the registration, by the specified person.
2.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has not preferred an appeal against such order of cancellation.	The date of the order cancelling the registration.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.
3.	(a) The specified person has adopted or undertaken modification of its objects during any tax year; and (b) such modified objects do not conform to the conditions of registration.	The specified person has not applied for fresh registration under any specified provision in such tax year.	The date of adoption or modification of any object.	The end of such tax year.

A	B		C	D
	(i)	(ii)		
4.	(a) The specified person has adopted or undertaken modification of its objects during any tax year; and (b) such modified objects do not conform to the conditions of registration.	The specified person has applied for fresh registration under any specified provision in such tax year and where such application has been rejected and appeal has been preferred against such order of rejection.	The date of adoption or modification of any object.	The date of receipt of the order in any appeal, confirming the cancellation of the registration by the specified person.
5.	(a) The specified person has adopted or undertaken modification of its objects during any tax year; and (b) such modified objects do not conform to the conditions of registration.	The specified person has applied for fresh registration under any specified provision in the said tax year and where such application has been rejected and no appeal has been preferred against such order of rejection.	The date of adoption or modification of any object.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.
6.	The specified person fails to make an application as per the provisions of—	The period specified in the respective clause or sub-clauses or Table, as the case may be, expires in the tax year in which the said application is to be made.	The last date for making an application for registration.	The end of such tax year.

A	B		C	D
	(i)	(ii)		
	(a) sub-clause (*i*) or (*ii*) or (*iii*) of the first proviso to section 10 (*23C*) of the Income-tax Act, 1961 (43 of 1961); or			
	(b) sub-clause (*i*) or (*ii*) or (*iii*) of section 12(*1*)(*ac*) of the Income-tax Act, 1961 (43 of 1961); or			
	(c) as specified in section 332(*3*) (Table: Sl. No. 3, 4, 5 or 7).			
7.	Where a specified person converts itself into a form which is not eligible for grant of registration during any tax year.		The date of such conversion.	The end of such tax year.
8.	The specified person has merged with any other entity other than a registered non-profit organisation having the same or similar objects and the said merger does not fulfil such conditions, as prescribed.		The date of merger.	The date of merger.
9.	The specified person has failed to transfer upon dissolution, all its assets to any other registered non-profit organisation within twelve months from the end of the month in which the dissolution takes place.		The date of dissolution.	The date on which such period of twelve months expires.

(6) The payment of tax on the accreted income by the specified person under this section shall be deemed as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by, or any deduction be allowed to, the specified person or any other person in respect of the amount of tax so paid under any other provision of this Act.

(7) Where the specified person, or the principal officer or trustee of such specified person, fails to pay the whole or any part of the tax on the accreted income within the time allowed under sub-section (*5*), such specified person, principal officer or trustee shall be liable to pay simple interest, computed as per the following formula:—

I = 1% of (T*P)

where,—

I = interest;

T = tax on accreted income; and

P = number of months beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid including part thereof.

(8) All the provisions of this Act shall apply for the collection and recovery of income-tax in respect of the amount of tax payable by the specified person, principal officer or trustee and the following persons shall be deemed to be assessee in default:—

(a) the specified person and principal officer or the trustee of such specified person;

(b) the person to whom any asset forming part of the computation of accreted income under sub-section (*3*) has been transferred, where the tax on accreted income is payable under the cases specified in sub-section (*5*) (Table: Sl. No. 9).

(9) Subject to the provisions of sub-section (*8*), the liability of the person referred to in clause (*b*) of the said sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.

Other violations.

353. (*1*) Where any registered non-profit organisation—

(a) fails to maintain books of account under section 347; or

(b) fails to get books of account audited under section 348; or

(c) fails to furnish its return of income under section 349; or

(d) any registered non-profit organisation, carrying out advancement of any other object of general public utility, carries out any commercial activity in contravention of the provisions of section 346,

during any tax year, its regular income for such tax year as reduced by the expenditure referred to in sub-section (*3*) shall be taxable regular income which shall be chargeable to tax as per the provisions of section 334.

(*2*) In addition to the tax referred to in sub-section (*1*), the specified income and residual income of the registered non-profit organisation shall also be chargeable to tax under the provisions of section 334, to the extent not covered under taxable regular income under the said sub-section, and the provisions of section 338 shall not apply.

(*3*) The expenditure referred in sub-section (*1*) shall be computed subject to the following conditions:—

(a) capital expenditure shall not be allowed;

(b) such expenditure shall be incurred in India;

(c) such expenditure shall be for the objects of the registered non-profit organisation;

(d) such expenditure is not made from the corpus standing to the credit of the registered non-profit organisation as on the end of the tax year immediately preceding the tax year for which income is being computed;

(e) such expenditure is not out of any loan or borrowing;

(f) the claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other tax year;

(g) such expenditure is not in the form of any contribution or donation to any person;

(h) such expenditure is not on account of a payment or aggregate of payments made to a person in contravention to the provisions of sections 36(*4*), (*5*), (*6*) and (*7*);

(i) such payment is allowable under section 35(*b*)(*i*); and

(j) set off or deduction or allowance of any application or expenditure other than those referred to in clauses (*a*) to (*i*) shall not be allowed.

6. —Approval for purpose of deduction under section 133(1)(b)(ii)

Application for approval for purpose of section 133(*1*)(*b*)(*ii*).

354. (*1*) A registered non-profit organisation or a person referred to in Schedule **(**) VII** (Table: Sl. No. 1) may, for the purpose of section 133(*1*)(*b*)(*ii*), make an application for approval in such form and manner, as prescribed, to the Principal Commissioner or Commissioner, subject to the following conditions:—

(a) it is not expressed to be for the benefit of any particular religious community or caste;

(b) it is established in India for a charitable purpose and does not incur any expenditure of an amount being 5% or more of its total income during a tax year which is of a religious nature;

(c) the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;

(d) it maintains regular accounts of its receipts and expenditure;

(e) it prepares such statement for such period, as prescribed, and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time, as prescribed;

(f) it delivers to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under clause (*e*) in such form and verified in such manner, as prescribed; and

(g) it furnishes a certificate to the donor specifying the amount of donation within such period from the date of receipt of the donation containing the requisite particulars in the manner, as prescribed.

(*2*) The application under sub-section (*1*) shall be made in respect of the cases referred to in column B of the Table below within the time limit provided in column C of the said Table and the Principal Commissioner or Commissioner, on receipt of such application, shall follow the procedure provided in sub-sections (*3*) and (*4*), and shall pass an order in writing within the time limit provided in column D and approval, if granted, shall be valid for a period provided in column E of the said Table.

Table

Sl. No.	Case	Time limit for furnishing application	Time limit for passing the order	Validity of approval
A	B	C	D	E
1.	Where the activities of the applicant have not commenced.	At any time during the tax year from which approval is sought.	One months from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced.	At any time during the tax year from which approval is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has provisional approval and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional approval of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the period for approval of a registered non-profit organisation is due to expire.	At least six months prior to the expiry of the said approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

(*3*) Where an application has been made in any of the cases specified under sub-section (*2*) (Table: Sl. No. 2) to (Table: Sl. No. 5), the Principal Commissioner or Commissioner shall call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself as to the compliance of such requirements of any other law in force, as are material for the purpose of achieving its objects, and the genuineness of activities and—

(a) if he is so satisfied about the objects and the genuineness of the activities and compliance of the requirements of any other law in force, he shall pass an order in writing approving it; or

(b) if he is not so satisfied, after affording a reasonable opportunity of being heard,—

(i) shall pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (*2*) (Table: Sl. No. 2); and

(ii) in any other case, shall pass an order rejecting the application and also cancelling the approval,

and send a copy of the order to the applicant and the Assessing Officer.

(*4*) Where an application has been made in any of the cases specified in sub-section (*2*) (Table: Sl. No. 1), the Principal Commissioner or Commissioner shall pass an order granting provisional approval.

7.—Interpretation

Interpretation.

355. In this Part,—

(a) "anonymous donation" means any voluntary contribution referred to in section 2(*49*)(*c*), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars, as prescribed;

(b) "approval" means an approval under the second proviso to section 80G(*5*) of the Income-tax Act, 1961or section 354; 43 of 1961.

(c) "cancellation" includes withdrawal;

(d) "donation" means any voluntary contribution received by a registered non-profit organisation from any person;

(e) "commercial activity" means any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;

(f) "registration" includes provisional registration, provisional approval or approval, as referred to in the second proviso to sections 10(*23C*) or 12AB(*1*) of the Income-tax Act, 1961 and under section 332, but shall not include approval under the second proviso to section 80G(*5*) of the said Act or section 354; 43 of 1961.

(g) "registered non-profit organisation" means any person having a valid registration under any specified provision and such registration has not been cancelled;

(h) "related person" means any of the following persons:—

(i) the author or the founder of the registered non-profit organisation;

(*ii*) any person whose total contribution to such registered non-profit organisation, during the relevant tax year exceeds one lakh rupees, or, in aggregate up to the end of the relevant tax year exceeds ten lakh rupees, as the case may be;

(iii) where such author, founder or person is a Hindu undivided family, a member of the family;

(iv) any trustee or manager (by whatever name called) of the registered non-profit organisation;

(v) any relative of any persons referred to in sub-clause (*i*), (*iii*) or (*iv*);

(vi) any concern in which any of the persons referred to in sub-clauses (*i*), (*iii*) or (*iv*) has a substantial interest;

(i) "relative", in relation to an individual, means—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) any lineal ascendant or descendant of the individual;

(v) any lineal ascendant or descendant of the spouse of the individual;

(vi) spouse of a person referred to in sub-clause (*ii*), (*iii*), (*iv*) or (*v*);

(vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual;

(j) "residual income" means the total income, as reduced by regular income and specified income;

(k) "specified asset" means any asset which is established to have been directly acquired by the specified person—

(i) out of its income of the nature referred to in Schedule II (Table: Sl. No. 1);

(ii) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective, if the specified person has not been allowed any benefit under this Part or under sections 11 and 12 or section 10(*23C*)(*iv*) or (*v*) or (*vi*) or (*via*) of the Income-tax Act, 1961 during the said period, where provisions of the first proviso or the second proviso to sub-section 12A(*2*) or the eighth proviso to clause 10(*23C*) of the said Act, are not applicable;

43 of 1961.

(iii) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective due to the provisions of the first proviso or the second proviso to section 12A(*2*) or the eighth proviso to section 10(*23C*), where provisions of the first proviso or the second proviso to section 12A(*2*) or the eighth proviso to section 10(*23C*), of the Income-tax Act, 1961, are applicable; and

43 of 1961.

(iv) which has been transferred to any other specified person within twelve months from the end of the month in which the dissolution takes place in respect of a case specified in section 352(*5*) (Table: Sl. No. 9);

(l) "specified person" means any person which is registered under any specified provision at any time since its incorporation or creation;

(m) "specified provision" means section 12A, 12AA or 12AB or section 10(*23C*) of the Income-tax Act, 1961 or section 332;

43 of 1961.

(n) "substantial interest", in relation to a person in a concern, means—

(i) where the concern is a company, its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by such person or partly by such person and partly by one or more of the other related persons; or

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other related persons are entitled in the aggregate at any time during the tax year, to not less than 20% of the profits of such concern; and

(o) "value" means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person.

CHAPTER XVIII

APPEALS, REVISIONS AND ALTERNATE DISPUTE RESOLUTIONS

A.—Appeals

I.—*Appeals to Joint Commissioner (Appeals) and Commissioner (Appeals)*

Appealable orders before Joint Commissioner (Appeals).

356. (*1*) Any assessee, aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(a) an order being an intimation under section 270(*1*) or 399(*1*), where the assessee objects to the making of adjustments; or

(b) an order under section 270(*10*) or 271, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(c) an order of assessment, reassessment or recomputation under section 279; or

(d) an order under section 398; or

(e) an order imposing penalty under Chapter XXI; or

(f) an order under section 287 or 288 amending any of the orders or intimations in clauses (*a*) to (*e*).

(2) No appeal shall be filed before the Joint Commissioner (Appeals) if an order referred to in sub-section (*1*) is passed by or with the prior approval of, an income-tax authority above the rank of Deputy Commissioner.

(3) The Board or an income-tax authority so authorised by the Board in this regard, may transfer—

(a) any appeal filed against an order referred to in sub-section (*1*) and any matter arising out of or connected with such appeal, which is pending before the Commissioner (Appeals), to the Joint Commissioner (Appeals); or

(b) any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), regardless of anything contained in sub-sections (*1*) and (*3*)(*a*),

who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(4) Where an appeal is transferred under sub-section (*3*), the appellant shall be given an opportunity of being reheard.

(5) For the disposal of appeal under this section, the Central Government may notify a scheme, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Joint Commissioner (Appeals) and the appellant, to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of such appeals, shall not apply or shall apply with exceptions, modifications and adaptations.

(6) The Board may specify that any provisions of this section shall not apply to any case or class of cases.

(7) In this section, "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

Appealable orders before Commissioner (Appeals).

357. (1) Any assessee or any deductor or any collector, aggrieved by any of the following orders, may appeal to the Commissioner (Appeals) against—

(a) an order passed by a Joint Commissioner under section 231(*4*)(*b*);

(b) an order against the assessee where the assessee denies his liability to be assessed under this Act; or

(c) an order being an intimation under section 270(*1*) or 399(*1*), where the assessee or the deductor or the collector objects to the making of adjustments; or

(d) any order of assessment under section 270(*10*) [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(*12*)] or 271, where the assessee objects to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(e) an order of assessment, reassessment or recomputation under section 279 [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(*12*)] or 283; or

(f) an order made under section 169(*3*)(*a*); or

(g) an order made under section 287 or 288 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections except an order referred to in section 274(*12*); or

(h) an order made under section 306 treating the assessee as the agent of a non-resident; or

(i) an order made under section 313(*2*) or (*4*); or

(j) an order made under section 315; or

(k) an order made under section 398; or

(l) an order made under section 431; or

(m) an order made under section 434; or

(n) an order imposing or enhancing a penalty under Chapter XXI; or

(o) an order imposing a penalty under section 412; or

(p) an order passed under section 294(*1*)(*c*); or

(q) an order imposing a penalty under section 298(*2*); or

(r) an order made by an Assessing Officer under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

(2) For the disposal of appeal under this section, the Central Government may notify a scheme, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Commissioner (Appeals) and the appellant, to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of such appeals, shall not apply or shall apply with exceptions, modifications and adaptations.

(3) In this section, "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

Form of appeal and limitation.

358. (*1*) Every appeal under this Chapter shall be in such form and verified in such manner, as prescribed.

(2) An appeal, referred in sub-section (*1*), made to the Commissioner (Appeals) or to the Joint Commissioner (Appeals), shall be accompanied by a fee of—

(a) two hundred and fifty rupees, where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less;

(b) five hundred **rupees**, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees;

(c) one thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(d) two hundred and fifty rupees, where the subject matter of an appeal is not covered under clauses (*a*), (*b*) and (*c*).

(3) The appeal shall be presented within thirty days,—

(a) from the date of service of the notice of demand where the appeal relates to any assessment or penalty; or

(b) in any other case, from the date on which intimation of the order sought to be appealed against is served.

(4) For the purposes of sub-section (*3*)(*a*), where an application has been made under section 440(*1*), the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded.

(5) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(6) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him.

(7) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of sub-section (*6*)(*b*) and on an application made by the appellant in this behalf, for reasons to be recorded in writing, exempt him from the operation of the provisions of that sub-section.

Procedure in appeal.

359. (*1*) The Joint Commissioner (Appeals) or the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal:—

(a) the appellant, either in person or by an authorised representative;

(b) the Assessing Officer, either in person or by a representative.

(3) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may—

(a) adjourn the hearing of the appeal; or

(b) make such further inquiry as he thinks fit, before disposing of any appeal, or may direct the Assessing Officer to make further inquiry and report the result of the same; or

(c) allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(4) The order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(5) The Joint Commissioner (Appeals) or the Commissioner (Appeals), where it is possible, may hear and decide such appeal within one year from the end of the financial year in which such appeal is filed or transferred to him under section 356.

(6) On the disposal of the appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Powers of Joint Commissioner (Appeals) or Commissioner (Appeals).

360. (*1*) In disposing of an appeal, the Commissioner (Appeals) or the Joint Commissioner (Appeals), shall have the following powers:—

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(b) where such appeal is against an order of assessment made under section 271, the Commissioner (Appeals) may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;

(c) in an appeal against the order of assessment for which the proceeding before the Settlement Commission abates under section 245HA of the Income-tax Act 1961, the Commissioner (Appeals) may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

43 of 1961.

(d) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(e) in any other case, he may pass such orders in the appeal as he thinks fit.

(2) The Joint Commissioner (Appeals) or the Commissioner (Appeals), shall not enhance an assessment or a penalty or reduce the amount of refund, unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

(3) The Joint Commissioner (Appeals) or the Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter was not raised before him by the appellant.

2.—Appeals to Appellate Tribunal.

Appellate Tribunal.

361. (*1*) The Central Government shall constitute an Appellate Tribunal consisting of as many Judicial and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(2) Irrespective of anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed,—

(a) after the commencement of the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act;

33 of 2021.

(b) before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of the Income-tax Act, 1961 and the rules made thereunder, as if the provisions of section 184 of the Finance Act, 2017 had not come into force. 43 of 1961. 7 of 2017.

(3) The Central Government shall appoint—

(a) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(b) one of the Vice-Presidents of the Appellate Tribunal,

to be the President thereof.

(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, Vice-Presidents thereof.

(5) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

Appeals to Appellate Tribunal.

362. (*1*) Any assessee, aggrieved by any of the following orders, may appeal to the Appellate Tribunal against such order—

(a) an order passed under this Act, by a Commissioner (Appeals) or a Joint Commissioner (Appeals);

(b) an order passed by a Principal Commissioner or Commissioner under—

(*i*) section 332(*7*) or (*8*) or (*9*), 351(*2*)(*ii*) or 354(*3*); or

(ii) section 377 or 439 or 465; or

(iii) section 287;

(c) an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 377 or 465 or an order passed under section 287 amending any such order;

(d) an order passed by an Assessing Officer under section 270(*10*) or 279, in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 287 in respect of such order;

(e) an order passed by an Assessing Officer under section 270(*10*) or 279, with the approval of the Principal Commissioner or Commissioner as referred to in section 274(*12*) or an order passed under section 287 or 288 in respect of such order; or

(f) an order passed by an Assessing Officer under section 234(*4*).

(2) The Principal Commissioner or Commissioner may, if he objects to any order passed by the Joint Commissioner (Appeals) or the Commissioner (Appeals) under this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (*1*) or (*2*) shall be filed within two months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner.

(4) The Assessing Officer or the assessee, on receipt of notice that an appeal against an order, has been preferred under sub-section (*1*) or (*2*) by the other party, may, irrespective of that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the manner, as prescribed, against any part of such order, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in such form and verified in such manner, as prescribed and shall, be accompanied by a fee of—

(a) five hundred rupees, where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one lakh rupees or less;

(b) one thousand five hundred rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one lakh rupees but not more than two lakh rupees;

(c) 1% of the assessed income, subject to a maximum of ten thousand rupees, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two lakh rupees;

(d) five hundred rupees, where the subject matter of an appeal relates to any matter, other than those specified in clauses (*a*), (*b*) and (*c*).

(7) No fee shall be payable for an appeal referred to in sub-section (*2*), or a memorandum of cross objections referred to in sub-section (*4*).

(8) An application for stay of demand shall be accompanied by a fee of five hundred rupees.

Orders of Appellate Tribunal.

363. (*1*) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Appellate Tribunal may amend any order passed by it under sub-section (*1*) for the rectification of any mistake apparent from record, within six months from the end of the month in which the order was passed, if the mistake is brought to its notice by the assessee or the Assessing Officer.

(3) An amendment, as referred to in sub-section (*2*), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made, unless the assessee has been allowed a reasonable opportunity of being heard.

(4) Any application filed by the assessee under sub-section (*2*) shall be accompanied by a fee of fifty rupees.

(5) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within four years from the end of the financial year in which such appeal is filed under section 362(*1*) or (*2*).

(6) The Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under section 362(*1*), for a period not exceeding one hundred and eighty days from the date of such order, subject to the condition that the assessee—

(a) deposits not less than 20% of the amount of tax, interest, fee, penalty or any other sum payable under this Act; or

(b) furnishes security of equal amount as referred to in clause (*a*),

and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order.

(7) No extension of stay, as referred to in sub-section (*6*), shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay passed under the said sub-section, unless—

(a) the assessee makes an application and has complied with the condition referred to in sub-section (*6*); and

(b) the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee,

so, however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed.

(8) The order of stay shall stand vacated if the appeal is not disposed of within the period allowed under sub-section (*6*) or (*7*), even if the delay in disposing of the appeal is not attributable to the assessee.

(9) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(10) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

(11) Save as provided in section 365, orders passed by the Appellate Tribunal on appeal shall be final.

Procedure of Appellate Tribunal.

364. (*1*) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (*3*), a Bench shall consist of one Judicial Member and one accountant member.

(3) The President, or any other member of the Appellate Tribunal authorised in this behalf by the Central Government, may sitting singly, dispose of any case allotted to the Bench, pertaining to an assessee whose total income as computed by the Assessing Officer in the case does not exceed fifty lakh rupees.

(4) The President of the Appellate Tribunal may, for the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(5) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(7) The Appellate Tribunal, for the purposes of discharging its functions,—

(a) shall have all the powers which are vested in the income-tax authorities referred to in section 246;

(b) any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023; and

45 of 2023.

(c) the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 215 and Chapter XXXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023.

46 of 2023.

3.—Appeals to High Court

Appeal to High Court.

365. (*1*) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(a) filed within one hundred twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that there was sufficient cause for not filing the appeal within one hundred twenty days, it may admit an appeal after the said period.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(6) The provisions of sub-section (*5*) shall not take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(8) The High Court may determine any issue which the Appellate Tribunal,—

(a) has not determined; or

(b) has wrongly determined, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section. 5 of 1908.

(10) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such order by the Assessing Officer, on the basis of a certified copy of the judgment.

Case before High Court to be heard by not less than two Judges.

366. (*1*) When an appeal has been filed before the High Court under section 365, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided as per the opinion of such Judges or of the majority, if any, of such Judges.

(*2*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

4.—Appeals to Supreme Court

Appeal to Supreme Court.

367. An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on an appeal made to High Court in respect of an order passed under section 363 in any case which the High Court certifies to be fit for appeal to the Supreme Court.

Hearing before Supreme Court.

368. (*1*) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 367 as they apply in the case of appeals from decrees of a High Court.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 365(*10*) in the case of a judgment of the High Court.

5.—General

Tax to be paid irrespective of appeal, etc.

369. Irrespective of the fact that an appeal has been preferred to the High Court or the Supreme Court, tax shall be payable as per the assessment made in the case.

Execution for costs awarded by Supreme Court.

370. The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

Amendment of assessment on appeal.

371. If as a result of an appeal under section 356 or 357 or 362, any change is made in the assessment of a body of individuals or an association of persons, or a new assessment is directed in such cases, the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, shall pass an order authorising the Assessing Officer to either amend the assessment of any member of the body or association or make a fresh assessment on such member.

Exclusion of time taken for copy.

372. In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not provided with a copy of the order when the notice of the order was served, the time required to obtain a copy of such order, shall be excluded.

Filing of appeal or by income-tax authority.

373. (*1*) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (*1*), an income-tax authority has not filed any appeal on any issue in the case of an assessee for any tax year, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(a) the same assessee for any other tax year; or

(b) any other assessee for the same or any other tax year.

(3) Where even when no appeal has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (*1*), it shall not be lawful for an assessee, being a party in any appeal, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(4) The Appellate Tribunal or Court, hearing such appeal, shall have regard to the orders, instructions or directions issued under sub-section (*1*) and the circumstances under which such appeal was filed or not filed in respect of any case.

Interpretation of "High Court".

374. In this Chapter, "High Court" means,—

(i) for any State, the High Court for that State;

(ii) for the Union territory of Jammu and Kashmir, the High Court of Jammu and Kashmir and Ladakh;

(iii) for the Union territory of Ladakh, the High Court of Jammu and Kashmir and Ladakh;

(iv) for the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta;

(v) for the Union territory of Lakshadweep, the High Court of Kerala;

(vi) for the Union territory of Chandigarh, the High Court of Punjab and Haryana;

(vii) for the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay; and

(viii) for the Union territory of Puducherry, the High Court at Madras; and

(ix) for the National Capital Territory of Delhi, the High Court of Delhi.

B.—Special provisions for avoiding repetitive appeals

Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

375. (*1*) Irrespective of anything contained in this Act, where an assessee claims that—

(a) any question of law arising in his case for a tax year pending before the Assessing Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another tax year;

(b) such question of law is pending before—

(i) the High Court on a reference under section 256 or on an appeal under section 260A of the Income-tax Act, 1961; or

43 of 1961.

(ii) the Supreme Court on a reference under section 257 or on an appeal under section 261 of the Income-tax Act, 1961; or

43 of 1961.

(iii) the High Court on an appeal made under section 365; or

(iv) the Supreme Court on appeal made under section 367; or

(v) in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court,

such case being hereafter in this section referred to as the other case, he may furnish a declaration to the Assessing Officer or the appellate authority, in such form and manner, as prescribed, that if the Assessing Officer or the appellate authority, agrees to apply in the relevant case, the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case before any appellate authority or in a subsequent appeal before a higher forum.

(2) Where a declaration under sub-section (*1*) is furnished to any appellate authority, the appellate authority shall—

(a) call for a report from the Assessing Officer on the correctness of the claim made by the assessee; and

(b) allow the Assessing Officer an opportunity of being heard in the matter, if such request is made by him.

(3) The Assessing Officer or the appellate authority, may, by an order in writing,—

(a) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(b) reject the claim if not so satisfied.

(4) An order under sub-section (*3*) shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act.

(5) Where a claim is admitted under sub-section (*3*),—

(a) the Assessing Officer or the appellate authority, may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in any subsequent appeal before a higher forum.

(6) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order referred to in sub-section 5(*a*) in conformity with such decision.

(7) In this section,—

(a) "appellate authority" means the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal;

(b) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him; and

(c) "subsequent appeal before a higher forum" means the appeal before the High Court under section 365 or appeal before the Supreme Court under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court.

Procedure where an identical question of law is pending before High Courts or Supreme Court.

376. (*1*) Irrespective of anything contained in this Act, where the collegium is of the opinion that—

(a) any question of law arising in the case of an assessee for any tax year (such case being herein referred to as the relevant case) is identical with a question of law arising,—

(i) in his case for any other tax year; or

(ii) in the case of any other assessee for any tax year; and

(b) such question of law is pending before the jurisdictional High Court under section 365 or the Supreme Court in an appeal under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, which is in favour of such assessee (such case being herein referred to as the other case),

the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under section 362(*2*) or to the jurisdictional High Court under section 365(*2*) in the relevant case against the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal.

(2) Irrespective of anything contained in section 362(*3*) or section 365(*2*)(*a*), the Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (*1*), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, in such form as prescribed, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.

(3) The application referred to in sub-section (*2*) shall be filed within one hundred and twenty days from the date of receipt of the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or of the Appellate Tribunal.

(4) The Principal Commissioner or Commissioner shall direct the Assessing Officer—

(a) to make an application under sub-section (*2*), if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and

(b) to proceed as per section 362(*2*) or section 365(*2*)(*b*), if no such acceptance is received irrespective of anything in section 362(*3*) or section 365(*2*)(*a*).

(*5*) If the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the order of the Appellate Tribunal referred to in sub-section(*1*), is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, against such order, and save as otherwise provided in this section, all other provisions of Parts A.2 and A.3 of this Chapter shall apply accordingly.

(6) Every appeal under sub-section (*5*) shall be filed within sixty days to the Appellate Tribunal or one hundred and twenty days to the High Court, from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case, is communicated to the Principal Commissioner or the Commissioner (having jurisdiction over the relevant case), as per the procedure specified by the Board.

(7) In this section, "collegium" means a collegium comprising two or more Chief Commissioners or Principal Commissioners or Commissioners, as specified by the Board.

C.—Revision by the Principal Commissioner or Commissioner

Revision of orders prejudicial to revenue.

377. (*1*) The Competent Authority may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including—

(a) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(b) an order modifying the order under section 166; or

(c) an order cancelling the order under section 166 and directing a fresh order under the said section.

(2) For the purpose of sub-section (*1*),—

(a) an order passed by the Assessing Officer or the Transfer Pricing Officer, shall include—

(i) an order of assessment made on the basis of the directions issued by the Joint Commissioner under section 272;

(ii) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer or the Transfer Pricing Officer, conferred on, or assigned to, him by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board under section 241; and

(iii) an order under section 166;

(b) "record" shall include all records relating to any proceeding under this Act available at the time of examination by the Competent Authority;

(c) where any order referred to in this section and passed by the Assessing Officer or the Transfer Pricing Officer, had been the subject matter of any appeal filed, the powers of the Competent Authority, shall extend to such matters as had not been decided in such appeal.

(3) An order passed by the Assessing Officer or the Transfer Pricing Officer, shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Competent Authority, the order—

(a) is passed without making inquiries or verification which should have been made;

(b) is passed allowing any relief without inquiring into the claim;

(c) has not been made in accordance with any order, direction or instruction issued by the Board under section 239; or

(d) has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

(4) No order shall be made under sub-section (*1*) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(5) Irrespective of anything contained in sub-section (*4*), an order in revision under this section may be passed at any time to give effect to a finding or direction contained in the order of the Appellate Tribunal, the High Court, or the Supreme Court.

(6) In computing the period of limitation under sub-section (*4*), the following period shall be excluded,—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*); and

(*b*) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(7) If after the exclusion of the period provided in sub-section (*6*), the time limit for completion, in that sub-section is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(8) In this section,—

(a) "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(b) "Transfer Pricing Officer" shall have the same meaning as in section 166(*18*).

Revision of other orders.

378. (*1*) For any order, other than an order to which section 377 applies, passed by an authority subordinate to him, the Competent Authority may, either of his own motion or on an application by the assessee for revision,—

(a) call for the record of any proceeding under this Act in which any such order has been passed;

(b) make such inquiry or cause such inquiry to be made; and

(c) subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Competent Authority shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

(4) The Competent Authority may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period as provided in sub-section (*3*), admit an application made after the expiry of the period specified in that sub-section.

(5) The Competent Authority shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, but has not been made and the time within which such appeal may be made has not expired; or

(b) where the appeal lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(c) where the order has been made the subject of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal.

(6) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(7) On every application by an assessee for revision under this section, an order shall be passed within one year from the end of the financial year in which such application is made.

(8) In computing the period of limitation under sub-section (*7*), the following period shall be excluded:—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 244(*2*); and

(b) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(9) If after the exclusion of the period provided in sub-section (*8*), the time limit for completion as provided in sub-section (*6*) is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(10) Irrespective of anything contained in sub-section (*7*), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(11) For the purposes of this section,—

(a) "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(b) an order by the Competent Authority declining to interfere shall, not be deemed to be an order prejudicial to the assessee.

D.—Alternate Dispute Resolutions

1.—Dispute Resolution Committee in certain cases

Dispute Resolution Committee.

379. (*1*) The Central Government shall constitute, one or more Dispute Resolution Committees, as per the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as specified by the Board, who opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions, as prescribed.

(2) The Dispute Resolution Committee, subject to the conditions as prescribed, may make modifications to the variations in specified order or reduce or waive any penalty imposable under this Act, or grant immunity from prosecution for any offence punishable under this Act, in case of a person whose dispute is resolved under this Chapter.

(3) Irrespective of anything contained in section 275, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—

(a) in a case where the specified order is a draft of the proposed order of assessment under section 275(*1*), pass an order of assessment, reassessment or recomputation; or

(b) in any other case, modify the order of assessment, reassessment or recomputation,

in conformity with the directions contained in the order of the Dispute Resolution Committee within one month from the end of the month in which such order is received.

(4) "specified order" means such order, including draft order, as specified by the Board, and—

(i) the aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(*ii*) such order is not based on search initiated under section 247 or requisition under section 248 in the case of assessee or any other person or survey under section 253 or information received under an agreement referred to in section 159(*1*) or (*2*); and

(*iii*) where the assessee has filed a return for the tax year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

2.—*Advance rulings*

380. In this Chapter,— Interpretation.

(a) "advance ruling" means—

(i) a determination by the Board for Advance Rulings in relation to the tax liability arising out of a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(ii) a determination by the Board for Advance Rulings in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(iii) a determination by the Board for Advance Rulings in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant; and such determination shall include the determination of any question of law or of fact specified in the application;

(iv) a determination or decision by the Board for Advance Rulings in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;

(v) a determination or decision by the Board for Advance Rulings whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter XI or not;

(b) "applicant" means any person who—

(i) is a non-resident referred to in clause (*a*)(*i*); or

(ii) is a resident referred to in clause (*a*)(*ii*); or

(iii) is a resident referred to in clause (*a*)(*iii*) falling within any such class or category of persons as the Central Government may, by notification, specify; or

(iv) is a resident falling within any such class or category of persons as the Central Government may, by notification, specify in this behalf; or

(v) is referred to in clause (*a*)(*v*),

and makes an application under section 383(*1*);

(c) "application" means an application made to the Board for Advance Rulings under section 383(*1*);

(d) "Board for Advance Rulings" means the Board for Advance Rulings constituted by the Central Government under section 381;

(*e*) "Member" means a Member of the Board for Advance Rulings.

Board for Advance Rulings.

381. (*1*) The Central Government shall constitute one or more Boards for Advance Rulings, as may be necessary, for giving advance rulings under this Chapter on or after such date as the Central Government may, by notification, appoint.

(*2*) The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board.

Vacancies, etc., not to invalidate proceedings.

382. No proceeding before, or pronouncement of advance ruling by, the Board for Advance Rulings, shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board for Advance Rulings.

Application for advance ruling.

383. (*1*) An applicant desirous of obtaining an advance ruling under this Chapter, may make an application in such form and manner, as prescribed, stating the question on which the advance ruling is sought.

(2) The application shall be **(**)** accompanied by such fee, as prescribed.

(3) An applicant may withdraw an application within thirty days from the date of the application.

Procedure on receipt of application.

384. (*1*) On receipt of an application, the Board for Advance Rulings shall forward a copy thereof to the Principal Commissioner or Commissioner and, call upon him to furnish the relevant records, which shall be returned at the earliest opportunity.

(2) The Board for Advance Rulings may, after examining the application and the records called for either allow or reject the application by an order.

(3) For the purposes of sub-section (*2*), an application shall be rejected if the question raised therein—

(a) is already pending before any income-tax authority or Appellate Tribunal except in the case of a resident applicant falling in section 380(*b*)(*iv*) or any court;

(b) involves determination of fair market value of any property;

(c) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax except in the case of a resident applicant falling in section 380(*b*)(*iv*) or in the case of an applicant falling in section 380(*b*)(*v*).

(4) The application shall not be rejected under sub-section (*2*), unless an opportunity has been given to the applicant of being heard and the reasons for such rejection are given in the order.

(5) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(6) Where an application is allowed under sub-section (*2*), the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling in writing, on the question specified in the application within six months of the receipt of application.

(7) On a request from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

(8) A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in the manner, as prescribed shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.

(*9*) In this section, "authorised representative" shall have the meaning assigned to it in section 515(*3*)(*a*), as if the applicant were an assessee.

Appellate authority not to proceed in certain cases.

385. No income-tax authority or the Appellate Tribunal shall proceed to decide any issue for which an application has been made by an applicant, being a resident, under section 383(*1*).

Advance ruling to be void in certain circumstances.

386. (*1*) Where on a representation made by the Principal Commissioner or Commissioner or otherwise, the Board for Advance Rulings finds, that an advance ruling pronounced under section 384(*6*) has been obtained by the applicant by fraud or misrepresentation, then it may by order, declare such ruling to be *void ab initio* and thereupon, all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(*2*) A copy of the order made under sub-section (*1*) shall be sent to the applicant and the Principal Commissioner or Commissioner.

Powers of the Board for Advance Rulings.

387. (*1*) The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 as are referred to in section 246 of this Act.

5 of 1908.

(*2*) The Board for Advance Rulings shall be considered to be a civil court for the purposes of section 215 but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 and every proceeding before the Board for Advance Rulings shall be considered to be a judicial proceeding under sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023.

46 of 2023.

45 of 2023.

Procedure of Board for Advance Rulings.

388. The Board for Advance Rulings shall, subject to this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Appeal.

389. (*1*) The applicant, if aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within sixty days from the date of the communication of that ruling or order, in such form and manner, as prescribed.

(*2*) Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (*1*), it may grant further period of thirty days for filing such appeal.

CHAPTER XIX

COLLECTION AND RECOVERY OF TAX

A.—General

Deduction or collection at source and advance payment.

390. (*1*) The tax on income shall be payable as per this Chapter by way of—

(a) deduction or collection at source; or

(b) advance payment; or

(c) payment under section 392(*2*)(*a*).

(2) The tax referred to in sub-section (*1*) shall be payable as per the provisions of this Chapter, irrespective (**) ***that*** the assessment ***in respect of such income is*** to be made ***in a*** later **(**)** tax year.

(3) Nothing contained in this section, shall affect the charge of tax on such income under section 4(*1*).

(4) The payment of tax referred to in sub-section (*1*) shall be in addition to any other mode of tax (*****) **recovery** to discharge the liability in respect of income assessed for a tax year.

(5) The tax deducted or collected at source or sum referred to in section 392(*2*)(*a*) under this Chapter and paid to the Central Government shall be treated as payment of tax on behalf of the person—

(a) from or in respect of whose income or payment, such tax has been deducted or paid; or

(b) from whom such tax has been collected.

(6) The Board may make rules for—

(a) giving credit of tax deducted or collected or paid to a person referred to in sub-section (*5*) and also a person other than the person referred to in the said sub-section;

(b) the tax year for the credit shall be given.

Direct payment.

391. (*1*) The income-tax on any income shall be payable directly by the assessee if—

(a) there is no provision under this Chapter to deduct income-tax on such income at the time of payment; or

(b) income-tax has not been deducted as per the provisions of this Chapter.

(2) If an assessee has any income of the nature of specified security or sweat equity shares as specified in section 17(*1*)(*d*) allotted or transferred directly or indirectly by the current employer which is an eligible start-up referred to in section 140, then direct payment of tax for the purposes of sub-section (*1*) shall be made within the time specified in section 289(*3*).

(3) Where any person, including the principal officer of the company,—

(a) who is required to deduct any sum as per the provisions of this Act; or

(b) referred to in section 392(*2*)(*a*), being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, apart from any other consequences that he may incur, be deemed to be an assessee in default within the meaning of section 398(*1*), in respect of such tax.

B.—Deduction and collection at source

Salary and accumulated balance due to an employee.

392. (*1*) Any person responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the amount payable and this deduction shall be made at the time of such payment at the average rate of income-tax computed on the basis of the rates in force for the tax year in which the payment is made, on the estimated income of the assessee under this head for such year.

(*2*)(*a*) Without prejudice to the provisions of sub-section (*1*), the person responsible for paying any income in the nature of a non-monetary perquisite chargeable to tax under section 17(*2*), may pay, at his option, tax on the whole or part of such income without making any deduction therefrom, at the time when such tax was deductible under sub-section (*1*);

(*b*) the tax under clause (*a*) shall be determined at the average rate as per sub-section (*1*), on the income chargeable under the head "Salaries" including the income referred to in the said clause, and shall be construed as a tax deductible at source from the income under the head "Salaries", and be subject to the provisions of this Chapter.

(3) Any person, being an eligible start-up referred to in section 140, responsible for paying any income of the nature specified in section 17(*1*)(*d*) in any tax year, shall deduct or pay, tax on such income, on the basis of rates in force for the tax year in which the specified security or sweat equity share is allotted or transferred, within the time as specified for the payee in section 289(*3*).

(4) (*a*) The person responsible for paying under sub-section (*1*), shall take into account the following particulars furnished by the assessee, at his option, in such form and manner as prescribed, for the purpose of making deduction under the said sub-section and such particulars shall have an effect of increasing or decreasing the tax to be deducted:—

(i) any income under the head "Salaries" due or received by the assessee, from any other employer or employers during the tax year;

(ii) any relief allowable under section 157, where the assessee being a Government servant, or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled for such relief;

(iii) any loss under the head "Income from house property";

(iv) any income chargeable under any other head of income, [not being a loss under any such head other than the loss specified in sub-clause (*iii*)];

(v) any tax deducted or collected at source under this Chapter;

(b) the tax deductible from income under the head "Salaries" shall not be reduced in any case, except on account of—

(i) loss under the head "Income from house property"; and

(ii) the tax deducted and collected as per other provisions of this Chapter.

(*5*) The person responsible for paying any income chargeable under the head "Salaries" to the assessee—

(a) shall furnish a statement in such form and manner, as prescribed, with correct and complete particulars of perquisites or profits *in lieu* of salary paid, along with their value, to the assessee;

(b) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (*1*), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set off of loss) under the provisions of this Act in such form and manner, as prescribed; and;

(c) may, increase or reduce the amount to be deducted under this section for adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

(*6*)(*a*) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of the accumulated balances due to employees shall, in cases where paragraph 9 of Part A of Schedule XI applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in paragraph 10 of Part A of Schedule XI;

(b) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in paragraph 7 of Part B of Schedule XI.

(*7*) (a) **Irrespective of anything contained in this Act,** the trustees of the Employees' Provident Funds Scheme, 1952, made under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or

19 of 1952.

(b) any person authorised under such scheme to make payment of accumulated balance due to employees,

shall at the time of payment of accumulated balance due to the employee participating in a recognised provident fund, deduct income-tax thereon at the rate of 10%, where the aggregate amount of such payment is fifty thousand rupees or more, and such accumulated balance is includible in his total income owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable.

Tax to be deducted at source.

393. (*1*) Where any income or sum of the nature specified in column B of the Table below, is credited or paid or distributed by the person specified in column C during the tax year, to a resident, the person responsible for paying shall deduct income-tax,—

(a) on the entire amount of such income or sum, where the amount or aggregate of amounts exceeds the threshold limit specified in column D;

(b) at the rate specified in column D;

(c) at the time of credit of such income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(d) subject to the provisions of sub-sections (*4*), (*5*), (*6*), (*8*) and (*9*).

Table

FOR PAYMENTS TO RESIDENT

Sl. No.	Nature of Income or sum	Payer	Rate
			Threshold limit
A	B	C	D
1. Commission or brokerage			
	(*i*) Income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of insurance policies).	Any person.	Rate: Rates in force. ——— Threshold limit: ₹ 20,000
	(*ii*) Income by way of commission [not being insurance commission referred to in serial number 1(*i*)] or brokerage.	Specified person.	Rate: 2% ——— Threshold limit: ₹ 20,000
2. Rent			
	(*i*) Income by way of rent.	Person other than specified person.	Rate: 2% ——— Threshold limit: ₹50,000 for a month or part of a month
	(*ii*) Income by way of rent.	Specified person.	Rate: (*a*) 2%, for the use of any machinery or , plant, or equipment; and (*b*) 10%, for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or furniture, or fittings.

A	B	C	D
			——— Threshold limit [for (*a*) and (*b*)]: ₹ 50,000 for a month or part of a month.

Note 1.— In serial number 2(*i*), the tax shall be deducted on such income at the time of—

(*a*) credit of rent to the account of the payee; or

(*b*) payment thereof in cash or by way of a cheque or a draft or any other mode,

whichever is earlier, for the last month of the tax year or the last month of tenancy.

3. Payment on transfer of certain immovable property other than agricultural land

(*i*)	Any consideration for transfer of any immovable property (other than agricultural land).	Person (other than the person who are required to deduct tax under serial number 3(*iii*)).	Rate:1% of such sum or stamp duty value of the property if more than ₹50,00,000, whichever is higher. ——— Threshold limit: ₹50,00,000.
(*ii*)	Any consideration, not being consideration in kind, under the agreement referred to in section 67(*14*).	Any person.	Rate: 10% ——— Threshold limit: *Nil.*
(iii)	Sum, being in the nature of— (a) compensation or the enhanced compensation; or (b) consideration or the enhanced consideration, on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).	Any person.	Rate: 10% ——— Threshold limit: ₹5,00,000

Note 1.—Consideration for transfer of any immovable property under serial number 3(*i*) shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property for the purposes of the threshold limit mentioned in column D.

Note 2.— In case of consideration on which provisions of both serial numbers 3(*i*) and 3(*ii*) are applicable, tax shall be deducted under 3(*ii*) only.

A	B	C	D
4. Income from capital market			
	(i) Any income in respect of— (a) units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or (b) units from the Administrator of the specifiedundertaking; or (c) units from the specified company.	Any person.	Rate: 10% —— Threshold limit: ₹ 10,000.
	(*ii*) Any distributed income referred to in section 223, referred to in Schedule V (Table: Sl. Nos. 3 and 4) (**), payable to a unitholder of a Business Trust.	Any Business Trust.	Rate: 10% —— Threshold limit: *Nil.*
	(*iii*) Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224, payable to its unitholder.	Any Investment fund specified in section 224.	Rate: 10% —— Threshold limit: *Nil*
	(*iv*) Any income, in respect of an investment in a securitisation trust specified in section 221 to an investor.	Any securitisation trust specified in section 221.	Rate: 10% —— Threshold limit: *Nil.*
5. Interest income			
	(*i*) Any income by way of Interest on securities	Any person.	Rate: Rates in force. —— Threshold limit: ₹10,000
	(*ii*) Any income by way of interest other than interest on securities.	(a) A banking company; or (b) a co-operative society carrying on the business of banking; or (c) a post office for a deposit made under a scheme notified by the Central Government	Rate: Rates in force. —— Threshold limit: (*a*) ₹1,00,000 in the case of a senior citizen; (*b*) ₹50,000 in case of person other than senior citizen.

A	B	C	D
	(*iii*) Any income being interest other than interest on securities.	Specified person [other than person in Sl. No. 5(*ii*).C]	Rate: Rates in force. ——— Threshold limit: ₹10,000.

Note 1.— In serial number 5(*ii*) and (*iii*), where the interest income credited or paid is in respect of—

(a) time deposits with a banking company;or

(b) time deposits with a co-operative society engaged in carrying on the business of banking; or

(c) deposits with a public company formed and registered in India with the main object of carrying on business of long-term finance for construction or purchase of houses in India for residential purposes and is eligible for deduction under section 32(*e*),

and the person mentioned in column C has not adopted core banking solutions, the threshold limit in column D shall be computed with reference to the income credited or paid by a branch of such person.

Note 2.—The person responsible for making the payment referred to in serial numbers 5(*ii*) and (*iii*) of this Table, may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

6. Payments to contractors, fees for professional and technical services, etc.			
	(*i*) Any sum for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person.	Any designated person.	Rate: (*a*) 1%, if contractor is individual or Hindu undivided family; (*b*) 2%, if contractor is a person other than the person mentioned in (*a*). ——— Threshold limit: [for (*a*) and (*b*)] (a) ₹30,000; or aggregate of amount; and (b) ₹1,00,000 in case of aggregate of amounts.
	(ii) Any sum— (a) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (b) by way of fees for professional services; or	Any person, being an individual or Hindu undivided family [other than those required to deduct income-tax as per Sl. No. 6(*i*) and (*iii*) or Sl. No. 1(*ii*)]	Rate: 2%. ——— Threshold limit: ₹50,00,000.

A	B	C	D
	(*c*) by way of commission [not being insurance commission referred to in serial number 1(i)] or brokerage.		
	(iii) Any sum by way of— (a) fees for professional services; or (b) fees for technical services; or (c) remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company; or (d) royalty; or (e) any sum referred to in section 26(*2*)(*h*).	Specified person.	Rate: (*a*) 2% of such sum in case of— (i) fees for technical services (not being a professional services); or (ii) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or (iii) payee, engaged only in the business of operation of call centre; (*b*) 10% of such sum in cases other than (*a*) —— Threshold limit: [for (*a*) **(**),** (*b*)**, (d) and(e)**]: ₹ 50,000. ***For (c) : Nil***

Note.—In serial number 6 (*i*), if any sum is paid or credited for carrying out any work specified in section 402(4*7*)(*e*), tax shall be deducted at source—

(a) on the invoice value excluding the value of material, if such value is specified separately in the invoice; or

(b) on the whole of the invoice value, if the value of material is not specified separately in the invoice.

7. Dividend

Any dividends (including on preference shares) declared.	Any domestic company.	Rate: 10%. —— Threshold limit: *Nil.*

Note.—The tax shall be deducted at source before making any distribution or payment of dividend.

8. Other cases

(*i*) Any sum under a life insurance policy, including the sum allocated as bonus on such policy, other than the amount not includible in the total	Any person.	Rate: 2% on income comprised in such sum. —— Threshold limit: ₹1,00,000

A	B	C	D
	(*ii*) Any sum exceeding Rs.50,00,000 for purchase of any goods.	Any person, being a buyer.	Rate: 0.1% **(**)** —— ***Threshold limit: ₹50,00,000***
	(*iii*) Total income of a specified senior citizen after allowing deduction under Chapter VIII and rebate under section 156.	specified bank.	Rate: Rates in force. —— Threshold limit: *Nil*.
	(*iv*) Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession of any resident.	Any specified person.	Rate: 10% of value or aggregate of values of such benefit or perquisite. —— Threshold limit: ₹ 20,000.
	(*v*) Sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform.	Any e-commerce operator.	Rate: 0.1% of gross amount of such sale or services or both. —— Threshold limit: *Nil.*
	(*vi*) Any sum by way of consideration for transfer of a virtual digital asset.	Any person.	Rate: 1%. —— Threshold limit: *Nil.*

Note1.—The deduction of tax under serial number 8(*ii*) shall not apply to a transaction on which tax is deductible or collectible under any of the provisions of the Act.

Note 2.—The provisions of serial number 8(*iv*) shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind, provided to a resident.

Note 3.—In respect of serial number 8(*v*)—

(a) for deduction of tax, the provisions thereof shall take precedence over any other provisions of this Chapter;

(b) any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and this amount shall be included in the gross amount of such sale or services for the purposes of deduction of income-tax under this serial number;

(*c*) e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant;

(d) irrespective of anything contained in this Chapter, if—

(i) tax has been deducted on a transaction under this serial number; or

(ii) a transaction is not liable for tax deduction as provided in section 393(*4*) (Table: Sl. No. 11),

then tax shall not be deducted on such transaction under any other provision of this Chapter;

(e) clause (*d*) shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for—

(i) hosting advertisements; or

(ii) providing any other services,

which are not in connection with the sale or services referred to in this serial number.

Note 4.—In case of a transaction on which provisions of serial number 8(*v*) are applicable along with the provisions of serial number 8(*vi*) for deduction of tax, then tax on such transaction shall be deducted only under the provisions of serial number 8(*vi*).

Note 5.—The provisions of serial number 8(*iii*) shall take precedence over any other provisions of this Chapter and tax shall be deducted under this provision.

Note 6.—For serial numbers 8(*iv*) and (*vi*),—

(a) where the consideration or benefit or perquisite is—

(i) in exchange of another virtual digital asset where there is no part in cash, in respect of serial number 8(*iv*); or

(ii) is wholly in kind; or

(iii) is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such payment or benefit or perquisite,

the person responsible forpaying or providing shall ensure that the tax required to be deducted has been paid, before releasing such consideration or providing such benefit or perquisite, as the case may be.

(b) "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

(*2*) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column D during the tax year, to a non-resident specified in column C, the person responsible for paying shall deduct income-tax on the amount of such income or sum,—

(a) at the rate specified in column E;

(b) at the time of credit of income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(c) subject to the provisions of sub-sections (*4*), (*8*) and (*9*).

Table

FOR PAYMENTS TO NON-RESIDENT

Sl. No.	Nature of Income or sum	Payee	Payer	Rate
A	B	C	D	E
1.	Any income referred to in section 211.	(a) A non-resident sportsman (including an athlete) or an entertainer, who is not a citizen of India; or (b) a non-resident sports association or institution.	Any person.	20%.
2.	Any income by way of interest payable in respect of monies borrowed in foreign currency from a source outside India,— (a) under a loan agreement or issue of long-term infrastructure bond on or after the 1st July, 2012 but before the 1st July, 2023; or (b) by way of issue of any long-term bond on or after the 1st October, 2014 but before the 1st July, 2023, which is approved by the Central Government in this behalf.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%.
3	Any income by way of interest payable in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond before the 1st July, 2023.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%.

A	B	C	D	E
4.	Any income by way of interest payable in respect of monies borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	(a) 4%, where issued on or after the 1st April, 2020 but before the 1st July, 2023; or (b) 9%, where issued on or after the 1st July, 2023.
5.	Any income by way of interest.	Any non-resident (not being a company) or a foreign company.	Any infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%.
6.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 3).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	(a) 5%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*a*)]; and (b) 10%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)].
7	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 4).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	Rates in force.
8	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224.	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any investment fund specified in section 224.	Rates in force.

A	B	C	D	E
9.	Any income in respect of an investment in a securitisation trust specified in section 221.	Any investor, being a non-resident (not being a company) or a foreign company.	Any securitisation trust specified in section 221.	Rates in force.
10.	Any income— (a) in respect of units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20) or (Table: Sl. No. 21); or (b) from the specified company.	Any non-resident (not being a company) or a foreign company.	Any person.	As per Note 2.
11.	Any income in respect of units referred to in section 208.	Any Offshore fund.	Any person.	10%.
12.	Any income by way of long-term capital gains arising from the transfer of units referred to in section 208;	Any offshore fund.	Any person.	12.5%.
13.	Any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	10%.
14.	Any income by way of long-term capital gains arising from the transfer of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	12.5%.
15.	Any income in respect of securities referred to in section 210(*1*)(Table: Sl. No. 1).	Any Foreign Institutional Investor.	Any person.	As per Note 2.
16.	Any income in respect of securities referred to in section 210(*1*)(Table: Sl. No. 1).	a specified fund, referred to in Schedule VI[Note1(*g*)].	Any person.	10%.
17.	Any interest (not being interest referred to against serial numbers 2, 3, 4 and 5) or any other sum chargeable under the provisions of this Act, not being income chargeable under the head "Salaries".	Any non-resident (not being a company) or a foreign company.	Any person.	Rates in force.

(3) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column (**) **C** during the tax year, to any person, the person responsible for paying the amount specified in column C, shall deduct income-tax on such amount—

(a) at the rate specified in column (***) **D**

(b) at the time of payment thereof in cash or by way of a cheque or a draft or by any other mode, or as specified therein; and

(c) subject to the provisions of sub-sections (*4*), (*5*), (*6*), (*8*) and (*9*).

Table

FOR PAYMENTS TO ANY PERSON

Sl. No.	Nature of Income or sum	Payer	Rate Threshold limit
A	B	C	D
1.	Any income by way of winnings (other than winnings from serial number 2) from— (a) any lottery; or (b) crossword puzzle; or (c) card game and other game of any sort; or (d) gambling or betting of any form or nature whatsoever	Any person.	Rate: Rates in force. ——— Threshold limit: ₹10,000 in case of a single transaction.
2.	Any income by way of winnings from online game.	Any person.	Rate: Rates in force. ——— Threshold limit: Net winnings as per Note 1.
3.	Any income by way of winnings from any horse race.	Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.	Rate: Rates in force. ——— Threshold **limit**: ₹10,000 in case of a single transaction.
4.	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets.	Any person.	Rate: 2%. ——— Threshold limit: ₹20,000.

A	B	C	D
5.	Any sum, paid in cash, from one or more accounts maintained by the deductee.	Every person, being,— (a) a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); (b) a co-operative society engaged in carrying on the business of banking; or (c) a post office.	Rate: 2%. ——— Threshold limit: ₹3,00,00,000 in case of deductee being, a co-operative society; or (*b*) ₹1,00,00,000 in case of deductee being person other than a co-operative society.
6.	Any amount referred to in section 80CCA(*2*)(*a*) of the Income-tax Act, 1961 (43 of 1961).	Any person.	Rate: 10%. ——— Threshold limit: ₹2,500.
7.	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account).	Any person, being a firm.	Rate: 10% ——— Threshold limit: ₹20,000.

(4) The deduction of tax at source shall not be made under the provisions referred to in column B of the Table below, in respect of the income or sum, specified in column C:

Table

FOR NO DEDUCTION AT SOURCE

Sl. No.	Provisions for tax deduction at source	Condition for no deduction
A	B	C
1.	Commission or Brokerage referred to in section 393(*1*)[Table: Sl. No. 1(*ii*)].	Commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.
2.	Rent referred to in section 393(*1*)[Table: Sl. No. 2(*ii*)].	Income by way of rent credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in Schedule V (Table: Sl. No. 4), owned directly by such business trust.

A	B	C
3.	Compensation on acquisition of certain immovable property referred to in section 393(*1*)[Table: Sl. No. 3(*iii*)].	Income by way of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 3013).
4.	Income in respect of units referred to in section 393(*1*)[Table: Sl. No. 4(*i*)].	If income is of the nature of capital gain.
5.	Income from units of a business trust referred to in section 393(*1*)[Table: Sl. No. 4(*ii*)].	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)], if the special purpose vehicle referred to in the said clause has not exercised the option under section 200.
6.	Interest on securities referred to in section 393(*1*)[Table: Sl. No. 5(*i*)].	(a) Interest payable on— (i) National Development Bonds; (ii) such debentures, issued by such institution or authority or person as the Central Government may, by notification, specify in this behalf; (iii) any security of the Central Government or a State Government, other than— (A) 8% Savings (Taxable) Bonds, 2003; or (B) 7.75% Savings (Taxable) Bonds, 2018; or (C) Floating Rate Savings Bonds, 2020 (Taxable); or (D) any other security of the Central Government or State Government as the Central Government may, by notification, specify in this behalf; (b) interest payable to— (i) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, in respect of any securities owned by it or in which it has full beneficial interest; or (ii) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(*1*) of the General Insurance Business (Nationalisation) Act, 1972, in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or (iii) any other insurer in respect of any securities owned by it or in which it has full beneficial interest; or (iv) a "business trust", as defined in section 2(*21*), in respect of any securities, by a special purpose vehicle referred to in Schedule V (Table: Sl. No. 3).

A	B	C
7.	Interest other than Interest on securities referred to in section 393(*1*)[Table: Sl. No. 5(*ii*) and 5(*iii*)].	(a) Interest income credited or paid to— (i) any banking company; or (ii) any financial corporation established by or under a Central Act or State Act or Provincial Act; or (iii) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956); or (iv) the Unit Trust of India; or (v) any company or co-operative society carrying on the business of insurance; or (vi) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notified in this behalf before the 1st April, 2020; (b) interest income credited or paid— (i) by a co-operative society (other than a co-operative bank) to a member thereof; or (ii) by a co-operative society to any other co-operative society; or (iii) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank; or (iv) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (*iii*), engaged in the business of banking, Where the total sales, gross receipts or turnover of the co-operative society does not exceed ₹50,00,00,000 during the tax year immediately preceding the tax year in which such interest is credited or paid; (c) interest income credited or paid— (i) by the Central Government under any provision of this Act or the Income-tax Act, 1961 (43 of 1961), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974); (ii) in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf; (iii) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a banking company;

A	B	C
		(iv) by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, the aggregate of the amounts of such income does not exceed ₹50,000 during the tax year;
		(v) or payable by an infrastructure capital company; or infrastructure capital fund; or infrastructure debt fund; or a public sector company; or scheduled bank in relation to a zero coupon bond issued on or after the 1st June, 2005 by such company or fund or public sector company or scheduled bank;
		(vi) as referred to in Schedule V (Table: Sl. No. 3);
		(vii) by a firm to a partner of the firm.
8.	Payments to contractors referred to in section 393(*1*)[Table: Sl. No. 6(*i*)].	(a) When— (i) any sum credited or paid or likely to be credited or paid during the tax year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages; and (ii) that contractor owns ten or less goods carriages at any time during the tax year; and (iii) furnishes a declaration to that effect along with his Permanent Account Number to the person paying the sum; and (iv) the person responsible for paying to the contractor furnishes to the prescribed income-tax authority the particulars in such form and within such time as prescribed; (b) where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.
9.	Fees for professional or technical services referred to in section 393(*1*)[Table: Sl. No. 6(*iii*)].	Where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.
10.	Dividend referred to in section 393(*1*)(Table: Sl. No. 7).	Dividend income credited or paid to— (a) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, in respect of any shares owned by it or in which it has full beneficial interest;

A	B	C
		(b) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(*1*) of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; (c) any other insurer in respect of any shares owned by it or in which it has full beneficial interest; (d) a "business trust", as defined in section 2(*21*), by a special purpose vehicle referred to in Schedule V (Note 2); (e) any other person as notified by the Central Government in this behalf; (f) a shareholder, being an individual, if— (I) the dividend is paid by the company by any mode other than cash; and (II) amount or aggregate of amounts of such dividend distributed or paid or likely to be distributed or paid during the tax year does not exceed ₹10,000.
11.	Payment by e-commerce operator to e-commerce participant referred to in section 393(*1*)[Table: Sl. No. 8(*v*)].	If the amount is credited or paid or likely to be credited or paid during the tax year to the account of an e- commerce participant, which is— (a) an individual or a Hindu undivided family; and (b) the gross amount of the sales or services or both during the tax year does not exceed ₹5,00,000; and (c) the e-commerce participant has furnished the Permanent Account Number or Aadhaar number to the e-commerce operator.
12.	Payment on transfer of virtual digital asset referred to in section 393(*1*)[Table: Sl. No. 8(*vi*)]	Where value or aggregate value of such consideration during the tax year does not exceed— (a) ₹50,000, when payable by an individual or a Hindu undivided family,— (i) whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed ₹1,00,00,000 in case of business or ₹50,00,000 in case of profession, during the tax year immediately preceding the tax year in which such virtual digital asset is transferred; (ii) not having any income under the head "Profits and gains of business or profession"; (b) ₹10,000, when payable by any person other than the person referred to in clause (*a*).

A	B	C
13.	Income from units of a business trust referred to in section 393(*2*)(Table: Sl. No. 6).	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)], if the special purpose vehicle referred to in the said clause has not exercised the option under section 200.
14.	Income in respect of units of investment fund referred to in section 393(*2*)(Table: Sl. No. 8).	Income that is not chargeable to tax under the provisions of this Act.
15.	Income in respect of units of non-residents referred to in section 393(*2*)(Table: Sl. No. 10).	Income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, subject to prescribed conditions.
16.	Income of Foreign Institutional Investors from securities referred to in section 393(*2*)(Table: Sl. No. 15).	Income, by way of capital gains arising from the transfer of securities referred to in section 210, if payable to a Foreign Institutional Investor.
17.	Income of Specified Fund from securities referred to in section 393(*2*)(Table: Sl. No. 16).	Income exempt at Schedule VI (Table: Sl. No. 1) to (Table: Sl. No. 4).
18.	Payment of certain amounts in cash referred to in section 393(*3*)(Table: Sl. No. 5).	Payment made to— (a) the Government; (b) any banking company or co-operative society engaged in carrying on the business of banking or a post office; (c) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, as per the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934); (d) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, as per the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007).
19.	Payment in respect of deposits under National Savings Scheme, etc., referred to in section 393(*3*)(Table: Sl. No. 6).	Payment made to— (a) an assessee being and an individual; (b) heirs of an assessee.

(5) Irrespective of anything contained in this Chapter, the tax shall not be deducted by any person from any amount payable to—

(a) the Government; or

(b) the Reserve Bank of India; or

(c) a corporation established by or under a Central Act which is, under any law in force, exempt from income-tax on its income; or

(d) a Mutual fund as specified at Schedule VII (Table: Sl. No. 20 or 21),

where such amount is payable to it by way of—

(A) interest; or

(B) dividend in respect of any securities or shares owned by it or in which it has full beneficial interest; or

(C) any other income accruing or arising to it.

(6) The deduction of tax shall not be made under provisions referred to in column C of the Table below, in the case of a person as specified in column B, if such person furnishes to the person responsible for paying any income or sum of the nature referred to in such provisions, a written declaration in duplicate in such form and manner as prescribed that the tax on such person's estimated total income of the tax year in which such income or sum is to be included in computing his total income shall be *nil*.

Table

DECLARATION FOR NO DEDUCTION AT SOURCE

Sl. No.	Person	Provisions for tax deduction at source
A	B	C
1.	An individual, who is a resident of India.	Dividend referred to in section 393(*1*)(Table: Sl. No. 7).
2.	(a) An individual, resident of India, ***who is of the age of sixty years or more*** at any time during the tax year; (b) any person (not being a company or a firm).	(a) Payment of accumulated balance due to an employee referred to in section 392(7); (b) Insurance Commission referred to in section 393(*1*)[Table: Sl. No. 1(*i*)]; (c) rent referred to in section 393(*1*)[Table: Sl. No. 2(*ii*)]; (d) income in respect of units referred to in section 393(*1*)[Table: Sl. No. 4(*i*)]; (e) interest referred to in section 393(*1*)[Table: Sl. No. 5(*i*)], [(*ii*)] and (*iii*)]; (f) payment in respect of Life Insurance Policy referred to in section 393(*1*)[Table: Sl. No. 8(*i*)].

Note.—The provisions of this sub-section shall not apply where the aggregate of amounts of any income or sum of the nature referred to in provision mentioned in column C of this Table, is credited or paid or likely to be credited or paid during the relevant tax year in which such income or sum is to be included, exceeds the maximum amount not chargeable to tax.

(7) The person responsible for paying any income or sum of the nature referred in sub-section (*6*) shall deliver or cause to be delivered, one copy of the declaration referred therein, received from the person to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month in which the declaration is furnished to him.

(8) Irrespective of anything contained in sub-section (*6*), the deduction of tax shall not be made from the interest paid by an Offshore Banking Unit on a borrowing or deposit made on or after 1st April, 2005, by a non-resident or a person not ordinarily resident in India.

(9) Irrespective of anything contained in this Chapter, the deduction of tax shall not be made from any payment to a person for, or on behalf of, the New Pension System Trust referred to in Schedule VII (Table: Sl. No. 41).

(*10* In a case other than that referred to in section 392(*2*)(*a*), where under an agreement or an arrangement, if the tax chargeable on any income of the recipient referred to in this Chapter is to be borne by the payer, then, for the purposes of deduction of tax, the income shall be increased to an amount which after deduction of tax as per provisions of this Chapter becomes equal to the net amount payable under such agreement or arrangement.

(*11*) The credit of any income or sum to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income or sum, shall be deemed to be the credit of such income or sum to the account of the payee and the provisions of this section shall apply accordingly.

Collection of tax at source.

394. (*1*) Every person, as specified in column C of the Table below shall collect tax—

(a) on receipts specified in column B;

(b) at the rate as specified in column D; and

(c) at the time of debiting of the amount payable by the buyer or licensee or lessee to the account of the buyer or licensee or lessee or at the time of receipt of such amount from the said buyer or licensee or lessee in cash or by way of a cheque (***) **or** a draft or any other mode, whichever is earlier.

Table

TAX COLLECTION AT SOURCE

Sl. No.	Nature of receipt	Person	Rate of Tax Collected at Source
A	B	C	D
1.	Sale of alcoholic liquor for human consumption.	Seller.	1%.
2.	Sale of tendu leaves.	Seller.	5%.
3.	Sale of timber whether obtained under a forest lease or otherwise; or any other forest produce (not being timber or tendu leaves) obtained under a forest lease.	Seller.	2%.
4.	Sale of scrap.	Seller.	1%.
5.	Sale of minerals, being coal or lignite or iron ore.	Seller.	1%.
6.	Sale consideration exceeding ₹10,00,000 in case of— (a) motor vehicle; or (b) any other goods, as notified by the Central Government.	Seller.	1%.

A	B	C	D
7.	Remittance under the Liberalised Remittance Scheme of an amount or aggregate of the amounts exceeding ₹10,00,000—	Authorised dealer.	(a) 5% for purposes of education or medical treatment; (b) 20% for purposes other than education or medical treatment.
8.	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure.	Seller.	(a) 5% of amount of aggregate of amounts up to ₹10,00,000; (b) 20% of amount or aggregate of amounts exceeding ₹ 10,00,000.
9.	Use of parking lot or toll plaza or mine or quarry for the purpose of business, excluding mining and quarrying of mineral oil (including petroleum and natural gas).	Licensor or Lessor.	2%.

(2) The collection of tax shall not to be made in respect of receipts specified in sub-section (*1*) (Table: Sl. No. 1 to 5) in respect of the buyer, who is a resident in India, if he furnishes a written declaration in duplicate in such form and manner, as prescribed, to the person responsible for collecting tax, mentioning that such goods are to be utilised—

(a) for the purposes of manufacturing, processing or producing articles or things or for generating power; and

(*b*) not for trading purposes.

(3) Where no collection of tax is to be made under sub-section (*2*), the person responsible for collecting tax shall deliver, one copy of the declaration referred to in that sub-section, to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month of receipt of that declaration.

(4) The collection of tax shall not be made by the authorised dealer in respect of receipt specified in serial number 7 of the Table in sub-section (*1*) on such amount on which tax has been collected by the seller referred to in serial number 8 of the Table in sub-section (*1*).

(*5*) The collection of tax shall not be made by the authorised dealer or seller, in respect of receipt specified in sub-section (*1*) (Table: Sl. No. 7 and 8), if the buyer is liable to deduct tax at source under any other provisions of this Act and he has deducted such tax.

(*6*) For the purposes of this sub-section, "forest produce" shall have the same meaning as defined in any State Act for the time being in force, or in the Indian Forest Act, 1927. 16 of 1927.

Certificates.

395. (*1*) Where tax is required to be deducted on any income or sum under this Chapter, then subject to the rules made under this Act,—

(a) the payee may make an application before the Assessing Officer for deduction of ***income-***tax at a lower rate **or no deduction of income-tax, *as the case may be***; and

(b) the Assessing Officer on being satisfied that the total income of the payee justifies a lower deduction, shall issue a certificate as appropriate; and

(c) when a certificate is issued under clause (b), the person responsible for paying the income or amount shall deduct the tax at the rate specified in such certificate till its validity.

(2) (*a)* The person responsible for paying to a non-resident any sum chargeable under this Act (other than salary), may make an application to the Assessing Officer in such form and manner as prescribed, where he considers that the whole of such sum would not be chargeable in the case of the recipient;

(b) the application under clause (*a*) shall be for determination of the appropriate proportion of the sum chargeable to tax, by the Assessing Officer in the manner as prescribed; and

(c) when the determination is made by the Assessing Officer as per clause (*b*), the tax shall be deducted under section 393(*2*)(Table: Sl. No. 17) only on that proportion of sum which is chargeable to tax under the Act.

(3) Where tax is required to be collected on any amount under this Chapter, then subject to the rules made under this Act,—

(a) the buyer or licensee or lessee may make an application before the Assessing Officer for collection of tax at a lower rate; and;

(b) the Assessing Officer on being satisfied that the total income of the buyer or licensee or lessee justifies a lower collection, shall issue a certificate as may be appropriate; and

(c) when a certificate is issued under clause (*b*), the person responsible for collecting tax shall collect it at the rates specified in such certificate till its validity.

(4) (*a*) Every person deducting or collecting tax shall issue a certificate to the deductee or collectee, as the case may be, specifying—

(i) the amount of tax that has been deducted or collected;

(ii) the rate at which tax has been deducted or collected; and

(iii) any other particulars, as prescribed,

within such period as prescribed.

(b) An employer referred to in section 392(*2*)(*a*) shall issue a certificate to the employee, in respect of whose income payment of tax has been made by the employer, that the tax has been paid to the Central Government, and specify—

(i) the amount of tax so paid;

(ii) the rate at which tax has been paid; and

(iii) any other particulars, as prescribed,

within such period, as prescribed.

(5) The assessing officer may cancel the certificate granted under sub-section (*1*) or (*3*) after giving reasonable opportunity to the applicant.

Tax deducted is income received.

396. The following sums shall be deemed as income received for the purposes of computing the income of an assessee—

(a) amount deducted under this Chapter; and

(b) income-tax paid outside India by way of deduction in respect of which an assessee is allowed a credit against the tax payable under this Act,

except tax paid under section 392(*2*)(*a*) and tax deducted as per section 393(*3*) (Table: Sl. No. 5).

Compliance and reporting.

397. (*1*) (*a*) Every person deducting or collecting tax shall apply to the Assessing Officer for allotment of a tax deduction and collection account number within such time as prescribed, if that person has not already been allotted such number;

(b) where a tax deduction and collection account number has been allotted to a person, such person shall quote such number in all challans, statements, certificates, and in all documents pertaining to **tax deducted at source and tax collected at source (**)** as prescribed in the interests of revenue;

(c) the provisions of clause (*a*) shall not apply—

(*i*) to a person required to deduct tax under provisions of section 393(*1*) [Table: Sl. No. 2(*i*), 3(*i*) and (**) **6** (*ii*)];

(ii) to a person referred to in section 393(*4*) [Table: Sl. No. 12.C(*a*)]; and

(iii) a person notified in this regard by the Central Government.

(*2*) (*a*) Irrespective of anything contained in any other provision of this Act, every person, entitled to receive any amount on which tax is deductible or, paying any amount on which tax is collectible, shall furnish his valid Permanent Account Number to the person responsible for deducting or collecting tax;

(b) in case of failure to comply with provisions of clause (*a*)—

(i) tax be deducted at the higher of the following rates—

(A) at the rate specified in the relevant provision of this Act; or

(B) at the rate or rates in force; or

(C) at the rate of 5% where tax is required to be deducted under section 393(*1*) [Table: Sl. No. 8(*ii*) or 8(*v*)]; or 20% in any other case;

(ii) tax shall be collected at the higher of the following rates, not exceeding 20%—

(A) at twice the rate specified in the relevant provision of this Act; or

(B) at the rate of 5%;

(c) the provisions of clause (*b*)(*i*) shall not apply to a non-resident, not being a company or a foreign company in respect of—

(i) payment of interest on long-term bonds as specified in section 393(*2*) (Table: Sl. No. 2, 3 and 4); and

(ii) any other payment subject to such conditions, as prescribed;

(d) the provisions of clause (*b*)(*ii*) shall not apply to a non-resident who does not have permanent establishment in India (which includes a fixed place of business through which the business of the enterprise is wholly or partly carried on);

(e) in respect of rent specified in section 393(*1*) [Table: Sl. No. 2(i)], if the tax is required to be deducted as per clause (*b*)(*i*), then such deduction shall not exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy, as the case may be;

(f) if a person does not furnish his Permanent Account Number in—

(i) any declaration under section 393(*6*) or 394(*2*), then such declaration becomes invalid;

(ii) any application made under provisions of section 395(*1*) or (*3*), then no certificate under such provisions shall be granted;

(g) if any declaration becomes invalid under clause (*f*)(*i*), then the deductor or collector shall deduct or collect tax as per the provisions of clause (*b*)(*i*) or (*ii*) as the case may be;

(h) the deductee or collectee shall furnish his Permanent Account Number to the deductor or collector, as the case may be, and the same shall be indicated in all bills, vouchers, correspondence and other documents which are sent to each other.

(*3*) (*a*) Every person responsible for deduction or collection of tax or employer referred to in section 392(*2*)(*a*) shall pay the amount so deducted or collected or determined as per section 392(*2*)(*b*) to the credit of the Central Government, in such time as prescribed;

(b) every person responsible for deduction or collection of tax or employer referred to in section 392(*2*)(*a*), after paying the tax to the credit of the Central Government as per clause (*a*), shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars**, for such period** and within such time, as prescribed;

(c) every prescribed authority as per clause (*b*), shall deliver a statement in such form and manner as prescribed, to the buyer or licensor or lessee referred to in section 394(*1*) (Table: Sl. Nos. 1 to 4 or 9);

(d) every person responsible for paying to a non-resident, not being a company or a foreign company, any sum, whether or not chargeable under this Act, shall furnish the information relating to payment of such sum, in such form and manner as prescribed;

(e) in case of an office of the Government,—

(i) where the sum deducted under this Chapter or tax referred to in section 392(*2*)(*a*); or

(ii) where the amount collected under section 394(*1*) (Table: Sl. Nos. 1to 5 or 9),

has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(f) every person referred to in clause (*b*) or (*e*) may correct any discrepancy or update the information furnished, in the statement delivered under such clauses, by filing a correction statement in such form and verified in such manner as prescribed, within six years from the end of the tax year in which such statement is required to be delivered;

(g) (*i*) any banking company or co-operative society or public company referred to in note 1 to section 393(*1*) (Table: Sl. No. 5) responsible for paying to a resident any income by way of interest, less than the amount mentioned in section 393(*1*) [Table: Sl. No. 5(*ii*) and (*iii*)], shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(ii) the Board may require any person, other than the person mentioned in sub-clause (*i*), responsible for paying to a resident any income which is liable for deduction of tax at source under this Chapter to deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as prescribed;

(iii) the person referred to in sub-clause (*i*) or sub-clause (*ii*) may deliver a correction statement to correct any discrepancy or update the information furnished, in the statement delivered under sub-clause (*i*) or sub-clause (*ii*) in such form and manner of verification, as prescribed;

(h) Any person responsible for collecting the tax who fails to collect the tax as per the provisions of section 394, shall, irrespective of such failure, be liable to pay the tax to the credit of the Central Government as per the provisions of clause (*a*).

Consequences of failure to deduct or pay or, collect or pay.

398. (*1*) If a person, including the principal officer of a company,—

(a) who is required to deduct or collect any amount under this Act; or

(b) referred to in section 392(*2*)(*a*), being an employer,—

(i) does not deduct or pay; or

(ii) does not collect or pay; or

(iii) after deducting or collecting fails to pay,

the whole or any part of the tax, as required by or under this Act, he shall be deemed to be an assessee in default in respect of such tax in addition to any other consequences which that person may incur under this Act.

(2) Any person,—

(a) including the principal officer of a company, who fails to deduct; or

(b) responsible for collecting tax as per section 394(*1*) (Table: Sl. Nos. 1 to 5 and 9), who fails to collect,

the whole or any part of the tax, as required under this Chapter, shall not be deemed to be an assessee in default if the payee or buyer or licensee or lessee has —

(i) furnished his return of income under section 263;

(ii) taken into account the amount for computing income in that return of income; and

(iii) paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in the prescribed form.

(3) (*a*) Without prejudice to sub-section (*1*), if any person, as referred to in that sub-section does not deduct or collect the whole or any part of the tax or after deducting or collecting fails to pay the tax as required under this Act, he shall be liable to pay simple interest—

(i) at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible or collectible to the date on which such tax is deducted or collected; and

(ii) at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted or collected to the date on which such tax is actually paid;

(b) the interest referred to in clause (*a*) shall be paid before furnishing the statement as per the provisions of section 397(*3*)(*b*).

(c) if the person referred to in sub-section (*1*) is not deemed to be an assessee in default under sub-section (*2*), then the interest as per clause (*a*)(*i*) is payable from the date on which that tax was deductible or collectible to the date of furnishing of return of income by the concerned payee or buyer or licensee or lessee, as the case may be;

(d) when an order is made by the Assessing Officer for the default under sub-section (*1*), the interest shall be paid by the person as per such order.

(4) Where the tax has not been paid after it is deducted or collected, the amount of the tax together with the amount of simple interest on it as referred to in sub-section (*3*)(*a*) shall be a charge upon all the assets of the person referred to in sub-section (*1*).

(5) The order shall not be made under sub-section (*1*) deeming a person to be an assessee in default for failure to deduct or collect the whole or any part of the tax from any person—

(a) after six years from the end of the tax year in which tax was deductible or collectible; or

(b) after two years from the end of the tax year in which the correction statement is delivered under section (***) **397** (*3*)(*f*),

whichever is later.

(6) The provisions of sections 286(*1*) and 286(*3*) shall apply to the time limit prescribed in sub-section (*5*).

(7) No penalty shall be levied under section 412 from the person mentioned in sub-section (1), unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.

Processing.

399. (*1*) All statements of tax deducted at source or tax collected at source including a correction statement shall be processed in the following manner:—

(a) the amounts deductible or collectible under this Chapter shall be computed after making the following adjustments—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the amounts deductible or collectible as reflected in the statement;

(c) the fee, if any, shall be computed as per the provisions of section 427;

(d) (*i*) the amount payable by; or

(*ii*) the amount of refund due to,

the deductor or collector shall be determined after adjustment of the amount computed under clause (*b*) and (*c*) against any amount paid under section 397(*3*) or 398 or 427 and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor or collector specifying the amount determined to be payable by, or the amount of refund due to, him under clause (*d*);

(f) the amount of refund due to a deductor or collector in pursuance of the determination under clause (*d*) shall be granted to the deductor or collector.

(2) The intimation under this section shall be sent within of one year from end of the tax year in which the statement is filed.

(3) The Board may make a scheme for centralised processing of statements, as required under sub-section (*1*).

Power of Central Government to relax provisions of this Chapter.

400. (*1*) The Central Government may, by notification provide that deduction or collection of tax shall not be made or is to be made at such lower rate, from such payment or receipt and in respect of such person or class of persons.

(2) The Board may issue guidelines with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter and these guidelines shall be laid before each House of Parliament.

(3) The Board may notify, a class of person, or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, to make an application in such form and manner as prescribed to the Assessing Officer, to determine the appropriate proportion of sum chargeable in the manner as prescribed, and accordingly tax shall be deducted under section 393(*2*) (Table: Sl. No. 17) on that proportion of the sum which is so chargeable.

(4) The Board may by notification, make rules specifying the cases in which, and the circumstances under which, an application may be made for grant of a certificate under section 395(1) to (3), and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

Bar against direct demand on assessee.

401. Where tax is deductible at the source under this Chapter, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

Interpretation.

402. In this chapter,—

(1) "Administrator" shall have the same meaning as assigned to it in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(2) "agricultural land" means agricultural land in India,—

(a) not being a land (**) **situated** in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(*1*) [Table: Sl. No. 3(*i*)];

(b) including a land situated in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(*1*) [Table: Sl. No. 3(*iii*)];

(3) "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(a) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(b) in respect of rate of deduction of tax at source **or rate of collection of tax at source**, where such rate is not as per the provisions of the Act;

(4) "authorised dealer" means a person authorised by the Reserve Bank of India under section 10(*1*) of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security; 42 of 1999

(5) "banking company" means a banking company to which the Banking Regulation Act, 1949 applies; 10 of 1949.

(6) "buyer" for the purposes of provisions in column B of the Table below means any person as specified in column C but does not include any person as specified in column D:—

Table

Sl. No	Provisions	Person	Person not to be included
A	B	C	D
1.	Purchase of goods referrred to in section 393(*1*) [Table: Sl. No. 8(*ii*)]	Person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹10,00,00,000 during the tax year immediately preceding the tax year in which the purchase of goods is carried out	Any person, as the Central Government may notify for this purpose, subject to conditions specified therein.
2.	Sale of goods referred to in section 394(*1*) (Table: Sl. No. 1 to 5)	Person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in section 394(1) (Table: Sl. No. 1 to 5), or the right to receive any such goods	(a) A public sector company; or (b) the Central or a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State; or (c) a club; or

(1)	(2)	(3)	(4)
			(*d*) a buyer in the retail sale of such goods purchased by him for personal consumption.
3.	Sale of motor vehicle or any other goods referred to in section 394(*1*) (Table: Sl. No. 6).	Person who obtains in any sale, goods of the nature specified in section 394(*1*) (Table: Sl. No. 6).	(a) A person as per Sl. No. 2.D(*b*); or (b) a local authority as defined at Schedule III (Table: Sl. No. 22); or (c) a public sector company which is engaged in the business of carrying passengers.
4.	Remittance under Liberallised Remittance Scheme referred to in section 394(*1*) (Table: Sl. No. 7).	A person remitting amount under the Liberalised Remittance Scheme of Reserve Bank of India.	(a) A person as per Sl. No. 3.D(*a*) or (b); (b) a person, as per Sl. No. 1.D.
5.	Sale of overseas tour programme package referred to in section 394(*1*) (Table: Sl. No. 8).	A person who purchases overseas tour programme package.	A person as per Sl. No. 4.D.

(*7*) "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person,—

(a) for services rendered (not being professional services); or

(b) for any services in the course of buying or selling of goods; or

(c) in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(6) "computer resource", "internet" and "online game" shall have the meanings respectively assigned to them in section 194(*2*);

(7) "consideration for transfer of any immovable property" shall include all charges of the nature of,—

(*a*) club membership fee; or

(b) car parking fee; or

(c) electricity or water facility fee; or

(d) maintenance fee; or

(e) advance fee;

(f) or any other charges of similar nature, which are incidental to transfer of the immovable property;

(10) "contract" shall include sub-contract;

(11) "designated person", for the purposes of section 393(*1*) (Table: Sl. No. 6), means—

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central Act or State Act or Provincial Act; or

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or 21 of 1860.

(h) any trust; or

(i) any University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or 3 of 1956.

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(i) does not fall under any of the preceding sub-clauses; and

(ii) has total sales, gross receipts or turnover from business or profession carried on by him exceeding one crore rupees in case of business or fifty lakh rupees rupees in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor;

(12) "electronic commerce" means the supply of goods or services, or both, including digital products, over digital or electronic network;

(13) "e-commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(14) "e-commerce participant" means a person resident in India selling goods or providing services, or both, including digital products, through digital or electronic facility or platform for electronic commerce;

(15) "fees for technical services" shall have the meaning as assigned to it in section 9(7)(*b*);

(16) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(17) "Foreign Institutional Investor" shall have the meaning as assigned to it in section 210(*6*)(*a*);

(18) "goods carriage" shall have the meaning as assigned to it in section 58(*10*)(*d*);

(19) "immovable property" means any land (other than agricultural land) or any building or part of a building;

(20) "investor" shall have the meaning assigned to it in section 221(*6*)(*a*), for the purposes of section 393(*1*) [Table: Sl. No. 4(*iv*)] and section 393(*2*) (Table: Sl. No. 9);

(21) "licensee or lessee" means any person, other than a public sector company, who has been granted a lease or a license or entered into a contract or otherwise received any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, from the licensor or lessor for the use of parking lot or toll plaza or mine or quarry for the purposes of business;

(22) "licensor or lessor" means any person who grants a lease or a license or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company for the use of such parking lot or toll plaza or mine or quarry for the purposes of business;

(23) "non-resident Indian" shall have the meaning assigned to it in section 212(*d*);

(24) "Offshore Banking Unit" shall have the same meaning as assigned to it in section 2(*u*) of the Special Economic Zones Act, 2005;

28 of 2005.

(25) "online gaming intermediary" means an intermediary who offers one or more online games;

(26) "overseas tour programme package" means any tour package which offers visit to any country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto;

(27) "person responsible for paying" means—

(a) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Government or the State Government—

(i) the employer himself; or

(ii) if the employer is a company, the company itself, including the principal officer thereof;

(b) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or State Government, **(**)** local authority, **(**)** corporation or company, including the principal officer thereof;

(c) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the authorised person responsible—

(i) for remitting such sum to the non-resident Indian; or

(ii) for crediting such sum to his Non-resident (External) Account maintained as per the provisions of the Foreign Exchange Management Act, 1999, and any rules made thereunder; 42 of 1999.

(d) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act—

(i) the payer himself; or

(ii) if the payer is a company, the company itself including the principal officer thereof;

(e) in the case of credit, or, as the case may be, payment of any other sum chargeable under the provisions of this Act—

(i) the payer himself; or

(ii) if the payer is a company, the company itself including the principal officer thereof;

(f) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the State Government—

(i) the drawing and disbursing officer; or

(ii) any other person, by whatever name called,

responsible for crediting, or paying such sum;

(g) in the case of a person not resident in India—

(i) the person himself; or

(ii) any person authorised by such person; or

(iii) the agent of such person in India including any person treated as an agent under section 306 **(**)**;

(28) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as notified by the Board for the purposes of this section, or of section 62; 42 of 1999.

(29) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any—

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

(g) furniture; or

(h) fittings,

whether or not any or all of the above are owned by the payee, and for the purposes of section 393(*1*) [Table: Sl. No. 2(*i*)], only the payment with reference to assets mentioned in sub-clauses (*a*), (*b*) and (*c*) shall be treated as rent;

(30) "royalty" shall have the meaning assigned to it in section 9(*6*)(*b*);

(31) "scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;

(32) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(33) "seller" means—

(a) for the purposes of section 394(1) (Table: Sl. No. 1 to 6),—

(i) the Central Government; or

(ii) a State Government; or

(iii) any local authority or corporation or authority established by or under a Central Act or State Act or Provincial Act; or

(iv) any company or firm or co-operative society; or

(v) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which the goods of the nature specified in such serial numbers are sold;

(b) for the purposes of section 394(*1*) (Table: Sl. No. 8), a person who sells overseas tour program package;

(34) "services" for the purposes of section 393(*1*) [Table: Sl. No. 8(*v*)], includes "fees for technical services" and fees for "professional services", as defined in this section;

(35) "specified bank" means a banking company as the Central Government may, by notification, specify;

(36) "specified company" means for the purposes of section 393(*1*) [Table: Sl. No. 4(*i*)] and 393(*2*) (Table: Sl. No. 10), a company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(37) "specified person" means—

(a) any person, not being an individual or Hindu undivided family; or

(b) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such income is credited or paid;

(38) "special purpose vehicle" shall have the meaning in Schedule V (Note 2);

(39) "specified senior citizen" means an individual, being a resident in India—

(a) who is of the age of seventy-five years or more at any time during the tax year;

(b) who is having pension income and no other income except the interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and

(c) has furnished a declaration to the specified bank containing particulars, in such form and verified in such manner as prescribed;

(40) "specified undertaking" shall have the same meaning as assigned to it in section 2(*i*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(41) "time deposits" means deposits (including recurring deposits) repayable on the expiry of fixed periods;

(42) "unit" for the purposes of section 393(*1*) [Table: Sl. No. 4(*iii*)] and section 393(*2*) (Table: Sl. No. 8) shall have the meaning assigned to it in section 224(*10*)(*c*);

(43) "Unit Trust of India" means the Unit Trust of India as referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(44) "University", referred in section 392(*4*), means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956, to be a University for the purposes of that Act; 3 of 1956.

(45) "user" means any person who accesses or avails any computer resource of an online gaming intermediary;

(46) "user account" means account of a user registered with an online gaming intermediary;

(47) "work" shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from—

(i) such customer; or

(ii) its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in section 36(*3*),

but does not include—

(A) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or

(B) any sum referred to in section 393(*1*) [Table: Sl. No. 6(*iii*)].

C.—Advance payment of tax

Liability for payment of advance tax.

403. (*1*) Advance tax shall be payable during any tax year in respect of the current income of the assessee, as per the provisions of this Part.

(2) For the purposes of this Part, "current income" means the total income of the assessee which would be chargeable to tax for that tax year.

(3) The provisions of sub-section (*1*) shall not apply to an individual resident in India, who—

(a) does not have any income chargeable under the head "Profits and gains of business or profession"; and

(b) is of the age of sixty years or more at any time during the tax year.

Conditions of liability to pay advance tax.

404. Advance tax shall be payable by the assessee during a tax year, where the amount of such tax during that year, as computed under this Part, is ten thousand rupees or more.

Computation of advance tax.

405. (*1*) The amount of advance tax payable by an assessee under section 404, on his own accord under section 406, or in pursuance of an order of an Assessing Officer under section 407, in the tax year shall, subject to the provisions of sub-section (*2*), be computed as under—

A = B-C

where,—

A = the amount of advance tax payable in a tax year;

B = income-tax on the specified sum calculated at the rates in force in the tax year, where "specified sum" shall have the meaning assigned to it in section 406 or 407;

C = amount of income-tax which would be deductible or collectible at source during the said tax year under any provision of this Act from any income subject to the following:—

(a) such income is computed before allowing any deduction admissible under this Act and has been taken into account in computing the specified sum; and

(b) the person responsible for deducting tax has paid or credited such income after deduction of tax; or

(c) the person responsible for collecting tax has received or debited such income after collection of tax.

(*2*) In the case of any class of assessees, where the Finance Act of the relevant year provides that, net agricultural income shall be taken into account for the purposes of computing advance tax, then,—

(a) for the purposes of order as mentioned in section 407(1) and (4), the net agricultural income shall be the amount that has been taken into account for the purposes of charging income-tax on the specified sum as mentioned in sub-sections (*3*) and (*6*) of the said section; or

(b) in any other situation, the net agricultural income as estimated by the assessee for the tax year.

Payment of advance tax by assessee on his own accord.

406. (*1*) Every person, who is liable to pay advance tax under section 404 (whether or not he has been previously assessed by way of regular assessment) shall, on his own accord, pay advance tax on the specified sum, calculated in the manner laid down in section 405, at the appropriate percentage, and on or before the due date of each instalment, as specified in section 408.

(2) A person who pays any instalment or instalments of advance tax under sub-section (*1*), may increase or reduce the amount of advance tax to accord with specified sum and the advance tax payable thereon, and make payment of the said tax in the remaining instalment or instalments, accordingly.

(3) In this section, the expression "specified sum" means current income as estimated by the assessee.

Payment of advance tax by assessee in pursuance of order of Assessing Officer.

407. (*1*) Where a person has already been assessed for the total income of any tax year by way of regular assessment and the Assessing Officer is of the opinion that such person is liable to pay advance tax, he may require such person to pay advance tax on the specified sum, calculated in the manner laid down in section 405, by an order in writing, and specifying the instalment or instalments in which such tax is to be paid, on or before the due date of each instalment specified in section 408.

(2) The order referred to in sub-section (*1*) may be passed at any time during the tax year but not later than the last day of February of such tax year and it shall be followed by a notice of demand under section 289.

(3) In sub-section (*1*), "specified sum" means a sum, being higher of,—

(a) the total income of the latest tax year in respect of which the assessee has been assessed by way of regular assessment; or

(b) total income returned by the assessee in any return of income furnished by him for any subsequent tax year.

(4) The Assessing Officer may amend the order referred to in sub-section (*1*), and may require such person to pay advance tax on the specified sum, calculated in the manner laid down in section 405, if after passing an order under sub-section (*1*),—

(a) a return of income is furnished by the assessee, under section 263 or in response to a notice under section 268; or

(b) a regular assessment of the income is made in respect of a tax year later than the assessment referred to in sub-section (*1*), on or before the due date of each instalment specified in section 408.

(5) The order referred to in sub-section (*4*) may be passed at any time before the 1st March of that tax year and it shall be followed by issuance of a demand notice under section 289.

(6) In sub-section (*4*), "specified sum" means the total income declared in the return of income or computed in regular assessment mentioned in sub-section (*4*) (a) and (b), respectively.

(7) If the notice of demand issued under section 289, as referred in sub-sections (*2*) and (*5*), is served after any of the due dates specified in section 408, the appropriate part or, the whole of the amount of the advance tax specified in such notice, shall be payable on or before each of the due date falling after the date of service of the notice of demand.

(8) Where a person, who is served with an order referred to in sub-sections (*1*) and (*4*), estimates the advance tax payable on his current income to be lower than the amount of advance tax specified in the said order, then, he may send an intimation in the prescribed form to the Assessing Officer to that effect, and pay such advance tax on the current income, calculated in the manner laid down in section 401 as accords with his estimate, at an appropriate percentage thereof on or before the due date of each instalment specified in section 408 falling after the date of such intimation.

(9) Where a person, who is served with an order referred in sub-sections (*1*) (**) or (*4*), estimates that advance tax payable on his current income would exceed the amount of advance tax specified in such order or intimated by him under sub-section (*8*), he shall pay such advance tax on the current income, calculated in the manner laid down in section 405 at the appropriate part or whole of such higher amount of advance tax as accords with his estimate, on or before the due date of the last instalment specified in section 408.

Instalments of advance tax and due dates.

408. (*1*) All the assessees who are liable to pay advance tax, other than the assessee referred to in sub-section (*2*), shall pay the same on the current income calculated in the manner laid down in section 405 in four instalments during each tax year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below.

Table

Sl. No.	Due date of instalment	Amount payable
A	B	C
1.	On or before the 15th June.	Not less than 15% of such advance tax.
2.	On or before the 15th September.	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
3.	On or before the 15th December.	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
4.	On or before the 15th March.	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(2) An assessee, who declares profits and gains as per the provisions of section 58(*2*) (Table: Sl. No. 1 or 3), shall pay the whole amount of advance tax on the current income, calculated in the manner laid down in section 405 during each tax year, on or before the 15th March.

(*3*) Any amount paid by way of advance tax on or before the 31st March, shall be treated as advance tax paid during the tax year ending on that day for all the purposes of this Act.

When assesse is (***) **deemed** to be in default.

409. A person shall be deemed to be an assessee in default, if such person—

(a) does not pay on the date specified in section 408, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under section 407(*1*) and (*4*); or

(b) does not send to the Assessing Officer an intimation under section 407(*8*) on or before the date on which any such instalment as is not paid becomes due; or

(c) does not pay on the basis of his estimate of his current income, the advance tax payable by him under section 407(*9*),

in respect of such instalments.

Credit for advance tax.

410. Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Part shall be treated as a payment of tax in respect of the income of the tax year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

D.—Collection and Recovery

When tax payable and when assessee deemed in default.

411. (*1*) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 289 at the place and to the person mentioned in the notice shall be paid within—

(a) thirty days of the service of the notice; or

(b) such lesser period, as specified in the notice with the previous approval of the Joint Commissioner, where the Assessing Officer has any reason to believe that it shall be detrimental to revenue if the full period of thirty days is allowed.

(2) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then—

(a) such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings; and

(b) any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964. 11 of 1964.

(3) If the amount specified in any notice of demand under section 289 is not paid within the period limited under sub-section (*1*),—

(a) the assessee shall be liable to pay simple interest at 1% for every month or part of a month; and

(b) such period shall commence from the day immediately following the end of the period mentioned in sub-section (*1*) and end with the day on which the amount is paid.

(4) No interest shall be charged under sub-section (*3*) on any amount for any period, where interest is charged on the same amount for the same period under section 398(*3*) on the amount of tax specified in the intimation issued under section 399.

(5) Nothing contained in sub-section (*3*) shall prevent the Assessing Officer, where an application is made by the assessee before the expiry of the due date under sub-section (*1*), to extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(6) Where as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 378 or an order of the Settlement Commission under section 245D (*4*) of the Income-tax Act, 1961,— 43 of 1961.

(a) the amount on which interest was payable under sub-section (*3*) had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded; and

(b) if subsequent to such reduction, as a result of an order under said sections or section 377, the amount on which interest was payable is increased, the assessee shall be liable to pay interest under sub-section (*3*),—

(i) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (*1*); and

(ii) ending with the day on which the amount is paid.

(7) In respect of any period commencing on or before the 31st March, 1989 and ending after that date, interest under sub-section (*3*) shall, in respect of so much of such period as falls after that date, be calculated at the rate of 1.5% for every month or part of a month.

(8) Irrespective of the provisions contained in sub-section (*3*), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, on an application by the assessee, reduce or waive the amount of interest paid or payable by an assessee under sub-section (*3*) if he is satisfied that—

(a) payment of such amount has caused or would cause genuine hardship to the assessee;

(b) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(c) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(9) The order under sub-section (*8*) accepting or rejecting the application of the assessee, either in full or in part, shall be passed within twelve months from the end of the month in which the application is received.

(10) No order under sub-section (*8*) rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard.

(11) If the amount is not paid within the specified time under sub-section (*1*) or extended under sub-section (*5*), at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(12) If, in a case where payment by instalments is allowed under sub-section (*5*), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section,—

(a) the assessee shall be deemed to be in default as to the whole of the amount then outstanding; and

(b) the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(13) Where an assessee has presented an appeal under section 356 or 357 the Assessing Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, till the time such appeal remains undisposed of.

(14) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall—

(a) not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India; and

(b) continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

(15) For the purposes of sub-section (*14*), income shall be deemed to have been brought into India, if—

(a) it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India; or

(b) the income, whether capitalised or not, has been brought into India in any form.

Penalty payable when tax in default.

412. (*1*) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under section 411(*3*), be liable, by way of penalty, to pay—

(a) such amount as the Assessing Officer may direct; and

(b) in the case of a continuing default, such further amount or amounts as the Assessing Officer may, from time to time, direct.

(2) The total amount of penalty under sub-section (*1*) shall not exceed the amount of tax in arrears.

(3) No penalty under sub-section (*1*) shall be levied—

(a) unless the assessee has been given a reasonable opportunity of being heard; and

(b) where the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.

(4) The assessee shall not cease to be liable to any penalty under sub-section (*1*) merely by reason of the fact that before the levy of such penalty he has paid the tax.

(5) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

Certificate by Tax Recovery Officer and Validity thereof.

413. (*1*) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in such form as prescribed specifying the amount of arrears due from the assessee (such statement being hereafter referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, as per the rules prescribed in this regard,—

(a) attachment and sale of movable property of the assessee;

(b) attachment and sale of immovable property of the assessee;

(c) arrest of the assessee and his detention in prison;

(d) appointing a receiver for the management of movable and immovable properties of the assessee.

(*2*) The Tax Recovery Officer may take action under sub-section (*1*), whether or not proceedings for recovery of the arrears by any other mode have been taken.

(3) The assessee shall not be entitled to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground.

(4) The Tax Recovery Officer may cancel the certificate if, for any reason, he considers it necessary so to do, or may correct any clerical or arithmetical mistake therein.

(5) In this section, the movable or immovable property of the assessee shall include any property—

(a) which has been transferred, directly or indirectly on or after the 1st June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the said persons; and

(b) so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the movable or immovable property of the assessee for recovering any arrears due from the assessee in respect of any period prior to such date.

Tax Recovery Officer by whom recovery is to be effected.

414. (*1*) For the purposes of section 413, the Tax Recovery Officer shall be—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or has the principal place of his business or profession; or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any of his movable or immovable property is situated,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by any income-tax authority not below the rank of Commissioner who is authorised in this behalf by the Board in pursuance of section 241.

(*2*) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction; or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Part, it is necessary so to do,

he may send—

(i) the certificate; or

(ii) a copy of the certificate certified in the manner as prescribed and specifying the amount to be recovered, where only a part of the amount is to be recovered,

to a Tax Recovery Officer referred to in sub-section (*1*)(*b*) and, thereupon, such officer shall also proceed to recover the amount under this Part as if the certificate or copy thereof had been drawn up by him.

Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

415. (*1*) The Tax Recovery Officer may grant time for the payment of any tax and, till the expiry of such time, shall stay the recovery proceedings for such tax.

(*2*) Where a certificate has been drawn up and subsequently, the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall—

(a) if the order is the subject-matter of further proceeding under this Act, stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending; or

(b) if the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it.

Other modes of recovery.

416.(*1*) Where no certificate has been drawn up under section 413, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(2) Where a certificate has been drawn up under section 413, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.

(3) If any assessee is in receipt of any income chargeable under the head "Salaries", the Assessing Officer or Tax Recovery Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee and such person shall comply with the said requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs.

(4) Nothing contained in sub-section (*3*) shall apply to any part of the salary exempted from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908. 5 of 1908.

(5) (a) The Assessing Officer or Tax Recovery Officer may, at any time or fromtime to time, by notice in writing require any person—

(i) from whom money is due or may become due to the assessee; or

(ii) who holds or may subsequently hold money for or on account of the assessee,

to pay to the Assessing Officer or Tax Recovery Officer—

(*I*) either forthwith upon the money becoming due or being held; or

(*II*) at or within the time specified in the notice (not being before the money becomes due or is held),

so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount;

(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person;

(c) For the purposes of this sub-section, the shares of the joint holders in the account, as referred in clause (*b*), shall be presumed, until the contrary is proved, to be equal;

(d) A copy of the notice under this sub-section shall be forwarded to—

(i) the assessee; and

(ii) in the case of a joint account to all the joint holders, at his or their last addresses known to the Assessing Officer or Tax Recovery Officer;

(e) Save as otherwise provided in this sub-section, every person to whom a notice is issued under that sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, irrespective of any rule, practice or requirement to the contrary;

(f) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice;

(g) Where a person, to whom a notice under this sub-section is issued, objects to it by a statement on oath that—

(a) the sum demanded or any part thereof is not due to the assessee; or

(b) he does not hold any money for or on account of the assessee,

then nothing contained in that sub-section shall be deemed to require such person to pay any such sum or part thereof;

(h) Where it is discovered that the statement under **clause (g)** was false in any material particular, such person shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less;

(i) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of a notice issued under the said sub-section;

(j) The Assessing Officer or Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid;

(k) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Assessing Officer or the Tax Recovery Officer—

(i) to the extent of his own liability to the assessee so discharged; or

(ii) to the extent of the assessee's liability for any sum due under this Act,

whichever is less.

(l) If the person to whom a notice under this sub-section is issued fails to make payment in pursuance thereof to the Assessing Officer or Tax Recovery Officer,—

(i) he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 413 to 415; and

(ii) the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 413.

(6) The Assessing Officer or Tax Recovery Officer may apply to the court in whose custody there is money belonging to the assessee—

(a) for payment to him of the entire amount of such money; or

(b) if it is more than the tax due, an amount sufficient to discharge the tax.

(7) The Assessing Officer or Tax Recovery Officer may, if so authorised by an income-tax authority not below the rank of commissioner by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner as prescribed.

Recovery through State Government.

417. If the recovery of tax in any area has been entrusted to a State Government under article 258(1) of the Constitution, the State Government may direct, with respect to that area or any part thereof that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

Recovery of tax in pursuance of agreements with foreign countries.

418. (*1*) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from—

(a) a resident; or

(b) a person having any property in India,

the Board may forward such certificate to any Tax Recovery Officer having jurisdiction over the resident, or within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(i) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate drawn up by him under section 413; and

(ii) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

(*2*) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may,—

(a) if the assessee is a resident of a country being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country; or

(b) has any property in that country,

forward to the Board a certificate drawn up by him under section 413 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

Recovery of penalties, fine, interest and other sums.

419. Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Part for the recovery of arrears of tax.

Tax clearance certificate.

420.(*1*) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (*i*) or the person referred to in clause (*ii*), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India.

(2) Nothing contained in sub-section (*1*) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(3) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as prescribed—

(a) the Permanent Account Number allotted to him under section 262;

(b) the purpose of his visit outside India; and

(c) the estimated period of his stay outside India.

(4) Where no such Permanent Account Number has been allotted to him, or his total income is not chargeable to income-tax, or he is not required to obtain a Permanent Account Number under this Act, such person shall furnish a certificate in such form, as prescribed.

(5) No person—

(a) who is domiciled in India at the time of his departure; and

(b) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liability under this Act, or the Wealth-tax Act, 1957 or the Gift-tax Act, 1958 or the Expenditure-tax Act, 1987 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person.

27 of 1957.
18 of 1958.
35 of 1987.
22 of 2015.

(6) No income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless—

(a) he records the reasons therefor; and

(b) obtains the prior approval of Principal Chief Commissioner or Chief Commissioner.

(7) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (*1*) or (*5*) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by those sub-sections, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Assessing Officer may, having regard to the circumstances of the case, determine.

(8) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (*7*),—

(a) the owner or charterer, shall be deemed to be an assessee in default for such sum; and

(b) such sum shall be recoverable from him in the manner provided in this Part as if it were an arrear of tax.

(9) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

(10) In this section, "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

Recovery by suit or under other law not affected.

421. The several modes of recovery specified in this Part shall not affect in any way;—

(a) any other law for the time being in force relating to the recovery of debts due to Government; or

(b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee; and

(c) it shall be lawful for the Assessing Officer or the Government, as the case may be, to have recourse to any such law or suit, irrespective of the fact that the tax due is being recovered from the assessee by any mode specified in this Part.

Recovery of tax arrear in respect of non-resident from his assets.

422. Irrespective of the provisions of sections 304(*1*) or (*5*), where the person entitled to the income referred to in section 9(*2*) is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee—

(a) may be recovered by deduction under the provisions of Chapter XIX-B; and

(b) any arrears of tax may also be recovered as per the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

E.—Interest chargeable in certain cases

Interest for defaults in furnishing return of income.

423. (*1*) Where the return of income for any tax year is furnished after the due date or is not furnished, the assessee shall be liable to pay simple interest as per the following formula:—

I = 1% x A x T

where,—

I = the interest payable;

A = the amount of tax on which interest is payable, as specified in sub-section (*2*);

T = number of months comprised in the period commencing on the date immediately following the starting date and ending on the end date, both specified in sub-section (*2*).

(2) For sub-section (*1*), in respect of the circumstances specified in column B of the Table below, the starting date shall be the date specified in column C, the ending date shall be the date as specified in column D and the amount of tax on which interest is payable is specified in column E.

Table

Sl. No.	Circumstances	Starting date	Ending date	The amount of tax on which interest is payable
A	B	C	D	E
1.	Where the return is furnished— (*a*) under section 263(*1*), (*4*) or (*6*); or	Due date for furnishing the return of income under section 263(*1*).	Date of furnishing of the return.	(*a*) Where a regular assessment is not made, tax on the total income as determined under section 270(*1*) as reduced by tax paid;

A	B	C	D	E
	(*b*) in response to a notice under section 268(*1*) after the due date.			(*b*) Where a regular assessment is made, tax on the total income determined under regular assessment as reduced by tax paid.
2.	Where no return has been furnished under section 263(*1*), (*4*) or (*6*) or in response to a notice under section 268(*1*).	Due date for furnishing the return of income under section 263(*1*).	Date of completion of the assessment under section 271.	Tax on the total income determined under regular assessment as reduced by tax paid.
3.	(*a*) Where return of income is required by a notice under section issued after the determination of income under section 270(*1*) or after the completion of an assessment under section 270(*10*) or 271 or 279; and (*b*) such return is furnished after the expiry of the time allowed under such notice.	Date immediately following the last date of time allowed under such notice.	Date of furnishing the return.	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under section 270(*1*) or on the basis of the earlier assessment under the section referred to against serial number 3(*a*).
4.	(a) Where return of income is required by a notice under section 280 issued after the determination of income under section 270(*1*) or after the completion of an assessment under section 270(*10*) or 271 or 279; and (b) no return is furnished.	Date immediately following the last date of time allowed under such notice.	Date of completion of the reassessment or recomputation under section 279.	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under section 270(*1*) or on the basis of the earlier assessment under the section referred to against serial number 4(*a*).

(3) Where as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount of tax on which interest was payable under sub-sections (*1*) and (*2*) has been increased or reduced, the interest shall be increased or reduced accordingly, and in a case —

(a) where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the form as prescribed specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;

(b) where the interest is reduced, the excess interest paid, if any, shall be refunded.

(4) For the purposes of this section,—

(a) tax on total income as determined under section 270(*1*) shall not include the additional income-tax, if any, payable under section 267;

(b) tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 267;

(c) interest payable under sub-section (*1*) shall be reduced by the interest, if any, paid under section 266 towards the interest chargeable;

(d) "tax paid" means—

(i) advance tax, if any, paid;

(ii) any tax deducted or collected at source;

(iii) any relief of tax allowed under section 157;

(iv) any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;

(v) any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;

(vi) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(vii) any tax credit allowed to be set off as per section 206(*13*).

(5) Where for any tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Interest for defaults in payment of advance tax.

424. (*1*) Subject to the other provisions of this section, where, in any tax year, an assessee who is liable to pay advance tax under section 404,—

(a) has failed to pay such tax; or

(b) the advance tax paid by such assessee under the provisions of section 406 or 407 is less than 90% of the assessed tax,

the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month, for the period, beginning from the 1st April following such tax year—

(i) upto the date of determination of total income under section 270(*1*); or

(ii) upto the date of completion of regular assessment,

on an amount equal to the assessed tax in case where clause (*a*) is applicable or, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax in case where clause (*b*) is applicable.

(2) In sub-section (*1*), "assessed tax" means the tax on the total income determined under section 270(*1*) and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(a) any tax deducted or collected at source as per Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(b) any relief of tax allowed under section 157;

(c) any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;

(d) any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;

(e) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(f) any tax credit allowed to be set off as per section 206(*13*).

(3) For the purposes of this section,—

(a) where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment;

(b) tax on total income as determined under section 270(*1*) shall not include the additional income-tax, if any, payable under section 267;

(c) tax on the total income determined under such regular assessment shall not include the additional income-tax payable under section 267.

(4) Where, before the date of determination of total income under section 270(*1*) or completion of a regular assessment, tax is paid by the assessee under section 266 or otherwise,—

(a) interest shall be calculated as per the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 266 towards the interest chargeable under this section;

(b) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(5) Where, the amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year under sub-section (*1*) is increased, as a result of an order of reassessment or recomputation under section 279, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the 1st April immediately following such tax year and ending on the date of the reassessment or recomputation on such amount determined as per formula below:—

A = B-C

where,—

A = the increased amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year as a result of reassessment or recomputation—

B = tax on total income determined on the basis of reassessment or recomputation;

C = tax on total income determined under section 270(*1*) or regular assessment as referred to in sub-section (*1*).

(6) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount on which interest was payable under sub-section (*1*) or (*3*) has been increased or reduced, the interest shall be increased or reduced accordingly, and—

(a) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the form as prescribed specifying the sum payable and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;

(b) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

Interest for deferment of advance tax.

425. (*1*) If an assessee, liable to pay advance tax under section 404, other than the assessee mentioned in sub-section (*3*), has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the date specified in column B of the Table below, is less than advance tax due on returned income, as specified in column C, then the assessee shall be liable to pay interest on the amount of shortfall of advance tax as specified in column D , at the rate of interest specified in column E:

Table

Sl. No.	Due date of Instalment	Advance tax due on returned income	Amount of shortfall of advance tax being percentage of advance tax due as per column C, as reduced by advance tax already paid on or before the date specified in column B	Interest payable on shortfall as specified in column D
A	B	C	D	E
1.	15th day of June	15% of the tax due on returned income.	15%.	3% on the shortfall.
2.	15th day of September.	45% of the tax due on returned income.	45%.	3% on the shortfall.
3.	15th day of December.	75% of the tax due on returned income.	75%.	3% on the shortfall.
4.	15th day of March.	100% of the tax due on returned income.	100%.	1% on the shortfall.

(2) The assessee shall not be liable to pay any interest under sub-section (*1*), if the advance tax paid by the assessee on the current income,—

(a) on or before the 15th day of June is 12% or more of the tax due on the returned income; or

(b) on or before the 15th day of September is 36% or more of the tax due on the returned income.

(3) An assessee who declares profits and gains as per section 58(*2*) (Table: Sl. No. 1 or 3) or, who is liable to pay advance tax under section 404, has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on returned income, shall be liable to pay simple interest at the rate of 1% on the amount of shortfall from the tax due on returned income..

(4) No interest shall be payable under sub-section (*1*) or (*3*) in respect of shortfall in the payment of tax due on returned income, where,—

(a) the shortfall is on account of underestimation or failure to estimate the following incomes:—

(i) capital gains;

(ii) income as per section 2(*49*)(*n*);

(iii) income under the head profits and gains of business or profession accruing or arising for the first time;

(iv) dividend income; and

(b) the assessee has paid in full, the tax payable on the incomes referred to in clause (*a*), in any of the remaining instalments of advance tax, if any, or by the 31st day of March of the tax year.

(5) For the purposes of this section "tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the tax year in which the advance tax is paid or payable, as reduced by the amount of—

(a) any tax deducted or collected at source as per the provisions of Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(b) any relief of tax allowed under section 157;

(c) any relief of tax allowed under section 159(*1*) on account of tax paid in a country outside India;

(d) any relief of tax allowed under section 159(*2*) on account of tax paid in a specified territory outside India referred to in that section;

(e) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(f) any tax credit allowed to be set off as per section 206(*13*).

Interest on excess refund.

426. (*1*) Subject to the other provisions of this Act, where any refund is granted to the assessee under section 270(*1*), and—

(a) no refund is due on regular assessment; or

(b) the amount refunded under section 270(*1*) exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of 0.5% on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount of refund granted under section 270(*1*) is held to be correctly allowed, either in whole or in part, then, the interest chargeable, if any, under sub-section (*1*) shall be reduced accordingly.

(3) Where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

F.—LEVY OF FEE IN CERTAIN CASES

Fee for default in furnishing statements.

427. (*1*) Without prejudice to the provisions of this Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in **sections 393(*3*)(*b*) and 394(1)(c),** he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(*2*) The amount of fee referred to in sub-section (*1*) shall,—

(a) not exceed the amount of tax deductible or collectible; and

(b) be paid before delivering or causing to be delivered the statement, as per sub-section (*1*).

Fee for default in furnishing return of income.

428. Without prejudice to the provisions of this Act, where, a person required to furnish a return of income under section 263 fails to do so within the time as prescribed in section 263(*1*) he shall pay, by way of a fee,—

(a) a sum of five thousand rupees, if the total income of such person exceeds five lakh rupees;

(b) a sum not exceeding one thousand rupees in any other case.

Fee for default relating to statement or certificate.

429. (*1*) Without prejudice to the provisions of this Act, where,—

(a) the research association, University, college or other institution referred to in section 45(*3*)(*a*) or the company referred to in section 45(*3*)(*b*) fails to deliver or cause to be delivered the documents as prescribed in section 45(*4*)(*a*) within the time as prescribed therein or furnish a certificate as prescribed under section 45(*4*)(*a*); or

(b) the institution or fund fails to deliver or cause to be delivered a statement within the time as prescribed under section 354(*1*)(*e*), or furnish a certificate as prescribed under section 354(*1*)(*f*),

it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (*1*) shall,—

(a) not exceed the amount in respect of which the failure referred to therein has occurred;

(b) be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (*1*).

Fee for default relating to intimation of Aadhaar number.

430. Without prejudice to the provisions of this Act, where a person is required to intimate his Aadhaar number under section 262(*6*) and such person fails to do so on or before such date as prescribed, he shall be liable to pay such fee, as prescribed, not exceeding one thousand rupees, at the time of making intimation under that sub-section after the said date.

CHAPTER XX

REFUNDS

Refunds.

431. If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any tax year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

Person entitled to claim refund in certain special cases.

432. (*1*) Where the income of one person is included in total income of any **(**) other** person under any provision of this Act, the latter shall be eligible for a refund under this **(**) Chapter** in respect of such income.

(*2*) Where a person is unable to claim or receive a refund due to him on account of death, incapacity, insolvency, liquidation or other cause, his legal representative or the trustee or guardian or receiver, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

Form of claim for refund and limitation.

433. Every claim for refund under this **(**) Chapter** shall be made by furnishing return as per section 263.

Refund for denying liability to deduct tax in certain cases.

434. (*1*) Where,—

(a) under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest in section 393(2) (Table: Sl. No. 17), is to be borne by the person by whom the income is payable; and

(*b*) such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income,

he may, within thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as prescribed.

(*2*) The Assessing Officer shall, by an order in writing, allow or reject the application.

(2) No application under sub-section (*1*) shall be rejected unless an opportunity of being heard has been given to the applicant.

(3) The Assessing Officer may, before passing an order under sub-section (*2*), make such inquiry as he considers necessary.

(4) The order under sub-section (*2*) shall be passed within six months from the end of the month in which application under sub-section (*1*) is received.

Refund on appeal, etc.

435. (*1*) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where, by the order as referred to in sub-section (*1*),—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.

Correctness of assessment not to be questioned.

436. In a claim under this **(**) Chapter**, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

Interest on refunds.

437. (*1*) Where a refund is due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the refund, simple interest thereon calculated at the rate of 0.5% for each month (or part of a month), in the circumstances specified in column B of the Table below, for the period specified in column C of the said Table.

TABLE

Sl. No.	Circumstances	Period
A	B	C
1.	Such refund is out of— (a) tax collected at source under section 394; or (b) paid by way of advance tax; or (c) treated as paid under section 390(*5*), during the year.	(a) From the first day of April following the tax year to the date the refund is granted, where the income-tax return has been furnished on or before the due date as specified in section 263(*1*); (b) from the date of furnishing the income-tax return to the date on which the refund is granted; in any other case.
2.	Where the refund is out of any tax paid under section 266.	from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted.
3.	Any other case.	from the date or, as the case may be, dates on which the amount of tax or penalty specified in the notice of demand issued under section 289 is paid in excess of such demand to the date on which the refund is granted.

(2) No interest shall be payable under sub-section (*1*) (Table: Sl. No. 1 or 2), if the amount of refund is less than 10% of the tax as determined under section 270(*1*) or on regular assessment.

(3) Where refund, mentioned in sub-section (*1*) (Table: Sl. No. 1), arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee under section 288 (Table: Sl. No. 11), such interest shall be calculated at the rate of 0.5% for every month or part of a month comprised in the period from the date of such application to the date on which the refund is granted

(4) In a case where a refund arises as a result of giving effect to an order under section 359 or 363 or 365(*10*) or 368 or 377 or 378, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive an additional interest which shall be—

(a) over and above the interest payable under sub-section (*1*) or (*3*); and

(b) computed on such amount of refund calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under section 286(*1*) (Table: Sl. No. 10) to the date on which the refund is granted.

(5) For the purposes of sub-section (*4*)(*b*), in a case where proceedings for assessment or reassessment is pending, in computing the period for determining the additional interest payable, the period beginning from the date on which such refund is withheld by the Assessing Officer as per and subject to provisions of section 438(*3*) and ending with the date on which such assessment or reassessment is made, shall be excluded.

(6) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XIX-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of 0.5% for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in the form as prescribed; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 359 or 363 or 365(*10*) or 368,

to the date on which the refund is granted.

(7) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, **as the case may be,** whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under this section.

(8) Where any question arises as to the period to be excluded under sub-section (*7*), it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(9) Where, as a result of an order under section 270(*10*) or 271 or 279 or 287 or 288 or 359 or 363 or 365(*10*) or 368 or 377 or 378, the amount on which interest was payable under sub-section (*1*) **or (3)** has been increased or reduced, the interest shall be increased or reduced accordingly.

(10) In a case where the interest is reduced under sub-section (*9*), the Assessing Officer shall serve on the assessee a notice of demand in the form as prescribed specifying the amount of the excess interest paid and requiring him to pay such amount.

(11) The notice of demand under sub-section (*10*) shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly.

Set off and withholding of refunds in certain cases.

438. (*1*) Where a refund becomes due or is found to be due to any person under this Act, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, may instead of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by such person.

(2) Any action under sub-section (*1*) shall only be taken after giving intimation in writing to such person of the action proposed to be taken.

(3) Where,—

(a) a part of the refund is set off under sub-section (*1*); or

(b) no such amount is set off,

and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of the person, may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, withhold the refund up to sixty days from the date on which such assessment or reassessment is made.

CHAPTER XXI

PENALTIES

Penalty for under-reporting and misreporting of income.

439. (*1*) The Competent Authority may, during the course of any proceedings under this Act, impose penalty on any person who has under-reported his income and such penalty shall be payable in addition to tax, if any.

(2) A person shall be deemed to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under section 270(*1*)(*a*);

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(d) the amount of deemed total income assessed or reassessed as per section 206, is greater than the deemed total income determined in the return processed under section 270(*1*)(*a*);

(e) the amount of deemed total income assessed as per section 206, is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(f) the amount of deemed total income reassessed as per section 206, is greater than the total income assessed or reassessed under the said sections immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(a) if income has been assessed for the first time,—

(i) Where return has been furnished, the difference between the amount of income assessed and the amount of income determined under section 270(*1*)(*a*);

(ii) Where no return of income has been furnished or if return has been furnished for the first time under section 280,—

(A) the amount of income assessed, in the case of a company, firm or local authority; and

(B) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (*A*);

(*b*) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order.

(4) If under-reported income arises out of determination of deemed total income as per section 206, the amount of total under-reported income shall be determined as under—

(A-B) + (C-D)

where,—

A = the total income assessed as per the provisions other than the provisions contained in section 206 (herein referred to as "general provisions");

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per section 206;

D = the total income that would have been chargeable had the total income assessed as per section 206 been reduced by the amount of under-reported income.

(5) (*a*) If the amount of under-reported income on any issue is considered both under section 206 and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under D referred to in sub-section (*4*);

(*b*) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-reported income shall be the difference between the loss claimed and the income or loss, assessed or reassessed.

(6) Subject to sub-section (*8*), where the source of any receipt, deposit or investment in any tax year is claimed to be an amount added to income or deducted while computing loss, in the assessment of such person in any year prior to the tax year in which such receipt, deposit or investment appears (herein referred to as "the preceding year") and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(7) The amount referred to in sub-section (*6*) shall be deemed to be income under-reported for the preceding year in the following order—

(a) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(b) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(8) The under-reported income, for the purposes of this section, shall not include the following:—

(a) the amount of income in respect of which the assessee offers an explanation and the Competent Authority, is satisfied that the explanation is *bona fide* and the assessee has disclosed all the material facts to substantiate the explanation offered;

(b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Competent Authority, but the method employed is such that the income cannot properly be deduced therefrom;

(c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance; and

(d) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 171, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction.

(9) The penalty referred to in sub-section (*1*) shall be 50% of the tax payable on under-reported income.

(10) Irrespective of anything contained in sub-section (*8*) or (*9*), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (*1*) shall be 200% of the tax payable on under-reported income.

(11) The cases of misreporting of income referred to in sub-section (*10*) shall be the following:—

(a) misrepresentation or suppression of facts;

(b) failure to record investments in the books of account;

(c) claim of expenditure not substantiated by any evidence;

(d) recording of any false entry in the books of account;

(e) failure to record any receipt in books of account having a bearing on total income; and

(f) failure to report any international transaction or any transaction **(**) deemed** to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(12) The tax payable in respect of the under-reported income shall be—

(a) where no return of income has been furnished or where return has been furnished for the first time under section 280 and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(b) if the total income determined under section 270(*1*)(*a*) or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(c) in any other case, determined as follows—

(X-Y)

where,—

X = the amount of tax calculated on the under-reported income as increased by the total income determined under section 270(*1*)(*a*) or total income assessed, reassessed or recomputed in a preceding order as if it were the total income; and

Y = the amount of tax calculated on the total income determined under section 270(*1*)(*a*) or total income assessed, reassessed or recomputed in a preceding order.

(13) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has already formed the basis for penalty in the case of the person for the same or any other tax year.

(14) The penalty referred to in sub-section (*1*) shall be imposed, by an order in writing by the Competent Authority.

(15) In this section,—

(a) "Competent Authority" means the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner; and

(b) "preceding order" means an order immediately preceding the order during the course of which the penalty under sub-section (*1*) has been initiated.

Immunity from imposition of penalty, etc.

440. (*1*) An assessee may make an application to the Assessing Officer for granting immunity from penalty under section 439 and initiation of proceedings under section 478 or section 479, if—

(a) the tax and interest payable as per the order of assessment or reassessment under section 270(*10*) or section 279, has been paid within the period specified in the notice of demand; and

(b) no appeal against the order referred to in clause (*a*) has been filed.

(2) An application referred to in sub-section (*1*) shall be made within one month from the end of the month in which the order referred to in clause (*a*) of the said sub-section has been received in such form and such manner as prescribed.

(3) The Assessing Officer, on fulfilment of the conditions as specified in sub-section (*1*), and after the expiry of the period of filing appeal as specified in section 358(*3*)(*a*), shall grant immunity from penalty under section 439 and initiation of proceedings under section 478 or 479.

(4) No immunity under sub-section (*3*) shall be granted if penalty has been initiated under circumstances referred to in **(**)** section 439(*11*).

(5) The Assessing Officer, shall pass an order accepting or rejecting the application as referred to in sub-section (*1*) within three months from the end of the month of its receipt.

(6) No order of rejection under sub-section (*5*) shall be made without giving the assessee an opportunity of being heard.

(7) The order made under sub-section (*5*) shall be final.

(8) No appeal under section 356 or 357 or an application for revision under section 378 shall be admissible against the order referred to in sub-section (*1*)(*a*), if an order under sub-section (*5*) has been made accepting the application.

Failure to keep, maintain or retain books of account, documents, etc.

441. A penalty of twenty-five thousand rupees **(**)** **<u>may</u>** be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

(a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or

(b) retain such books of account and other documents for the period specified in the said rules.

Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

442. (*1*) The Assessing Officer or Commissioner (Appeals) may impose a penalty of 2% of the value of each international transaction or specified domestic transaction entered into by a person, if in respect of such transaction he,—

(a) fails to keep and maintain any such information and document as required by section 171(*1*);

(b) fails to report such transaction as he is required to do so; or

(c) maintains or furnishes an incorrect information or document.

(*2*) The prescribed income-tax authority referred to in section 171(*4*) may impose a penalty of five lakh rupees on a person, if he fails to furnish the information and document required under the said section.

Penalty in respect of certain income.

443. (*1*) The Assessing Officer or the Joint Commissioner (Appeals) or Commissioner (Appeals) may impose a penalty of 10% of the tax payable under section 195(*1*)(*i*), on an assessee if the income determined in his case for any tax year includes any income referred to in section 102, 103, 104, 105 or 106.

(2) The penalty under sub-section (*1*) shall be payable in addition to the tax payable under section 195.

(3) No penalty shall be levied on income referred to in section 102, 103, 104, 105 or 106 to the extent such income has been included by the assessee in the return of income furnished under section 263 and the tax as per section 195(*1*)(*i*) has been paid on or before the end of the relevant tax year.

(4) No penalty under section 439 shall be imposed upon the assessee in respect of income referred to in sub-section (*1*).

(5) **(**)**

Penalty for false entry, etc., in books of account.

444. **(*1*)** The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

(a) a false entry; or

(b) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

(2) Without prejudice to sub-section (*1*), the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may impose a penalty equal to the aggregated amount of false or omitted entry, on any other person, who causes the person referred to in the said sub-section in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section.

(3) In this section, "false entry" includes use or intention to use—

(a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

(c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

Benefits to related persons.

445. (**) If during any proceedings under this Act, it is found that a registered non-profit organisation has any specified income which is chargeable to tax as per section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—

(a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(***h***), if the violation is noticed for the first time during any tax year; and

(b) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any person referred to in section 355(**)**(h)**, if the violation is noticed again in any subsequent tax year.

Failure to get accounts audited.

446. If any person fails to get his accounts audited for any tax year or years or furnish the audit report as required under section 63, the Assessing Officer may impose a penalty on such person, which shall be the lesser of—

(a) 0.5% of the total sales, turnover, or gross receipts in business, or the gross receipts in profession for such tax year or years; or

(b) one lakh fifty thousand rupees.

Penalty for failure to furnish report under section 172.

447. If any person fails to furnish a report from an accountant as required by section 172, the Assessing Officer may impose a penalty of one lakh rupees on such person.

Penalty for failure to deduct tax at source.

448. (**) If any person fails to—

(a) deduct the whole or in part, the tax as required under Chapter XIX-B; or

(b) pay or ensure the payment of, the whole or any part of the tax as required by or under—

(i) Note 3 in Table in section 393(3); or

(ii) Note 6 to section 393(*1*) (Table: Sl. No. 8),

then, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to deduct or pay or ensure payment of, as aforesaid.

Penalty for failure to collect tax at source.

449. (**) If any person fails to collect the whole or in part, the tax as required under Chapter XIX-B, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to collect.

Penalty for failure to comply with provisions of section 185.

450. If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 185, the Assessing Officer may impose on him, a penalty equal to the amount of the loan or deposit or specified sum so taken or accepted.

Penalty for failure to comply with provisions of section 186.

451. (**) The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186.

Penalty for failure to comply with provisions of section 187.

452. The Assessing Officer may impose on a person, a penalty of five thousand rupees for every day of the duration of failure where he fails to provide a facility for accepting payments through the prescribed electronic modes of payment, as referred to in section 187 except when he proves that there were good and sufficient reason for such failure.

Penalty for failure to comply with provisions of section 188.

453. If a person repays any loan or deposit or specified advance referred to in section 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to the loan or deposit or specified advance so repaid.

Penalty for failure to furnish statement of financial transaction or reportable account.

454. (*1*) If a person who is required to furnish a statement of financial transaction or reportable account under section 508(*1*), fails to furnish such statement within the time prescribed under sub-section (*2*) thereof, the income-tax authority prescribed under the said sub-section (*1*) may impose on him, a penalty of five hundred rupees for every day during which such failure continues.

(*2*) If the person referred to in sub-section (*1*), fails to furnish the statement within the period specified in the notice issued under section 508(*7*), he shall pay penalty of one thousand rupees for every day during which the failure continues, beginning from the day immediately after the time specified in the such notice for furnishing the statement expires.

Penalty for furnishing inaccurate statement of financial transaction or reportable account.

455. (*1*) The prescribed income-tax authority referred to in section 508 may direct that a person required to furnish a statement under sub-section (*1*) of the said section shall pay penalty of fifty thousand rupees, if such person—

(a) provides inaccurate information in the statement or fails to furnish correct information within the period specified under section 508(*8*); or

(b) fails to comply with the due diligence requirement under section 508(*9*).

(2) The prescribed income-tax authority referred to in section 508, may direct that a reporting financial institution referred to in sub-section (*1*)(*k*) of the said section, shall, in addition to the penalty under sub-section (*1*) of this section, if any, pay a sum of five thousand rupees for every inaccurate reportable account, if—

(a) the said institution provides inaccurate information in the statement required to be furnished under section 508(*1*); and

(b) the inaccuracy in the said statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts.

(3) The reporting financial institution shall be entitled to—

(a) recover the amount paid under sub-section (*2*) on behalf of the reportable account holder; or

(b) retain an amount equal to the sum so paid out of any moneys that may be in its possession, or may come to it from every such account holder.

Penalty for failure to furnish statement or information or document by an eligible investment fund.

456. If any eligible investment fund required to furnish a statement or any information or document under section 9(*12*)(*e*) **(**)**, fails to do so within the time prescribed under that section, the income-tax authority prescribed under the said section may direct that such fund shall pay, by way of penalty, a sum of five lakh rupees.

457. If any person who has entered into an international transaction or specified domestic transaction fails to furnish any such information or document as required under section 171(*2*), a penalty equal to 2 % of the value of such transaction may be imposed upon him for each such failure by the Assessing Officer or the Transfer Pricing Officer as referred to in section 166 or the Commissioner (Appeals). Penalty for failure to furnish information or document under section 171.

458. If any Indian concern which is required to furnish any information or document under section 506, fails to do so, the prescribed income-tax authority under the said section, may direct that such Indian concern shall pay by way of penalty, a sum of— Penalty for failure to furnish information or document under section 506.

(a) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(*b*) five lakh rupees, in any other case.

459. (*1*) If any reporting entity referred to in section 511, required to furnish the report referred to in sub-section (*2*) of the said section, for a reporting accounting year, fails to do so, the prescribed authority under that section may impose on such entity, a penalty of— Penalty for failure to furnish report or for furnishing inaccurate report under section 511.

(*a*) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or

(b) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

(2) If a reporting entity referred to in section 511 fails to produce the information and documents within the period allowed under sub-section (*7*) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(*3*) If the failure referred to in sub-section (*1*) or (*2*) continues after an order imposing a penalty under the said sub-sections, has been served on the entity, then, irrespective of the provisions of the said sub-sections, the prescribed authority may impose penalty of fifty thousand rupees for every day for which such failure continues starting from the date of service of such order.

(*4*) If a reporting entity referred to in section 511 provides inaccurate information in the report furnished under sub-section (*2*) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five lakh rupees, if—

(a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to the notice issued under section 511(*7*).

460. If a person required to furnish statement under section 505, fails to do so within the period prescribed under that section, the Assessing Officer may impose on him, a penalty of— Penalty for failure to submit statement under section 505.

(a) one thousand rupees for every day for which the failure continues, if the period of failure does not exceed three months; or

(b) one lakh rupees in any other case.

Penalty for failure to furnish statements, etc.

461. (*1*) Where a person, who is required to deliver or causes to be delivered a statement prescribed in section 397(*3*)(*b*), fails to do so within the time prescribed in the said section, or furnishes incorrect information in the said statement, the Assessing Officer may impose on such person, a penalty of a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(2) No penalty shall be levied under sub-section (*1*) for delay in filing or non-filing of statement referred therein, if the person proves that—

(a) tax deducted or collected along with the fee and interest, if any, was paid to the credit of the Central Government; and

(b) the said statement was also delivered before the expiry of one month from the time prescribed in section 397(*3*)(*b*).

Penalty for failure to furnish information or furnishing inaccurate information under section 397 (3)(d).

462. If a person, who is required to furnish information under section 397 (*3*)(*d*), fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may impose a penalty of one lakh rupees.

Penalty for furnishing incorrect information in reports or certificates.

463. (*1*) Any accountant or merchant banker or registered valuer, shall be liable to pay a penalty of ten thousand rupees for any incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder.

(2) The penalty under sub-section (*1*) shall be payable in respect of each incorrect report or certificate.

(3) The penalty under sub-section (*1*) shall be payable on directions of the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) where the inaccuracy mentioned in sub-section (*1*) is found by such authority in the course of any proceedings under this Act.

(4) In this section,—

(a) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992; and 15 of 1992.

(b) "registered valuer" means a person registered as a valuer under section 514.

Penalty for failure to furnish statements, etc.

464. The Assessing Officer may impose a penalty which shall not be less than ten thousand rupees but which may extend up to one lakh rupees on—

(a) the research association, University, college or other institution referred to in section 45, if it fails to deliver or furnish the documents as prescribed under section 45(*4*)(*a*); or

(b) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under section 354(*1*)(*e*) or (*f*), or furnish a certificate prescribed under section 354(*1*)(*g*).

Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

465. (*1*) A person shall be liable to pay a penalty of ten thousand rupees for each default or failure as mentioned below, if that person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(c) to whom a summons is issued under section 246(*1*), either to attend to give evidence or to produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(d) fails to comply with a notice under section 268(*1*) **(**)** or 270(*8*) or fails to comply with a direction issued under section 268(*5*).

(*2*) A person shall be liable to pay a penalty of five hundred rupees for every day during which the following failures continue, if that person fails to—

(a) comply with a notice under section 175(*7*); or

(b) give the notice of discontinuance of his business or profession as required by section 320(*3*); or

(*c*) furnish in due time any of the returns, statements or particulars mentioned in section 252 or section 397(*3*) or 507; or

(*d*) allow inspection of any register referred to in section 255 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(*e*) furnish the return of income as required under section 263(*1*)(*a*)(*iii*) or (*iv*) or to furnish it within the time allowed and in the manner required under sections 263(*1*) and (*2*); or

(*f*) deliver or cause to be delivered in due time a copy of the declaration mentioned in section 393(*6*); or

(*g*) furnish a certificate under section 395(*4*); or

(h) deduct and pay tax under section 416(*3*); or

(i) furnish a statement under section **392**(*5*)(*a*); or

(j) deliver or cause to be delivered in due time a copy of the declaration referred to in section 394(*2*); or

(*k*) deliver or cause to be delivered the statement within the time specified in section 397(*3*)(*g*); or

(*l*) deliver or cause to be delivered a statement within the time as prescribed under section 397(*3*)(*e*).

(3) The amount of penalty shall not exceed the amount of tax deductible or collectible for failures in relation to the following:—

(a) a declaration mentioned in section 393(*6*);

(b) a certificate as required under section 395(*4*); and

(c) statements under section 397(*3*)(*b*) or (*e*).

(4) Any penalty imposable under sub-section (*1*) or (*2*) shall be imposed—

(a) if the contravention, failure or default for which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not below the rank of Joint Director or a Joint Commissioner, by such income-tax authority;

(b) in a case falling under sub-section (*1*)(*d*), by the income-tax authority who had issued the notice or direction referred to therein;

(c) in a case falling under **(**)** sub-section (*2*)(*f*), by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(d) in any other case, by the Joint Director or the Joint Commissioner.

(5) In this section, "income-tax authority" includes a Principal Director General or Director General, Principal Director or Director, Joint Director and an Assistant Director or Deputy Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in section 246(*1*). 5 of 1908.

Penalty for failure to comply with the provisions of section 254.

466. If a person fails to comply with the provisions of section 254, the Joint Commissioner, Deputy Director or Assistant Director or the Assessing Officer, may impose a penalty which may extend up to one thousand rupees on him.

Penalty for failure to comply with the provisions of section 262.

467. (*1*) If a person fails to comply with the provisions of section 262, the Assessing Officer may impose a penalty of ten thousand rupees on him.

(2) If a person, required to quote or intimate his permanent account number or Aadhaar number in any document as referred to in section 262(*9*)(*a*), provides or quotes or intimates a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

(3) If a person fails to quote or authenticate his permanent account number or Aadhaar number in any document referred to in section 262(*9*)(*a*), the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

(4) If a person referred to in **section** 262(*9*)(*b*) responsible for ensuring the correct quoting or authentication of permanent account number or Aadhaar number, in documents relating to transactions prescribed under section 262(*9*)(*a*) fails to do so, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

Penalty for failure to comply with the provisions of section 397**(**)**.

468. (*1*) If a person fails to comply with the provisions of section 397, the Assessing Officer may impose a penalty of ten thousand rupees on him.

(*2*) If a person, required to quote his Tax Deduction and Collection Account Number in documents (such as challans, certificates, or statements) referred to in section 397(*1*)(*b*), quotes a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him.

Power to reduce or waive penalty, etc., in certain cases.

469. (*1*) Irrespective of anything contained in this Act, the Principal Commissioner or Commissioner may, whether on his own motion or otherwise, at his discretion reduce or waive the penalty imposed or imposable under section 439 if he is satisfied that such person,—

(a) before the Assessing Officer detected any concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, has made a full and true disclosure of such particulars voluntarily and in good faith; and

(*b*) has cooperated in any enquiry relating to the assessment of his income and has paid or made satisfactory arrangements to pay any tax or interest payable in consequence of an order passed under this Act in respect of the relevant tax year.

(2) For the purposes of sub-section (*1*), a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto if the difference between the assessed and returned income does not attract penalties under section 439.

(3) If the penalty under section 439 relates to income or disclosure in respect of income relates to more than one tax year and aggregate amount of such income or disclosure thereof for such years exceeds five lakh rupees, the Principal Commissioner or Commissioner shall obtain prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, before waiving or reducing the penalty by order referred to in sub-section (*1*).

(*4*) Where an order has been made under sub-section (*1*) in favour of any person, whether such order relates to one or more tax years, he shall not be entitled to any relief under this section in relation to any other tax year at any time after the making of such order.

(5) The Principal Commissioner or Commissioner may, upon an application from the assessee, and after recording his reasons for doing so, reduce or waive the amount of penalty or penalties (whether they relate to one or more tax years) payable by the assessee or stay or compound any proceeding for the recovery of any such amount, if—

(a) doing otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(b) the assessee has cooperated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(6) The Principal Commissioner or Commissioner shall take prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, if the aggregate amount of penalties reduced or waived or compounded, as the case may be, under sub-section (*5*), exceeds one lakh rupees.

(7) An order under sub-section (*5*), accepting or rejecting the application under the said sub-section, shall be passed within twelve months from the end of the month in which such application was received by the Principal Commissioner or Commissioner.

(8) No rejection of application under sub-section (*5*) shall be made without giving the assessee an opportunity of being heard.

(9) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

Penalty not to be imposed in certain cases.

470. Irrespective of anything contained in the provisions of section 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 **or 453** or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(*1*)(*c*) or 465(*1*)(*d*) or 465(*2*)(*c*) or 465(*2*)(*d*) or 466 or 467 or 468(*1*) or 468(*2*), no penalty shall be imposed on a person or assessee for any failure referred to in the said provisions, if he proves that there was reasonable cause for the said failure.

Procedure.

471. (*1*) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

(2) No order imposing a penalty under this Chapter shall be made without the prior approval of the Joint Commissioner—

(a) where the penalty exceeds ten thousand rupees, by the Income-tax Officer;

(b) where the penalty exceeds twenty thousand rupees, by the Assistant Commissioner or Deputy Commissioner.

(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he himself is the Assessing Officer, shall send a copy of the order to the Assessing Officer.

Bar of limitation for imposing penalties.

472. (*1*) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which—

(a) the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, if the relevant assessment or other order is not the subject-matter of an appeal under section 356 or 357 or 362;

(b) the order of revision is passed, if the relevant assessment or other order is the subject-matter of revision under section 377 or 378;

(c) the order of appeal is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject-matter of an appeal under section 356 or 357 or 362;

(d) notice for imposition of penalty is issued, in any other case.

(2) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order under section 356 or 357 or 362 or 365 or 367 or revision under section 377 or 378, where the relevant assessment or other order is the subject-matter of an appeal or revision under the said sections.

(3) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (*2*) shall be passed—

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the quarter in which the order under section 356 or 357 or 362 or 365 or 367 is received by the jurisdictional Principal Commissioner or Commissioner or the order of revision under section 377 or 378 is passed.

(4) The provisions of section 471(*2*) shall apply to the order imposing or enhancing or reducing penalty under this section.

(5) In computing the period of limitation for the purposes of this section, following period shall be excluded—

(a) the time taken in giving an opportunity to the assessee to be reheard under the section 244 (*2*);

(b) the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

CHAPTER XXII

OFFENCES AND PROSECUTION

Contravention of order made under section 247.

473. Whoever contravenes any order referred to in section 247(*1*)(*viii*) or (*4*) shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine.

Failure to comply with section 247(*1*)(*b*)(*ii*).

474. If a person, who is required to afford the authorised officer with the necessary facility to inspect the books of account or other documents under section 247(*1*)(*b*)(*ii*) fails to do so, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.

Removal, concealment, transfer or delivery of property to prevent tax recovery.

475. Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest **therein** from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.

Failure to pay tax to credit of Central Government underChapter XIX-B.

476. (*1*) If a person fails to—

(a) pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XIX-B; or

(b) pay tax or ensure payment of tax to the credit of the Central Government, as required under—

(*i*) Note 3 in Table in section 393(*3*); or

(*ii*) Note 6 to section 393(*1*) (Table: Sl. No. 8),

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years, and shall also be liable to fine.

(*2*) The provisions of this section shall not apply if the payment referred to in sub-section (*1*)(*a*) has been credited to the Central Government on or before the time prescribed for filing the statement for such payment under section 397(*3*)(*b*).

Failure to pay tax collected at source.

477. (*1*) Where a person fails to pay to the credit of the Central Government the tax collected by him as required under section 394, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine.

(*2*) The provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement under section 397(*3*)(*b*) in respect of such payment.

Wilful attempt to evade tax, etc.

478. (*1*) If a person wilfully attempts in any manner to evade **(**)** any tax, penalty or interest chargeable or imposable, or under-reports his income, under this Act, he shall be punishable,—

(a) in a case, where the amount sought to be evaded or tax on under-reported income exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine,

and shall also be liable for penalty that may be imposable on him under any other provision of this Act.

(*2*) If a person wilfully attempts in any manner to evade the payment of any tax, penalty or interest under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.

(3) In addition to the punishment referred to in sub-section (*2*), the person referred to in the said sub-section shall also be liable for penalty that may be imposable on him under any other provision of this Act.

(4) For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act, or the payment thereof, shall include a case where any person—

(a) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(b) makes or causes to be made any false entry or statement in such books of account or other documents; or

(c) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(d) causes any other circumstance to exist which **will** have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

Failure to furnish returns of income.

479. (*1*) If a person wilfully fails to furnish in due time the return of income, which is required to be furnished under section 263(*1*), or by notice given under sections 268(*1*) or 280, he shall be punishable,—

(a) in a case, where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds twenty- five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

(*2*) A person shall not be proceeded against under sub-section (*1*) for failure to furnish in due time the return of income under section 263(*1*) for any tax year, if—

(a) the return is furnished by him before the expiry of one year from the end of the tax year or a return is furnished by him under section 263(*6*) within the time provided in that section; or

(b) the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of one year from the end of the tax year, and any tax deducted or collected at source, does not exceed ten thousand rupees.

Failure to furnish return of income in search cases.

480. If a person wilfully fails to furnish in due time the return of total income which is required to be furnished by notice given under section 294 (*1*)(*a*), he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and shall also be liable to fine.

Failure to produce accounts and documents.

481. If a person wilfully fails to produce, or cause to be produced, the accounts and documents as are referred to in the notice served on him under section 268(*1*) on or before the date specified in such notice, or wilfully fails to comply with a direction issued to him under section 268(*5*) of, he shall be punishable with rigorous imprisonment for a term which may extend to one year and shall also be liable to fine.

False statement in verification, etc.

482. If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(a) in a case, where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

Falsification of books of account or document, etc.

483. (*1*) If any person (herein referred to as the first person) wilfully and with intent to enable any other person (herein referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act in the circumstances referred to in sub-section (*2*), the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

(2) The circumstances referred to in sub-section (*1*) shall be, where the first person makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act.

(3) For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.

Abetment of false return, etc.

484. If a person abets or induces in any manner another person—

(a) to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true; or

(b) to commit an offence under section 478(*1*),

he shall be punishable,—

(i) in a case, where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

Punishment for second and subsequent offences.

485. If any person convicted of an offence under sections 476, 477, 478(*1*), 479, 480, 482 or 484 is again convicted of an offence under any of the said sections, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine.

Punishment not to be imposed in certain cases.

486. No person shall be punishable for any failure referred to in section 476 or 477, irrespective of anything contained in that section, if he proves that there was reasonable cause for such failure.

Offences by companies.

487. (*1*) If an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) The provisions of sub-section (*1*) shall not apply if the person referred in the said sub-section proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) If it is proved that an offence under this Act has been committed by a company with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, then irrespective of the provisions of sub-section (*1*), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence committed by a company under this Act is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section (*1*) or (*3*), such company shall be punished with fine and every person referred to in sub-section (*1*), or the director, manager, secretary or other officer of the company referred to in sub-section (*3*), shall be liable to be proceeded against and punished as per the provisions of this Act.

(5) In this section,—

(a) "company" means a body corporate and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals, whether incorporated or not; and

(b) "director", in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.

Offences by Hindu undivided family.

488. (*1*) Where an offence under this Act has been committed by a Hindu undivided family, the *karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Nothing contained in sub-section (*1*) shall render the *karta* liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Irrespective of anything contained in sub-section (*1*), where an offence under this Act has been committed by a Hindu undivided family, a member of such Hindu undivided family shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly, if it is proved that—

(a) the offence has been committed with the consent or connivance of such member; or

(b) the offence is attributable to any neglect on the part of such member.

Presumption as to assets, books of account, etc., in certain cases.

489. (*1*) Where during the course of any search made under section 247, any money, bullion, jewellery, virtual digit asset or other valuable article or thing (herein referred to as the assets) or any books of account or other documents, has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(*7*) shall, so far as may be, apply in relation to such assets or books of account or other documents.

(*2*) Where any assets or books of account or other documents taken into custody from the possession or control of any person, by the officer or authority referred to in section 248(*1*)(*a*) or (*b*) or (*c*) are delivered to the requisitioning officer under sub-section (*2*) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(*7*) shall, so far as may be, apply in relation to such assets or books of account or other documents.

Presumption as to culpable mental state.

490. (*1*) In any prosecution for any offence under this Act, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

(*2*) In this section, "culpable mental state" includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.

(*3*) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

491. (*1*) A person shall not be proceeded against for an offence under section 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, or 484 except with the previous sanction of the Principal Commissioner or Commissioner or **(**)** Commissioner (Appeals) or **Joint** Commissioner (Appeals).

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General may issue such instructions or directions to the income-tax authorities mentioned in sub-section (*1*) as he considers fit for institution of proceedings under that sub-section.

(3) A person shall not be proceeded against for an offence under section 478 or 482 in relation to the assessment for a tax year for which the penalty imposed or imposable on him under section 439 has been reduced or waived by an order under section 469.

(*4*) Any offence under this Chapter may be compounded, either before or after the institution of proceedings, by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General.

(*5*) Where any proceeding has been taken against any person under sub-section (*1*), any statement made or account or other document produced by such person before any income-tax authority specified in section 236(*a*) to (*k*) shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that—

(a) such statement was made or such account or document was produced in the belief that the penalty imposable would be reduced or waived, under section 469; or

(b) the offence for which such proceeding was taken would be compounded.

(*6*) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section.

Certain offences to be non-cognizable.

492. Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, an offence punishable under section 476, 478, 479, 480, 482 or 484 shall be deemed to be non-cognizable within the meaning of that Sanhita. 46 of 2023.

Proof of entries in records or documents.

493. Entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved by—

(a) production of the records or other documents in the custody of the income-tax authority containing such entries; or

(b) production of a copy of the entries certified by the income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.

Disclosure of particulars by public servants.

494. (*1*) A public servant, who furnishes any information or produces any document in contravention of the provisions of section 258(*3*), shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(*2*) No prosecution shall be instituted under this section except with the previous sanction of the Central Government.

Special Courts.

495. (*1*) The Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under this Chapter, by notification, designate one or more courts of Judicial Magistrate of the first class as Special Court for such area or areas, or for such cases or class or group of cases, as specified in the notification.

(2) In this section, "High Court" means the High Court of the State in which a Judicial Magistrate of first class designated as Special Court was functioning immediately before such designation.

(3) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (*1*), with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023, be charged at the same trial. 46 of 2023.

Offences triable by Special Court.

496. (*1*) Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023,— 46 of 2023.

(a) the offences punishable under this Chapter shall be triable only by the Special Court, if so designated, for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed;

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act, take cognizance of the offence for which the accused is committed for trial.

(*2*) For the purposes of sub-section (*1*)(*a*), the court competent to try offences under section 520,—

(a) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation;

(b) which has not been designated as a Special Court, shall continue to try such offence pending before it till its disposal.

Trial of offences as summons case.

497. The Special Court, irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, shall try an offence under this Chapter punishable with imprisonment not exceeding two years or with fine, or with both, as a summons case, and the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 as applicable in the case of trial of summons case, shall apply accordingly.

46 of 2023.

Application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court.

498. (*1*) Save as otherwise provided in this Act, the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor.

46 of 2023.

(2) The Central Government may also appoint a Special Public Prosecutor for any case or class or group of cases.

(3) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, requiring special knowledge of law.

(4) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of section 2(*v*) of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the provisions of that Sanhita shall have effect accordingly.

46 of 2023.

CHAPTER XXIII

MISCELLANEOUS

Certain transfers to be void.

499. (*1*) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice by the Tax Recovery Officer as per the procedure specified under section 413, any assessee creates a charge on, or parts with the possession of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise.

(2) The charge or transfer as referred to in sub-section (*1*) shall not be void if it is made—

(a) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(b) with the previous permission of the Assessing Officer.

(3) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

(4) In this section,—

(a) "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks **(**) and** virtual digital asset, to the extent to which any of the said assets **do (**)** not form part of the stock-in-trade of the business of the assessee; and

(b) the modes of creating a charge on or parting with the possession of such assets shall include sale, mortgage, gift, exchange or any other mode of transfer.

Provisional attachment to protect revenue in certain cases.

500. (*1*) Where, during the pendency of any proceeding for—

(a) the assessment of any income or for the assessment or reassessment of any income which has escaped assessment; or

(b) imposition of penalty under section 444, where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees,

the Assessing Officer is of the opinion that for protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Competent Authority by order in writing, attach provisionally any property belonging to the assessee in the manner prescribed in section 413.

(2) Every provisional attachment under sub-section (*1*) shall cease to have effect after the expiry of six months from the date of the order made under the said sub-section.

(3) The Competent Authority may, for reasons to be recorded in writing, extend the period referred to in sub-section (*2*) and the total period of such extension shall not exceed two years or sixty days after the date of order of assessment or reassessment, whichever is later.

(4) Where the assessee furnishes a guarantee from a scheduled bank for an amount not less than the fair market value of the property provisionally attached under sub-section (*1*), the Assessing Officer shall, by an order in writing, revoke such attachment.

(5) For the purposes of sub-section (*4*), where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(6) The Assessing Officer may, for determining the value of the property provisionally attached under sub-section (*1*), make a reference to the Valuation Officer, who shall estimate the fair market value of the property in the manner provided under section 269(*3*) to (*8*), and submit a report of such estimate to the Assessing Officer within thirty days from the date of receipt of the reference.

(7) An order revoking the provisional attachment under sub-section (*4*) or (*5*) shall be made—

(a) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (*6*); or

(b) within fifteen days from the date of receipt of guarantee, in any other case.

(8) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified, the Assessing Officer may invoke the guarantee furnished under sub-section (*4*) or (*5*), wholly or in part, to recover the amount.

(9) The Assessing Officer shall, in the interests of revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (*4*) or (*5*), or fails to furnish a new guarantee from a scheduled bank for an equal amount, before fifteen days of its expiry.

(10) The amount realised by invoking the guarantee referred to in sub-section (*4*) or (*5*) shall be adjusted against—

(a) the existing demand which is payable by the assessee; and

(b) the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or any bank as may be appointed by the Reserve Bank of India as its agent under section 45(*1*) of the Reserve Bank of India Act, 1934 at the place where the office of the Principal Commissioner or Commissioner is situated.

2 of 1934.

(11) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (*4*) or (*5*) is not required any more to protect the interests of the revenue, he shall release that guarantee forthwith.

(12) In this section, "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director.

Service of notice, generally.

501. (*1*) The service of a notice, or summon, or requisition, or order, or any other communication, under this Act ***(herein referred to as "communication")*** may be made by delivering or transmitting a copy thereof, to the person therein named—

(a) by post or by such courier services as may be approved by the Board; or

5 of 1908.

(b) ***in such manner*** as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

21 of 2000.

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or

(d) by any other means of transmission of documents, as prescribed.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (*1*) may be delivered or transmitted to the person therein named.

(3) In this section, "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

Authentication of notices and other documents.

502. (*1*) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority as per such procedure, as prescribed.

(2) Every notice or other document to be issued, served or given under this Act by any income-tax authority, shall be deemed to be authenticated, if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) In this section, "designated income-tax authority" means any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (*2*).

Service of notice when family is disrupted or firm etc., is dissolved.

503. (*1*) After a finding of total partition has been recorded by the Assessing Officer under section 315 for any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person, who was its last manager, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

(*2*) Where a firm or other association of persons is dissolved, notices under this Act for the income of such firm or association may be served on any person, who was a partner (not being a minor) or member of the association, immediately before its dissolution.

Service of notice in case of discontinued business.

504. Where an assessment is to be made under section 320, the Assessing Officer may serve on the—

(a) person whose income is to be assessed; or

(b) person who was a member of a firm or association of persons at the time of its discontinuance, in the case of a firm or an association of persons; or

(c) principal officer, in case of a company,

a notice containing all or any of the requirements which may be included in a notice under section 268(*1*) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Submission of statement by a non-resident having liaison office.

505. Every person, being a non-resident, having a liaison office in India set up as per the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a tax year, prepare and deliver to the Assessing Officer having jurisdiction, within **(**) eight months** from the end of such tax year, a statement, in such form and containing such particulars, as prescribed. 42 of 1999.

Furnishing of information or documents by an Indian concern in certain cases.

506. Where,—

(a) any share of, or interest in, a company or an entity registered or incorporated outside India, derives, directly or indirectly, its value substantially from the assets located in India, as referred to in section 9*(9)*(*a*); and

(b) such company or, entity, ***as the case may be,*** holds, directly or indirectly, such assets in India through, or in, an Indian concern,

then, such Indian concern shall, for the ***purposes of*** determination of any income accruing or arising in India under the said **(**)*section***, furnish within **(**)** ***prescribed*** period, the information or documents in such manner, as prescribed, to the prescribed income-tax authority.

Submission of statements by producers of cinematograph films or persons engaged in specified activity.

507. (*1*) Any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any tax year shall, furnish within such period, a statement in such form and in such manner, as prescribed, to the prescribed income-tax authority.

(2) The statement referred in sub-section (*1*) shall contain particulars of all payments of over fifty thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.

(3) In this section, "specified activity" means any event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification, specify.

Obligation to furnish statement of financial transaction or reportable account.

508. (*1*) Any person, being—

(a) an assessee; or

(b) the prescribed person, in the case of an office of Government; or

(c) a local authority or other public body or association; or

(d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

16 of 1908.

(e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or

59 of 1988.

(f) the Director General as referred to in section 2(*a*) of the Post Office Act, 2023; or

43 of 2023.

(g) the Collector referred to in section 3(*g*) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

30 of 2013.

(h) the recognised stock exchange referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956; or

42 of 1956.

(i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or

2 of 1934.

(j) a depository referred to in section 2(*1*)(*e*) of the Depositories Act, 1996; or

22 of 1996.

(k) a prescribed reporting financial institution; or

(l) any other person, as prescribed,

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account, as prescribed, under any law in force, shall furnish a statement regarding such specified financial transaction or such reportable account, which is registered or recorded or maintained by him and information relating to which is relevant and required for this Act, to the income-tax authority or such other authority or agency, as prescribed.

(2) The statement referred to in sub-section (*1*) shall be furnished for such period, within such time and in the form and manner, as prescribed.

(3) In sub-section (*1*), "specified financial transaction" means any transaction—

(a) of purchase, sale or exchange of goods or property or right or interest in a property; or

(b) for rendering any service; or

(c) under a works contract; or

(d) by way of an investment made or an expenditure incurred; or

(e) for taking or accepting any loan or deposit,

as prescribed.

(4) The Board may prescribe different values for different transactions specified in sub-section (*3*) for different persons having regard to the nature of such transaction.

(5) If the prescribed income-tax authority finds a defect in the statement furnished under sub-section (*1*), he may intimate the defect to the person furnishing such statement, to rectify the defect within thirty days from the date of such intimation, and at his discretion, extend the said period upon an application made for this purpose.

(6) If the defect mentioned in sub-section (*5*) remains unrectified within the initial period of thirty days or extended period as applicable, then, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement, irrespective of anything contained in any other provision of this Act.

(7) If a person required to furnish a statement under sub-section (*1*) fails to do so within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement, within a period not exceeding thirty days from the date of service of notice, and he shall furnish the statement within the time specified therein.

(8) If a person, having furnished a statement under sub-section (*1*), or in pursuance of a notice issued under sub-section (*7*), becomes aware of any inaccuracy in the information provided, he shall within ten days, inform the prescribed income-tax authority or other authority or agency referred to in sub-section (*1*), of the inaccuracy and furnish the correct information in such manner, as prescribed.

(9) The Central Government may, specify by rules,—

(a) the persons referred to in sub-section (*1*) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(c) the due diligence to be carried out by the persons for the identification of any reportable account referred to in sub-section (*1*).

Obligation to furnish information on transaction of crypto-asset.

509. (*1*) Any person, being a reporting entity, as prescribed, in respect of a crypto-asset, shall furnish information in respect of a transaction of such crypto-asset in a statement, for such period, within such time, in such form and manner and to such income-tax authority, as prescribed.

(2) Where the prescribed income-tax authority considers that the statement furnished under sub-section (*1*) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within thirty days from the date of such intimation or such further period as may be allowed, and if the defect is not rectified within such period, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.

(3) Where a person who is required to furnish a statement under sub-section (*1*) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(4) If any person, having furnished a statement under sub-section (*1*), or in pursuance of a notice issued under sub-section (*3*), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within ten days inform the prescribed income-tax authority, the inaccuracy in such statement and furnish the correct information in such manner as prescribed.

(5) The Central Government may, by rules prescribe—

(a) the persons referred to in sub-section (*1*) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(c) the due diligence to be carried out by the persons referred to in sub-section (*1*) for the purpose of identification of any crypto-asset user or owner.

(6) In this section, "crypto-asset" shall have the meaning assigned to it in section 2(*111*)(*d*).

Annual information statement.

510. (*1*) The prescribed income-tax authority or the person authorised by such authority, shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and along with such information, which is in the possession of an income-tax authority, as prescribed.

(*2*) In sub-section (*1*), "registered account" means the electronic filing account registered by the assessee in the web portal, as may be designated by the prescribed income-tax authority or the person authorised by such authority.

Furnishing of report in respect of international group.

511. (*1*) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority in the form and manner, on or before such date, as prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed income-tax authority within twelve months from the end of the said reporting accounting year, in such form and manner, as prescribed.

(3) In sub-sections (*2*) and (*4*), the report in respect of an international group shall include—

(a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;

(b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;

(c) the nature and details of the main business activity or activities of each constituent entity; and

(d) any other information, as prescribed.

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (*2*), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year within the period, as prescribed, if the parent entity is resident of a country or territory,—

(a) where the parent entity is not obligated to file the report of the nature referred to in the said sub-section;

(b) with which India does not have an agreement providing for exchange of the report of the nature referred to in the said sub-section;

(c) where there has been a systemic failure and such failure has been intimated by the prescribed income-tax authority to such constituent entity.

(5) If there are more than one such constituent entities of the group, resident in India, the report as mentioned in sub-section (*4*) shall be furnished by any one constituent entity, if—

(a) the international group has designated such entity to furnish the report as per sub-section (*2*) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed income-tax authority.

(6) The provisions of sub-sections (*4*) and (*5*) shall not apply, if—

(a) an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (*2*), with the tax authority of the country or territory in which such entity is resident, on or before the date specified by that country or territory; and

(b) the following conditions are satisfied:—

(i) the said report is required to be furnished under any law in force in the said country or territory;

(ii) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(iii) the prescribed income-tax authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(iv) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and

(v) the prescribed income-tax authority has been informed by the entity referred to in sub-sections (*4*) and (*5*) as per sub-section (*1*).

(7) The prescribed income-tax authority may, for determining the accuracy of the report furnished by any reporting entity, issue notice in writing, requiring the entity to produce such information and document as specified in the notice within thirty days of the date of receipt of the notice and such period may be extended by up to an additional thirty days upon application by the entity.

(8) The provisions of this section shall not apply to an international group for an accounting year, if the total consolidated group revenue, as per the consolidated financial statement for the accounting year preceding such accounting year, does not exceed the prescribed amount.

(9) The provisions of this section shall be applied as per such guidelines and subject to such conditions, as prescribed.

(10) In this section,—

(a) "accounting year" means,—

(i) a tax year, in a case where the parent entity is resident in India; or

(ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;

(b) "agreement" means a combination of all of the following agreements:—

(i) an agreement entered into under section 159(*1*) or (*2*); and

(ii) an agreement for exchange of the report referred to in sub-section (*2*) and notified by the Central Government;

(c) "alternate reporting entity" means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature referred to in sub-section (*2*) in the country or territory in which the said constituent entity is resident on behalf of such group;

(d) "constituent entity" means—

(i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;

(ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or

(iii) any permanent establishment of any separate business entity of the international group included in sub-clause (*i*) or (*ii*), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

(e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes—

(i) is required to be prepared under any law in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared, had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;

(f) "consolidated financial statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;

(g) "international group" means any group that includes—

(i) two or more enterprises which are resident of different countries or territories; or

(ii) an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

(h) "parent entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that—

(i) it is required to prepare a consolidated financial statement under any law in force or the accounting standards of the country or territory of which the entity is resident; or

(ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange,

and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in sub-clause (*i*) or (*ii*), that includes the separate financial statement of the first mentioned constituent entity;

(i) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(j) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-sections (*2*), (*4*) and (*5*);

(k) "reporting entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (*2*);

(l) "systemic failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (*2*), but—

(i) in violation of the said agreement, it has suspended automatic exchange; or

(ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India.

Publication of information respecting assessees in certain cases.

512. (*1*) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the names of any assessees and any other particulars relating to any proceedings or prosecutions under this Act in respect of such assessees, it may publish such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made for any penalty imposed under this Act, until the time for filing an appeal under section 356 or 357 has expired and no appeal has been filed, or if an appeal is filed, it has been disposed of.

(3) The names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published under sub-section (*1*), if, in the opinion of the Central Government, the circumstances of the case justify it.

Appearance by registered valuer in certain matters.

513. (*1*) Any assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal in matters relating to the valuation of any asset, may attend through a registered valuer.

(2) The provisions of sub-section (*1*) shall not apply, where the assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) In this section, "registered valuer" means a person registered as a valuer under section 514.

Registration of valuers.

514. (*1*) The Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, shall maintain a register of valuers in which the names and addresses of persons registered under sub-section (*2*) shall be entered.

(2) Any person, possessing such qualification for valuing such class of assets, ***as*** may ***be prescribed,*** apply to the Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, for getting registered as a valuer, in such form, verified in such manner and accompanied by such fee, as prescribed, along with a declaration stating that the applicant will—

(a) conduct an impartial and true valuation of any asset required to be valued;

(b) furnish a valuation report in the prescribed form;

(c) charge fees not exceeding the prescribed rate or rates; and

(d) refrain from undertaking the valuation of any asset in which such person has a direct or indirect interest.

(3) The valuation report prepared by a registered valuer for any asset shall be in such form and verified in such manner, as prescribed.

Appearance by authorised representative.

515. (*1*) An assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal for any proceeding under this Act, may attend through an authorised representative.

(2) The provisions of sub-section (*1*) shall not apply where an assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) In this section,—

(a) "authorised representative" means a person authorised by the assessee, in writing, to appear on his behalf, being—

(i) a person related to or regularly employed by the assessee in any manner; or

(ii) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings; or

(iii) any legal practitioner, who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person, who has passed any accountancy examination recognised by the Board; or

(vi) any person, who has acquired such educational qualifications, as prescribed; or

(vii) any person who, before the coming into force of the Income-tax Act, 1961 in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than as an employee or relative of that assessee; or

43 of 1961.

(viii) any other person who, immediately before the coming into force of the said Act, was an income-tax practitioner as per section 61(*2*)(*iv*) of the Indian Income-tax Act, 1922, and was actually practising as such;

11 of 1922.

(ix) any other person as prescribed;

(b) "accountant" means a chartered accountant as defined in section 2(*1*)(*b*) of the Chartered Accountants Act, 1949, who holds a valid certificate of practice under section 6(*1*) of that Act, but does not include [except for representing the assessee under sub-section (*1*)],— 38 of 1949

(i) in case of an assessee, being a company, a person who is not eligible for appointment as an auditor of the said company under section 141(*3*) of the Companies Act, 2013; or 18 of 2013.

(ii) in any other case,—

(A) the assessee himself, or in the case of being a firm or association of persons or a Hindu undivided family, any partner of such firm or a member of such association or such Hindu undivided family;

(B) for an assessee, being a trust or institution, any person referred to in section 355(*h*)(*i*) or (*ii*) or (*iii*) or (*iv*);

(C) for any person other than the persons referred to in sub-clauses (*A*) and (*B*), the person who is competent to verify the return under section 263 as per section 265;

(D) any relative of any of the persons referred to in sub-clauses (*A*), (*B*) and (*C*);

(E) an officer or employee of the assessee;

(F) an individual, who, is a partner, or who is in the employment, of an officer or employee of the assessee;

(G) an individual, who or his relative or partner—

(I) is holding any security of, or interest in, the assessee and the face value of such security or interest held by his relative does not exceed one lakh rupees;

(II) is indebted to the assessee, and such debt in case of his relative does not exceed one lakh rupees;

(III) has given a guarantee or provided security in connection with the indebtedness of a third person to the assessee and such relative gives a guarantee or provides security for an amount not exceeding one lakh rupees;

(H) a person who, whether directly or indirectly, has business relationship with the assessee of such nature, as prescribed;

(I) a person convicted by a court of an offence involving fraud and ten years has not elapsed from the date of such conviction.

(4) No person,—

(a) who has been dismissed or removed from Government service; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, except a penalty imposed under section **271(*1*)(*ii*)** of the Income-tax Act, 1961 or section 465(*1*)(*d*); or 43 of 1961.

(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (*1*), for—

(i) all times, in case of a person referred to in clause (*a*);

(ii) for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine, in case of a person referred to in clause (*b*);

(iii) for the period during which the insolvency continues, in case of a person referred to in clause (*c*); and

(iv) for ten years from the date of conviction, in case of a person referred to in clause (*d*).

(5) If a person,—

(a) who is a legal practitioner or an accountant, is found guilty of misconduct in his professional capacity by any authority authorised to institute disciplinary proceedings against him, the order passed by that authority shall affect his right to attend before an income-tax authority in the same manner as it affects his right to practise as a legal practitioner or accountant, as the case may be;

(b) who is not a legal practitioner or an accountant, and is found guilty of misconduct in any income-tax proceedings by the prescribed income-tax authority, may be directed by such authority that he shall henceforth be disqualified from representing an assessee under sub-section (*1*).

(6) Every order or direction under sub-section (*4*)(*b*) or (*5*)(*b*) shall be subject to the following conditions:—

(a) no such order or direction shall be made against any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom such an order or direction is made may, within one month of the said order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until one month has passed from the making thereof, or, if an appeal has been filed, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of section 61(*3*) of the Indian Income-tax Act, 1922 or section 288(*5*) of the Income-tax Act, 1961 shall be disqualified to represent an assessee under sub-section (*1*).

11 of 1922.
43 of 1961.

(8) In this section, "relative", in relation to an individual, means—

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

(f) spouse of a person referred to in clauses (*b*), (*c*), (*d*) or (*e*);

(g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual.

Rounding off of amount of total income, or tax payable or refundable.

516. The amount of total income computed or any amount payable or refundable under this Act, shall be rounded off to the nearest multiple of ten rupees ignoring any part of a rupee consisting of paise and thereafter if such amount is not a multiple of ten, then—

(a) such amount shall be increased to the next higher amount which is a multiple of ten, if the last figure in that amount is five or more; or

(b) such amount shall be reduced to the next lower amount which is a multiple of ten, if the last figure is less than five,

and the amount so rounded off shall be deemed to be the total income of the assessee or the amount payable and refund due, under this Act.

Receipt to be given.

517. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

518. Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of an income belonging to another person shall be indemnified for the deduction, retention, or payment thereof.

Power to tender immunity from prosecution.

519. (*1*) The Central Government may, if it is of the opinion that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income it is necessary or expedient so to do, for reasons to be recorded in writing, tender to such person,—

(a) immunity from prosecution for any offence under this Act or under the Bharatiya Nyaya Sanhita, 2023, or under any other Central Act in force; and 45 of 2023.

(b) from imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made, or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section—

(a) has not complied with the conditions on which the tender was made; or

(b) is wilfully concealing anything; or

(c) is giving false evidence,

the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn.

(4) The person whose immunity has been withdrawn under sub-section (*3*) may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to imposition of any penalty under this Act to which he would otherwise have been liable.

Cognizance of offences.

520. No court inferior to that of a Judicial Magistrate of the first class shall try any offence under this Act.

Probation of Offenders Act, 1958 and section 401 of Bharatiya Nagarik Suraksha Sanhita, 2023, not to apply.

521. The provisions of the Probation of Offenders Act, 1958 and section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall not apply to a person convicted of an offence under this Act unless that person is under eighteen years of age. 20 of 1958. 46 of 2023.

Return of income, etc., not to be invalid on certain grounds.

522. No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken, or purported to have been furnished or made or issued or taken, in pursuance of any of the provisions of this Act, shall be invalid or shall be considered to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purposes of this Act.

Notice deemed to be valid in certain circumstances.

523. (*1*) Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under this Act, which is required to be served upon him, has been duly served upon him in time as per the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or

(b) not served upon him in time; or

(c) served upon him in an improper manner.

(2) The provisions of sub-section (*1*) shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment.

Presumption as to assets, books of account, etc.

524. (*1*) Where any books of account, other documents money, bullion, jewellery, virtual digital asset or other valuable article or thing, is found in the possession or control of any person in the course of a search under section 247 or survey under section 253, it may, in any proceeding under this Act, be presumed—

(a) that such books of account, other document, money, bullion, jewellery, virtual digital asset or other valuable article or thing belong or belongs to such person;

(b) that the contents of such books of account and other document are true;

(c) that the signature and every other part of such books of account and other document, which purports to be in the handwriting of any particular person, or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person; and

(d) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested article or thing belong or belongs to such person;

(*2*) Where any books of account, other documents or assets have been delivered to the requisitioning officer as per section 248, then, the provisions of sub-section (*1*) shall apply as if such books of account, other documents or assets, which had been taken into custody from the person referred to in sub-section (*1*)(*a*) or (*b*) or (*c*) of the said section, had been found in the possession or control of that person in the course of a search under section 247.

Authorisation and assessment in case of search or requisition.

525. (*1*) Irrespective of anything contained in this Act,—

(a) it shall not be necessary to issue an authorisation under section 247 or make a requisition under section 248 separately in the name of each person;

(b) where an authorisation under section 247 has been issued or requisition under section 248 has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be considered to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(*2*) Irrespective of an authorisation issued under section 247 or a requisition made under section 248 mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.

Bar of suits in civil courts.

526. No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act, and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act.

Power to make exemption, etc., in relation to participation in business of prospecting for, extraction, etc., of mineral oils.

527. (*1*) If the Central Government is satisfied that it is necessary or expedient in the public interest, it may, by notification, make an exemption, reduction in rate, or other modification of income-tax for any class of persons specified in sub-section (*2*) or in regard to the whole or any part of the income of such class of persons or the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in sub-section (*2*)(*a*), effective from tax year beginning on or after 1st April, 1992.

(2) The persons referred to in sub-section (*1*) shall be the following:—

(a) persons with whom the Central Government has entered into agreements for the association or participation of that Government, or any person authorised by that Government in any business of prospecting for or extraction or production of mineral oils;

(b) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by sale or hire) for any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government, or any person specified by that Government by notification; and

(c) employees of the persons referred to in clause (*a*) or (*b*).

(3) Every notification issued under this section shall be laid before each House of Parliament.

(4) In this section,—

(a) "mineral oil" includes petroleum and natural gas;

(b) "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

Power of Central Government or Board to condone delays in obtainingapproval.

528. Where, the approval of the Central Government or the Board is required to be obtained before a specified date under this Act, it shall be open to the Central Government or the Board to condone, for sufficient cause, any delay in obtaining such approval.

Power to withdraw approval.

529. Where the Central Government or the Board or an income-tax authority, has the power to grant any approval under any provision of this Act to any assessee, the Central Government or the Board or such income-tax authority may, withdraw such approval at any time after recording the reasons therefor, even if such provision does not specifically allow for its withdrawal, after giving such assessee a reasonable opportunity of being heard.

Act to have effect pending legislative provision for charge of tax.

530. If on the 1st April in any tax year, provision has not yet been made by a Central Act for the charging of income-tax for that tax year, this Act shall nevertheless have effect until such provision is so made, as if the provision in force in the preceding tax year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

Power to rescind exemption in relation to certain Union territories already granted under section 294A of the Income-tax Act, 1961.

531. Where the Central Government considers it necessary or expedient so to do may, by general or special order, rescind an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assesses, made as per the provisions of section 294A of the Income-tax Act, 1961.

43 of 1961.

Power to frame schemes.

532. (*1*) The Central Government may, by notification, make a scheme for any of the purposes of this Act, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface with the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation.

(2) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (*1*), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(3) Where a scheme has been notified under the provisions of the Income-tax Act, 1961 with a view to eliminating the interface with the assessee or any other person, the Central Government may by notification amend or modify the said scheme as per the provisions of sub-section (*1*), and the provisions of sub-section (*2*) shall apply accordingly.

43 of 1961.

(4) Every notification issued under sub-sections (*1*), (*2*) and (*3*) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Power to make rules.

533. (*1*) The Board may, subject to the control of the Central Government, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(a) the ascertainment and determination of any class of income;

(b) the manner in which and the procedure by which the income shall be arrived at in the case of—

(i) income derived in part from agriculture and in part from business;

(ii) persons residing outside India;

(iii) operations carried out in India by a non-resident;

(iv) transactions or activities of a non-resident;

(v) an individual who is liable to be assessed under section 99(*3*) and (*4*);

(c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(d) the percentage on the written down value which may be allowed as depreciation for buildings, machinery, plant or furniture;

(e) the matters specified in section 62;

(f) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 134;

(g) the matters specified in Chapter XI;

(h) the time within which any person may apply for the allotment of a Permanent Account Number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which Permanent Account Number shall be quoted on documents relating to such transactions under section 262;

(i) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 263(*2*)(*a*);

(j) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 263(*2*)(*a*);

(k) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under section 263(*2*)(*b*);

(l) the form of the report of audit or inventory valuation and the particulars which such report shall contain under section 268(*5*);

(m) remuneration of Chairperson and members of the Approving Panel under section 274(*21*) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel under section 274(*24*);

(n) the form and manner in which the information relating to payment of any sum may be furnished under section 397(*3*)(*d*);

(o) the authority to be prescribed for any of the purposes of this Act;

(p) the procedure for giving effect to any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation entered into by the Central Government under this Act;

(q) the procedure for granting of relief or deduction, of any income-tax paid in any country or specified territory outside India, under section 159 or 160, against the income-tax payable under this Act;

(r) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

(s) the manner in which any document required to be filed under this Act may be verified;

(t) the procedure to be followed on applications for refunds;

(u) the procedure for calculating interest payable by assessees or by the Government to assessees under this Act, including the rounding off of periods when a fraction of a month is involved, and specifying the circumstances under which and the extent to which petty amounts of interest payable by assessees may be ignored;

(v) the regulation of any matter for which provision is made in section 420;

(w) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation referred to in section 358(*3*)(*b*) may be served;

(x) the circumstances, conditions and the manner in which, the Joint Commissioner (Appeals) or the Commissioner (Appeals) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Assessing Officer;

(y) the form in which the statement under section 507 shall be delivered to the Assessing Officer;

(z) the maintenance of a register of persons other than legal practitioners or accountants practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in section 515(*5*);

(*za*) the issue of certificate verifying the payment of tax by assessees;

(*zb*) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases, where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee, which is unreasonable, the rules made under this section may—

(a) prescribe methods by which an estimate of such income may be made; and

(b) in cases of income derived in part from agriculture and in part from business, specify the proportion of the income which shall be considered to be income liable to tax,

and an assessment based on such estimate or proportion shall be considered to be duly made as per this Act.

(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.

Laying before Parliament.

534. The Central Government shall cause—

(a) every rule made under this Act;

(b) rules of procedure framed by the Appellate Tribunal under section 364; or

(c) every notification issued under sections 263(*3*) and 264 and Chapter XIII-G,

to be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such rule, or notification or both Houses agree that the rule, should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Removal of difficulties.

535. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with the provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any order referred to in sub-section (*1*) may provide for the adaptations or modifications subject to which the Income-tax Act, 1961 shall apply in relation to the assessments for the tax year ending on the 31st March, 2026, or any earlier tax year. 43 of 1961.

(3) No order under sub-section (*1*) shall be made after the expiration of three years from the 1st April, 2026.

(4) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Repeal and savings.

536. (*1*) The Income-tax Act, 1961 is hereby repealed. 43 of 1961.

(*2*) Irrespective of the repeal of the Income-tax Act, 1961 (herein referred to as the repealed Income-tax Act), and subject to sub-section (*3*)— 43 of 1961.

(a) ***nothing shall*** affect the previous operation of the repealed Act and orders or anything duly done or suffered thereunder; or

(b) ***nothing shall*** affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Income-tax Act or orders under such repealed Income-tax Act;

(c) the provisions of the repealed Income-tax Act shall continue to apply to any proceedings (including notices, assessment, re-assessment, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act;

(d) any proceeding for the imposition of a penalty in respect of any tax year beginning before the 1st April, 2026, may be initiated and any such penalty may be imposed under the repealed Income-tax Act, as if this Act had not been enacted;

(e) any proceeding pending on the commencement of this Act before any income-tax authority or any other authority constituted under the repealed Income-tax Act, Appellate Tribunal, or any court, by way of application, appeal, reference or revision or by any other means, shall be continued and disposed of as if this Act had not been enacted;

(f) any election or declaration made, or option exercised, by an assessee under any provision of the repealed Income-tax Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made, or option exercised, under the corresponding provision of this Act;

(g) where in respect of any proceeding relating to any tax year beginning before the 1st April, 2026,—

(i) a refund falls due after commencement of this Act; or

(ii) default is made after such commencement in the payment of any sum due under such proceeding,

the provisions of this Act, relating to interest payable by the Central Government on refunds and interest payable by the assessee for default, shall apply for the period after the commencement of this Act;

(h) where any deduction has been allowed or any amount has not been included in the total income of any person, subject to fulfilment of certain conditions for any tax year beginning before the 1st April, 2026, and in case of violation of such conditions in any tax year beginning on or after 1st April, 2026, any sum (on account of deduction earlier allowed or amount not included) was required to be included in the total income of such subsequent tax year under the repealed Income-tax Act if it had not been so repealed, then such sum shall be—

(i) deemed to be the income of the tax year in which the violation takes place; and

(ii) included in the total income of the said person under the same head of income as it would have been included under the repealed Income-tax Act;

(i) any sum payable under the repealed Income-tax Act may be recovered under this Act without prejudice to any action already taken for the recovery of such sum under repealed Income-tax Act;

(j) any agreement entered into, appointment made, approval given, recognition granted, ***circular,*** direction, instruction, notification, order or rule issued under any provision of the repealed Income-tax Act shall, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision of this Act and shall continue in force accordingly;

(k) where the period provided for any application, appeal, reference or revision under the repealed Income-tax Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority;

(l) any amount of credit, in respect of tax paid, allowable to be carried forward in the case of an assessee, under the provisions of section 115 JAA or 115JD of the repealed Income-tax Act for the tax year beginning before the 1st April 2026, had the repealed Income-tax Act not been repealed,—

(i) shall be deemed to be the amount eligible for credit under corresponding provision of this Act in the case of said assessee; and

(ii) credit for the tax paid under the repealed Income-tax Act shall be allowed under this Act for the period for which it would have been allowed under the repealed Income–tax Act if the assessee otherwise continues to satisfy the conditions as specified in the corresponding provisions of this Act in such tax years;

(m) any amount of loss under the source or head of income specified in column B of the Table given below and referred to in the section of the repealed Income-tax Act specified in column C of the said Table, brought forward for the tax year beginning before the 1st April, 2026 had the repealed Income-tax Act not been repealed, shall be set off and carried forward against the income computed under this Act , in the manner provided in the respective section of the repealed Income-tax Act specified in column C of the said table, for the tax years beginning on or after the 1st April, 2026:

Table

Sl. No.	Source or head of income under the repealed Income-tax Act	Section of the repealed Income-tax Act
A	B	C
1.	Income from house property.	71B.
2.	Profits and gains of business or profession.	72.
3.	Speculation business.	73.
4.	Specified Business.	73A.
5.	Activity of owning and maintaining race horses.	74A.

(n) any amount of loss under the head capital gains, whether related to a long-term capital asset or a short term capital asset referred to in section 74 of the repealed Income-tax Act, brought forward from the tax year beginning before the 1st April, 2026 had the repealed Income-tax Act, not been repealed, shall be (**) carried forward ***and set off, in accordance with the manner provided in the repealed Income-tax Act,*** against the income under the head "Capital gains" computed under this Act for any tax year beginning on or after the 1st April, 2026 upto eight financial years immediately succeeding the financial year in which such loss was first computed under the repealed Income-tax Act;

(o) any set off of loss or allowance for depreciation made in any tax year beginning before the 1st April, 2026 in the hands of the amalgamated company, successor company or the successor limited liability partnership, in accordance with the provisions of section 72A of the repealed Income-tax Act, shall be deemed to be the income of the amalgamated company, successor company or the successor limited liability partnership, as the case may be, chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(p) any set off of accumulated loss or unabsorbed depreciation allowed in any tax year beginning before the 1st April, 2026 to the successor co-operative bank, in accordance with the provisions of section 72AB of the repealed Income-tax Act, shall be deemed to be the income of the successor co-operative bank chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(q) any amount of profits or gains arising out of transfer of capital asset not charged under the head capital gains by virtue of the provisions contained in section 47(*iv*), (*v*), (*xiii*), (*xiiib*) or (*xiv*) of the repealed Income-tax Act in any tax year beginning before the 1st April, 2026 shall be deemed to be the income chargeable under the head "Capital gains" under this Act, **(**)** ***for the tax year—***

(A) in which the transfer took place if any of the conditions laid down in section 47A(1)(i) or (ii) of the repealed Income-tax Act are satisfied; or

(B) in which any of the conditions laid down in section 47(xiii), (xiiib) or (xiv) of the repealed Income-tax Act are not complied with;

(r) where any allowance or part thereof, under section 32(*2*) or 35(*4*) of the repealed Income-tax Act, is to be carried forward to tax year beginning on the 1st April, 2026, had the repealed Income-tax Act not been repealed, then, the allowance or part thereof shall be added to the amount of capital allowances referred to corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for that tax year, be deemed to be allowance for that tax year;

(s) the deduction referred to in section **35ABA**, 35ABB, 35D, 35DD, 35DDA, 35E or the first proviso to section 36(*1*)(*ix*) of the repealed Income-tax Act, shall, on fulfilment of the conditions mentioned in the said provisions, continue to be allowed under this Act for tax year beginning on or after the 1st April, 2026 had the repealed Income-tax Act not been repealed and such deduction shall be added to the amount of deferred revenue expenditure allowance referred to corresponding provisions of this Act for the tax year beginning on or after the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for a tax year, be deemed to be that allowance for that tax year;

(t) credit balance in the provision for bad and doubtful debts account made under section 36(*1*)(*viia*) of the repealed Income-tax Act standing on the last day of the tax year beginning on 1st April, 2025 shall be added to the amount credited to the provision for bad and doubtful debts accounts referred to in the corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of amount credited to the provision for bad and doubtful debts accounts, or if there is no such amount credited for that tax year, be deemed to be amount credited for that tax year;

(u) any scheme which has been notified under the provisions of the repealed Income-tax Act with a view to eliminating the interface with the assessee or any other person, the said scheme shall be deemed to have been made—

(i) under the corresponding provisions of this Act; or

(ii) under section **532(**)** where there is no such corresponding provision,

and shall continue in force accordingly; and

(v) where a search has been initiated under section 132 or requisition is made under section 132A prior to the 1st April, 2026, the provisions of repealed Income-tax Act, shall continue to apply to any proceedings connected in respect of such search or requisition, as the case may be, as if this Act has not been enacted.

10 of 1897.

(*3*) Without prejudice to the provisions of sub-section (*2*), the provisions of section 6 of the General Clauses Act, 1897 shall apply with regard to the effect of repeal.

SCHEDULE I

[*See* section 9(*12*)]

CONDITIONS FOR CERTAIN ACTIVITIES NOT TO CONSTITUTE BUSINESS CONNECTION IN INDIA.

1. (*1*) The eligible investment fund referred to in section 9(*12*), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:—

(a) the fund is not a person resident in India;

(b) the fund is—

(i) a resident of a country or a specified territory with which an agreement referred to in section 159(*1*) or (*2*) has been entered into; or

(ii) established or incorporated or registered in a country or a specified territory as notified in this behalf;

(c) the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed 5% of the corpus of the fund as on the 1st April and the 1st October of the tax year, subject to the conditions that—

(i) for the purposes of calculation of such aggregate participation or investment in the fund, any contribution made by the eligible fund manager during the first three years of operation of the fund, not exceeding twenty-five crore rupees, shall not be taken into account;

(ii) where the aforesaid aggregate participation or investment in the fund exceeds 5% on the 1st April or the 1st October of the tax year, the condition mentioned in this clause shall be deemed to be satisfied, if it is satisfied, within four months of the 1st April or the 1st October of such tax year;

(d) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

(e) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;

(f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding 10%;

(g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than 50%;

(h) the fund shall not invest more than 25% of its corpus in any entity;

(i) the fund shall not make any investment in its associate entity;

(j) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees subject to the following:—

(i) if the fund has been established or incorporated in the tax year, then corpus of fund shall not be less than one hundred crore rupees at the end of twelve months from the last day of the month of its establishment or incorporation; and

(ii) this clause shall not apply to a fund which has been wound up in the tax year;

(k) the fund shall not carry on or control and manage, directly or indirectly, any business in India;

(l) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

(m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated in such manner, as prescribed.

(2) The conditions specified in paragraph (*1*)(*e*), (*f*) and (*g*) shall not apply, in case of—

(a) an investment fund set up by the Government or the Central Bank of a foreign State or a sovereign fund; or

(b) such other fund as the Central Government may, by notification, specify in this behalf, subject to conditions, if any.

(3) The eligible fund manager, referred to in section 9(*12*), in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions:—

(a) the person is not an employee of the eligible investment fund or a connected person of the fund;

(b) the person is registered as a fund manager or an investment advisor in accordance with the regulations as specified;

(c) the person is acting in the ordinary course of his business as a fund manager;

(d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

(4) Every eligible investment fund shall, in respect of its activities in a tax year, furnish within ninety days from the end of the tax year, a statement in the prescribed form to the prescribed income-tax authority, containing information relating to the fulfilment of the conditions specified in this Schedule, and also provide such other relevant information or documents, as prescribed.

(5) The provisions of this Schedule shall apply as per such guidelines and in such manner as the Board may prescribe in this behalf.

(6) The Central Government may, by notification, specify that any one or more of the conditions specified in sub-paragraph (*1*) (other than at paragraph (*1*)(*c*)) or (*3*) shall not apply or shall apply with such modifications, as specified in case of an eligible investment fund and its eligible fund manager, if—

(i) the eligible fund manager is located in an International Financial Services Centre; and

(ii) has commenced its operations on or before the 31st March, 2030.

2. In this Schedule,—

(a) "associate" means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund, or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being more than 15% of its share capital or interest, as the case may be;

(b) "connected person" shall have the meaning assigned to it in section 184(*5*);

(c) "corpus" means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;

(d) "entity" means any entity in which an eligible investment fund makes an investment; and

(e) "specified regulations" means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 or the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), which may be notified in this regard.

SCHEDULE II

(*See* section 11)

INCOME NOT TO BE INCLUDED IN TOTAL INCOME

In computing the total income of a person for a tax year, the income mentioned in column B of the Table below shall not be included, subject to fulfilment of the conditions mentioned in column C of the said Table, and the expressions used in columns B and C of the said Table, shall have the meaning respectively assigned to them in the Notes below the said Table.

Table

<table>
<tr><th>Sl. No.</th><th>Income not to be included in total income</th><th>Conditions</th></tr>
<tr><td>A</td><td>B</td><td>C</td></tr>
<tr><td>1.</td><td>Agricultural income.</td><td>Nil.</td></tr>
<tr><td>2.</td><td>Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy.</td><td>(a) The insurance policies, issued during the period mentioned in column B of the table below, except where such sum is received on the death of a person, or under a life insurance policy issued by the International Financial Services Centre insurance intermediary office, including the sum allocated by way of bonus on such policy, shall fulfil the conditions mentioned in Column C thereof:
<table>
<tr><th>Sl. No.</th><th>Period of issue of insurance policy</th><th>Conditions of issuance policy</th></tr>
<tr><td>A</td><td>B</td><td>C</td></tr>
<tr><td>1.</td><td>1st April, 2003 to 31st March, 2012.</td><td>Premium to sum assured ratio is <=20%</td></tr>
<tr><td>2.</td><td>1st April, 2012 to 31st March, 2013.</td><td>Premium to sum assured ratio is <=10%</td></tr>
<tr><td>3.</td><td>1st April, 2013 to 31st January, 2021.</td><td>Premium to sum assured ratio is <=15% for special policies; and 10% for other policies.</td></tr>
<tr><td>4.</td><td>1st February, 2021 to 31st March, 2023.</td><td>Unit linked insurance policy:—
(A) premium to sum assured ratio is <=15% for special policies; and 10% for other policies; and</td></tr>
</table></td></tr>
</table>

A	B	C

A	B	C
		(B) aggregate of premium for all such policies (in (**) **any** of the tax years during the term of all of such policies) is <=₹ 2,50,000. Other than unit linked insurance policy:— Premium to sum assured ratio is <=15% for special policies; and 10% for other policies.
5.	On or after the 1st April, 2023.	Unit linked insurance policy:— (a) premium to sum assured ratio is <=15% for special policies; and 10% for other policies; and (b) aggregate of premium for all such policies (in (**) **any** of the tax years during the term of all of such policies) <=₹ 2,50,000. Other than Unit linked insurance policy:— (i) premium to sum assured ratio is <=15% for special policies; and 10% for other policies; and (ii) aggregate of premium for all such policies (in (**) **any** of the tax years during the term of all of such policies) is <=₹ 5,00,000;

(b) the following sums shall not be eligible for exclusion from total income:—

1. any sum received under section 127; and

2. any sum received under a Keyman insurance policy.

Note:— For removal of difficulties, the Board may issue guidelines with the previous approval of the Central Government, which shall be binding on the income-tax authorities and the assessee and every guideline issued by the Board under this clause shall be laid before each House of Parliament.

A	B	C
3.	Any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies, or from any other provident fund set up by the Central Government and notified by it in this behalf.	(a) The income by way of interest accrued during the tax year shall not be eligible for exclusion from total income where,— (i) it is attributable to the contribution (including aggregate thereof) made on or after the 1st April, 2021; and (ii) such contribution exceeds— (A) ₹5,00,000 in a tax year in such fund where no contribution is made by the employer of such person; (B) ₹2,50,000 in other cases; and (b) the amount of income to be excluded from total income as referred to in clause (*a*) shall be computed in such manner, as prescribed.
4.	The accumulated balance due and becoming payable to an employee participating in a recognised provident fund to the extent provided in paragraph 8 of Part A of the Schedule XI	(a) The income by way of interest accrued during the tax year shall not be eligible for exclusion from total income where,— (i) it is attributable to contribution (including aggregate thereof) made on or after the 1st April, 2021; and (ii) such contribution exceeds— (A) ₹ 5,00,000 in a financial year in such fund where no contribution is made by the employer of such person; or (B) ₹ 2,50,000 in other cases; and (b) the amount of income to be excluded from total income as referred to in clause (*a*) shall be computed in such manner as prescribed.
5.	Any payment from any account opened as per the Sukanya Samriddhi Account Scheme, 2019 made under the Government Savings Promotion Act, 1873 (5 of 1873).	*Nil*.
6.	Any payment from the National Pension System Trust.	(a) Such payment is on closure of account of the assessee or on his opting out of the pension scheme referred to in section 124; and (b) income shall be excluded to the extent it does not exceed 60% of the total amount payable at the time of such closure or his opting out of the scheme.

A	B	C
7.	Any payment from the *Agniveer* Corpus Fund to a person enrolled under the *Agnipath* Scheme or to his nominee.	*Nil.*
8.	Any payment from an approved superannuation fund.	Such payment is made— (a) on the death of a beneficiary; or (b) to an employee in *lieu* of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or (c) by way of refund of contributions on the death of a beneficiary; or (d) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon; or (e) by way of transfer to the account of the employee under a pension scheme referred to in section 124 and notified by the Central Government in this behalf.
9.	Scholarships.	Such scholarship is granted to meet the cost of education.
10.	Any payment made, whether in cash or in kind for any award or reward.	Such payment is made— (a) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or (b) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in public interest.
11.	Income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits.	(a) It is notified by the Central Government; and (b) exclusion from total income shall be allowed subject to such conditions and limits as specified in the said notification.

A	B	C
12.	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.	*Nil.*
13.	Interest on bonds issued by a local authority or by a State Pooled Finance Entity.	As specified by the Central Government, by notification.
14.	Any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002).	The transfer of such asset takes place on or after the 1st April, 2002.
15.	Any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 (28 of 2016) comes into force and chargeable to equalisation levy under that Chapter	Such income shall not include any income which is chargeable to tax as royalty or fees for technical services in India under this Act read with the agreement notified by the Central Government under section 159.
16.	Any income covered under section 10(*15*)(*iii*) or (15)(*iv*)(*c*), (*15*)(*iv*)(*d*), (*15*)(*iv*)(*e*), (*15*)(*iv*) (f), (*15*)(*iv*) (*g*) or (*15*)(*iv*) (*h*) or (*36*) of the Income-tax Act, 1961, subject to the conditions as provided therein.	

Note 1: For the purposes of Sl. No. 2,—

(a) "Keyman insurance policy" means a life insurance policy—

(i) taken by a person on the life of another person; and

(ii) such person is or was the employee of the first-mentioned person or is or was connected in any manner with the business of the first-mentioned person; and

(iii) includes such policy which has been assigned to a person at any time during the term of the policy, with or without any consideration;

(b) "actual capital sum assured" shall have the meaning assigned to it in paragraph 2(2) of Schedule XV;

(c) "United Linked Insurance Policy" means a unit linked life insurance policy,—

(i) which has components of both investment and insurance; and

(ii) is linked to a unit as defined in clause (*ee*) of regulation 3 of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 made under the Insurance Regulatory and Development Authority Act, 1999(41 of 1999);

(d) "premium to sum assured ratio" shall mean the highest percentage of annual premium payable to the actual capital sum assured, during the term of the policy;

(e) "special policy" means any policy issued on life of any person, who is—

(i) a person with disability or a person with severe disability as referred to in section 154; or

(ii) suffering from disease or ailment as specified in the rules made under .

Note 2: For the purposes of Sl. No. 7,—

"Agniveer Corpus Fund" and "Agnipath Scheme" shall have the meanings respectively assigned to them in section 125.

Note 3: For the purposes of Sl. No. 11,—

"interest" includes hedging transaction charges on account of currency fluctuation.

Note 4: For the purposes of Sl. No. 13,—

"State Pooled Finance Entity" means such entity which is set up as per the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Housing and Urban Affairs.

Note 5: For the purposes of Sl. No. 15,—

"specified service" shall have the same meaning as assigned to it in clause (i) of section 164 of the Finance Act, 2016 (28 of 2016).

SCHEDULE III

(*See* section 11)

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF ELIGIBLE PERSONS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D therein shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
A	B	C	D
1.	Any sum received by a member from Hindu undivided family.	An individual who is a member of a Hindu undivided family.	(a) Such sum is not covered under the provisions of section 99(*3*) and (*4*); and (b) such sum has been paid out of— (i) the income of the family; or (ii) the income of the estate belonging to the family, in the case of any impartible estate.
2.	Any sum received by a partner towards his share in the total income of the firm.	A person who is a partner of a firm separately assessed as such—	The sum received is as per the profit-sharing ratio provided in the partnership deed.
3.	Any amount received or receivable from the Central Government or a State Government or a local authority by way of compensation on account of any disaster.	Any individual or his legal heir.	No deduction of this amount was allowed earlier under this Act on account of any loss or damage caused by such disaster to such individual or his legal heir.
4.	Any payment from the National Pension System Trust under the pension scheme referred to in section (**) **124**.	Any employee, or an assessee, being the guardian or parent of a minor.	(a) Such payment is on partial withdrawal made out of his account or the account of the minor, as per the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder; and (b) exclusion shall not exceed 25% of the amount of contributions made by him.
5.	Daily allowance received	Any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof.	*Nil*.

A	B	C	D
6.	Any allowance received.	Any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986 made under the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954).	*Nil*.
7.	Any constituency allowance received.	Any person by reason of his membership of any State Legislature under any State Act or rules made thereunder.	*Nil*.
8.	The value of any travel concession or assistance.	An individual.	(a) Such sum is received by, or due to, such individual— (i) from his employer for himself and his family, in connection with his proceeding on leave to any place in India; (ii) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service; (b) Such sum is subject to such conditions as prescribed (including conditions as to number of journeys and the amount which shall be exempt per head); (c) The conditions in clause (*b*) shall have regard to the travel concession or assistance granted to the employees of the Central Government; and (d) Sum not included in the total income shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.
9.	Any allowances or perquisites paid or allowed as such outside India by the Government.	A citizen of India.	Such sum is paid or allowed for rendering service outside India.

A	B	C	D
10.	Income in the nature of a perquisite.	An employee, being an individual.	(a) Such perquisite is not provided for by way of monetary payment, within the meaning of section 17(*1*); ***and*** (b) the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee; *(**)* (c) *(**)*
11.	Any special allowance from employer.	An assessee.	(a) Such allowance is specifically granted to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee; (b) such allowance is to such extent as prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations; (c) the residential accommodation occupied by the assessee is not owned by him; and (d) the assessee has actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him.
12.	Any special allowance or benefit to the extent to which such expenses are actually incurred for that purpose.	An assessee.	(a) Such allowance or benefit is not in the nature of a perquisite within the meaning of section 17(*1*); (b) Such allowance or benefit is specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as prescribed.
13.	Any allowance.	An assessee.	(a) Such allowance is granted to the assessee to meet his personal expenses:— (i) at the place where the duties of his office; or (ii) at the place employment of profit are ordinarily performed by him; or

A	B	C	D
			(iii) at the place where he ordinarily resides; or (iv) to compensate him for the increased cost of living, to the extent as prescribed; and (b) personal allowance to remunerate or compensate for performing duties of a special nature relating to office or employment shall not be excluded from total income unless such allowance is related to the place of his posting or residence.
14.	Pension received	An individual who has been in the service of the Central Government or State Government and has been awarded "*Param Vir Chakra*" or "*Maha Vir Chakra*" or "*Vir Chakra*" or such other gallantry award as the Central Government may, by notification, specify in this behalf.	*Nil.*
15.	Family pension received.	Any member of the family of an individual referred against serial number 14.	*Nil.*
16.	Family pension received.	Widow or children or nominated heirs of a member of the armed forces (including paramilitary forces) of the Union.	The death of such member has occurred in the course of operational duties in such circumstances and subject to such conditions, as prescribed.
17.	Any income includible in the total income under section 99 (*1*)(*d*).	In case of an assessee referred to in that sub-section	Exclusion of such income from the total income is to the extent such income does not exceed ₹ 1,500 in respect of each minor child whose income is so includible.
18.	Any income chargeable under the head "Capital gains" arising from the transfer of agricultural land.	An individual or a Hindu undivided family.	(a) Such land is situated in any area referred to in section 2(*22*)(*iii*); (b) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

A	B	C	D
			(c) such transfer is by way of compulsory acquisition under any law, or a transfer, the consideration for which is determined or approved by the Central Government or the Reserve Bank of India; and (d) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st April, 2004.
19.	Any income which accrues or arises— (a) from any source in the areas or States mentioned in column C; or (b) by way of dividend or interest on securities.	A member of a Scheduled Tribe,— (a) as defined in article 366(25) of the Constitution; and (b) residing in any area specified in Part I or II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to the said paragraph 20(3) [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (18 of 1971) or in the Union territory of Ladakh].	*Nil*.
20.	Any income which accrues or arises— (a) from any source in the State of Sikkim; or (b) by way of dividend or interest on securities	An individual, being a Sikkimese.	*Nil.*

A	B	C	D
21.	The amount of any subsidy received from or through the concerned Board under a scheme.	An assessee who carries on the business of growing and manufacturing tea, rubber, coffee, cardamom or such other commodity in India as notified by the Central Government.	(a) Such scheme is for replantation or replacement of tea bushes, rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of tea, rubber, coffee, cardamom or such other commodity; (b) such scheme is notified by the Central Government; and (c) the assessee furnishes to the Assessing Officer, along with his return of income for the tax year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the tax year.
22.	The income which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business.	Any local authority.	Income from trade or business is eligible for exclusion from total income if such income accrues or arises from the supply of— (a) a commodity or service (not being water or electricity) within its own jurisdictional area; or (b) water or electricity within or outside its own jurisdictional area.
23.	Any income of a research association.	A research association for the time being approved for the purpose of section 45(*3*)(*a*).	(a) Applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; (b) invests its funds received in the forms or modes specified in section 350; (c) satisfies such conditions as prescribed; and. (d) the procedure for withdrawal of approval granted shall be in such manner as prescribed.
24.	Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments)	An association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of, law, medicine, accountancy, engineering or	(a) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; (b) the association or institution is for the time being approved by the Central Government by general or special order; and (c) the procedure for withdrawal of approval granted shall be in such manner, as prescribed.

A	B	C	D
		architecture or such other profession as the Central Government may, by notification specify in this behalf	
25.	Any income attributable to the business of production, sale, or marketing, of khadi or products of village industries.	An institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any other law corresponding to that Act in force in any part of India.	(a) Such institution exists solely for the development of khadi or village industries or both, and not for profit; (b) such institution applies its income, or accumulates it for application, solely for the development of khadi or village industries, or both; (c) such institution is approved for such purpose by the Khadi and Village Industries Commission for a period not exceeding 3 tax years at any one time; and (d) the procedure for withdrawal of approval granted shall be in such manner as prescribed.
26.	Any income from the activity of securitisation.	A securitisation trust.	
27.	Any income, by way of contributions received from recognised stock exchanges and the members thereof.	Any Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately.	(a) Such fund is notified by the Central Government; and (b) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall accordingly be chargeable to income-tax.
28.	Any income, by way of contributions received from commodity exchanges and the members thereof.	Any Investor Protection Fund set up by commodity exchanges in India, either jointly or separately.	(a) Such fund is notified by the Central Government; and (b) where any amount standing to the credit of the said Fund and not charged to income-tax during any tax year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall accordingly be chargeable to income-tax.

A	B	C	D
29.	Any income, by way of contributions received from a depository.	Any Investor Protection Fund set up as per the regulations by a depository.	(a) Such fund is notified by the Central Government; and (b) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.
30.	(a) Any income by way of contribution received from specified persons; (b) any income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund. (c) any income from investment made by the Fund.	Any Core Settlement Guarantee Fund, set up by a recognised clearing corporation.	(a) Such fund is notified by the Central Government; and (b) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.
31.	Any income chargeable under the heads "Income from house property" and "Income from other sources".	(a) A registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen; or (b) an association of registered unions referred to in clause (*a*).	
32.	Any interest on securities, and any capital gains of the fund arising from the sale, exchange or transfer of such securities.	Provident Fund to which the Provident Funds Act, 1925 (19 of 1925) applies.	Such securities are held by, or are the property of such Provident Fund.
33.	Any income of the nature and to the extent, arising from the international sporting event held in India.	Any person notified by the Central Government.	(a) Such international sporting event— (i) is approved by the international body regulating the international sport relating to such event;

A	B	C	D
			(ii) has participation by more than two countries; and (iii) is notified by the Central Government for the purposes of this clause; and (b) nature and extent of such income is notified by the Central Government.
34.	Any income, of the nature and to the extent, which the Central Government may notify in this behalf.	A body or authority which has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government.	Such body or authority— (a) is established or constituted or appointed not for the purposes of profit; and (b) is notified by the Central Government.
35.	Any amount received as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in section 70(*1*)(*zh*)	Any individual.	*Nil.*
36.	Any income of the nature and to the extent which the Central Government may, by notification, specify in this behalf.	A body or authority or Board or Trust or Commission (by whatever name called), or a class thereof, other than those covered under Schedule VII (Table: Sl. No. 42)	Such body or authority or Board or Trust or Commission— (a) has been established or constituted by or under a Central Act, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public; (b) is not engaged in any commercial activity; and (c) is notified by the Central Government.
37.	Any income accruing or arising as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of the directions of the Central Government in this behalf.	Indian Strategic Petroleum Reserves Limited, being a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas.	It shall not apply to an arrangement, if the crude oil is not replenished in the storage facility within three years from the end of the tax year in which the crude oil was removed from the storage facility for the first time.

A	B	C	D
38.	Any gratuity computed as per the provisions of section 19(*1*)(Table: Sl. No. 3.C) to (Table: Sl. No. 6.C)	Any widow, children or dependants on death of an employee.	
39.	Any income falling under section 10(*15*)(*iic*) or (*15*)(*iv*)(*i*) or (*19A*) or (*40*) of the Income-tax Act, 1961(43 of 1961), shall be subject to the conditions as provided therein.		

Note 1: For the purposes of Sl. No. 3,—

"disaster" shall have the same meaning as assigned to it in section 2(*d*) of the Disaster Management Act, 2005.

Note 2: For the purposes of Sl. No. 8 and 15,—

"family" in relation to an individual, means—

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

Note 3: For the purposes of Sl. No. 18,—

"compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority.

Note 4: For the purposes of Sl. No. 20,—

"Sikkimese" means—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the "Register of Sikkim Subjects"), immediately before the 26th April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of the father or husband or paternal grand-father or brother from the same father of such individual has been recorded in that register; or

(iv) any other individual, whose name does not appear in the Register of Sikkim Subjects but it is established that such individual was domiciled in Sikkim on or before the 26th April, 1975; or

(v) any other individual, who was not domiciled in Sikkim on or before the 26th April, 1975, but it is established beyond doubt that the father or husband or paternal grand-father or brother from the same father of such individual was domiciled in Sikkim on or before the 26th April, 1975.

Note 5: For the purposes of Sl. No. 21,—

"concerned Board" means—

(i) in relation to tea, the Tea Board shall mean the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);

(ii) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947);

(iii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(iv) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986);

(v) in relation to any other commodity, any Board or other authority established under any law for the time being in force which the Central Government may, by notification, specify in this behalf.

Note 6: For the purposes of Sl. No. 22,—

"local authority" means—

(i) Panchayat as referred to in article 243(*d*) of the Constitution; or

(ii) Municipality as referred to in article 243P(*e*) of the Constitution; or

(iii) Municipal Committee and District Board,

legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or

(iv) Cantonment Board constituted under section 12 of the Cantonments Act, 2006 (4 of 2006).

Note 7: For the purposes of Sl. No. 25,—

(a) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (91 of 1956); and

(b) "khadi" and "village industries" shall have the same meanings as respectively assigned to them in that Act.

Note 8: For the purposes of Sl. No. 26,—

(a) "securitisation" shall have the same meaning as assigned to it,—

(i) in regulation 2(*1*)(*r*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(ii) in section 2(*1*)(*z*) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002; or

(iii) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(b) "securitisation trust" shall have the meaning assigned to it in section 221 (*6*)(*d*).

Note 9: For the purposes of Sl. No. 28,—

"commodity exchange" shall mean a registered association as defined in section 2(*jj*) of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Note10: For the purposes of Sl. No. 29,—

(a) "depository" shall have the same meaning as assigned to it in section 2(*l*)(*e*) of the Depositories Act, 1996 (22 of 1996);

(b) "regulations" shall mean the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Depositories Act, 1996.

Note11: For the purposes of Sl. No. 30—

(a) "recognised clearing corporation" shall have the same meaning as assigned to it in—

(i) regulation 2(*l*)(*o*) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(ii) regulation 2(*l*)(*n*) of the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(b) "regulations" means—

(i) the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(ii) the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(c) "specified person" means—

(i) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund;

(ii) any recognised stock exchange, being a shareholder in such recognised clearing corporation, or a contributor to the Core Settlement Guarantee Fund; and

(iii) any clearing member contributing to the Core Settlement Guarantee Fund.

SCHEDULE IV

(*See* section 11)

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF ELIGIBLE NON-RESIDENTS, FOREIGN COMPANIES AND OTHER SUCH PERSONS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
A	B	C	D
1.	Any income by way of interest.	(a) A person being an individual, who is a resident outside India as defined in section 2(*w*) of the Foreign Exchange Management Act, 1999 (42 of 1999); or (b) a person being an individual who has been permitted by the Reserve Bank of India to maintain the said account.	Such interest is on moneys standing to the credit of such person in a Non-Resident (External) Account in any bank in India as per the said Act and the rules made thereunder.
2.	Any remuneration received for service in the capacity as an official mentioned in column C, not being a citizen of India.	An official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials.	(a) The remuneration received as a trade commissioner or other official representative in India of the government of a foreign State (not holding office as such in an honorary capacity), or as members of the staff, if any, of the government, resident for similar purposes in the country concerned enjoy a similar exemption in that country; and (b) the members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff.
3.	Any remuneration received as an employee for services rendered by him during his stay in India	A person who is an employee of a foreign enterprise, not being a citizen of India.	(a) The foreign enterprise is not engaged in any trade or business in India; (b) his stay in India does not exceed in the aggregate a period of ninety days in such tax year; and (c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act.

A	B	C	D
4.	Any income chargeable under the head "Salaries", received or due as remuneration for services rendered in connection with his employment on a foreign ship.	Any individual being a non-resident, not being a citizen of India.	The total stay of such individual in India does not exceed in the aggregate a period of ninety days in the tax year.
5.	Any remuneration received as an employee of the Government of a foreign State.	An employee of the Government of a foreign State, not being a citizen of India.	Such remuneration is received during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by— (a) the Government; or (b) any company in which the entire paid-up share capital is held by the Central Government or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments; or (c) any company which is a subsidiary of a company referred to in clause (*b*); or (d) any corporation established by or under a Central Act or State Act or Provincial Act; or (e) any society registered under the Societies Registration Act, 1860 (21 of 1860), or under any other law and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments.
6.	Any income arising by way of royalty or fees for technical services.	Any foreign company.	(a) Such company is notified by the Central Government; and (b) such income is received in pursuance of an agreement entered into with the Central Government for providing services in or outside India in projects connected with security of India.

A	B	C	D
7.	Any income arising by way of royalty from, or fees for technical services rendered in or outside India.	A non-resident, not being a company, or a foreign company.	(a) Such royalty is received from the National Technical Research Organisation; or. (b) such fees is for technical services rendered to the National Technical Research Organisation.
8.	Interest received.	Non-resident or a person who is not ordinarily resident in India.	Such interest is on a deposit made on or after the 1st April, 2005 in an Offshore Banking Unit referred to in section 2(*u*) of the Special Economic Zones Act, 2005 (28 of 2005).
9.	Income from lease rentals, by whatever name called, of a cruise ship.	Foreign company.	(a) Such income is received from a specified company which operates such ship or ships in India; (b) such foreign company and the specified company are subsidiaries of the same holding company; and (c) such income is received or accrues or arises in India for any relevant tax year beginning on or before the 1st April, 2029.
10.	Any income derived in India by way of interest, dividends or Capital gains from investments made.	The European Economic Community.	Such investments made out of its funds under such scheme as the Central Government may, by notification specify.
11.	Any income received in India in Indian currency.	A foreign company.	(a) Such income is on account of sale of crude oil or any other goods or rendering of services, as notified by the Central Government in this behalf, to any person in India; (b) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; (c) such agreement is entered with the foreign company, having regard to the national interest, and the agreement or arrangement is notified by the Central Government; and (d) such foreign company is not engaged in any activity in India, other than activity resulting in such income.
12.	Any income accruing or arising on account of storage of crude oil in a facility in India and sale of such crude oil to any person resident in India.	A foreign company.	(a) Such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

A	B	C	D
			(*b*) such agreement is entered with the foreign company, having regard to the national interest, and the agreement or arrangement is notified by the Central Government.
13.	Any income accruing or arising to on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or arrangement referred to against serial number 12 or on termination of the said agreement or arrangement.	A foreign company.	Such sale shall be as per the terms mentioned in the said agreement, subject to such conditions as notified by the Central Government in this behalf.
14.	Any income falling under section 10(*6A*), (*6B*), (*6BB*), (*15A*), (*15*)(*iiia*), (*15*)(*iiib*),(*15*)(*iiic*) or (15)(*iv*)(*a*), (*15*)(*iv*)(*b*) or(*15*)(*iv*)(*fa*) of the Income-tax Act, 1961(43 of 1961) subject to the conditions as specified therein.		

Note 1: For the purposes of Sl. No. 9,—

(a) "specified company" means any company, other than a domestic company which operates cruise ships in India and opts to pay tax as per the provisions of section 61(2)(Table: Sl. No. 2);

(b) "holding company", in relation to a foreign company or a specified company, means a company of which such companies are subsidiary companies; and

(c) "subsidiary company" or "subsidiary", in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

Note 2: For the purposes of Sl. No. 10,—

"European Economic Community" means the European Economic Community established by the Treaty of Rome of 25th March, 1957.

SCHEDULE V

(*See* section 11)

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF CERTAIN ELIGIBLE PERSONS INCLUDING INVESTMENT FUNDS, BUSINESS TRUSTS AND THEIR UNIT HOLDERS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table shall have the meanings respectively assigned to them in Notes below the said table.

Table

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
A	B	C	D
1.	Any income other than the income chargeable under the head "Profits and gains of business or profession".	An investment fund.	
2.	Any income referred to in section 224, accruing or arising to, or received being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".	A unit holder of an investment fund.	*Nil.*
3.	Any income by way of— (a) interest received or receivable from a special purpose vehicle; or (b) dividend received or receivable from a special purpose vehicle.	A business trust.	
4.	Any income by way of renting or leasing or letting out any real estate asset owned directly by such business trust.	A business trust, being a real estate investment trust.	
5	Any distributed income referred to in section 223	Any unit holder of a business trust.	Exemption shall not be allowed on that proportion of the income which is of the same nature as— (a) interest received or receivable from a special purpose vehicle by the business trust; or

A	B	C	D
			(b) dividend received or receivable from a special purpose vehicle by the business trust (in a case where the special purpose vehicle has exercised the option under section 200; or (c) income of a business trust by way of renting or leasing or letting out any real estate asset owned directly by such business trust.
6.	Any income from investment in a venture capital undertaking.	Venture capital company or venture capital fund other than being an investment fund specified in section 224(*10*)(*a*).	
7.	Any income of the nature of— (a) dividend; (b) interest; (c) any sum referred to in section 92(*2*)(*k*); or (d) long-term capital gains (whether or not such capital gains are deemed as short term capital gains under section 76), arising from an investment made by a specified person in India, whether in the form of debt or share capital or unit.	Any specified person.	(a) Such investment— (i) is made on or after the 1st April, 2020 but on or before the 31st March, 2030; (ii) is held for at least three years; and (iii) is in,— (A) a business trust; (B) an eligible infrastructure entity; (C) an eligible Alternate Investment Fund; (D) an eligible domestic company; or (E) an eligible Non-banking Financial Company; (b) The provisions of this clause shall be governed by guidelines issued by the Board, if any difficulty arises in interpreting or implementing the provisions of this clause; (c) such Guidelines shall be— (i) issued with the previous approval of the Central Government; (ii) every Guideline issued by the Board under this clause shall be laid before each House of Parliament; and (iii) shall be binding on the Income-tax Authority and the specified person;

A	B	C	D
			(d) where any income has not been included in the total income of the specified person, and subsequently during any tax year the specified person fails to satisfy any of these conditions so that the said income would not have been eligible for such non-inclusion, such income shall be chargeable to income-tax as the income of the specified person of that tax year; (e) where an eligible Alternate Investment Fund has investment of less than 100% in one or more of eligible infrastructure entity or eligible domestic company or eligible Non-Banking Financial Company or in an eligible InvIT, income accrued or arisen or received or attributable to such investment, directly or indirectly, which is exempt shall be calculated proportionately to that investment made in one or more of the eligible infrastructure entity or eligible domestic company or eligible Non-Banking Financial Company or in an eligible InvIT, in such manner as prescribed; (f) where an eligible domestic company has investment of less than 100% in one or more of the eligible infrastructure entity, income accrued or arisen or received or attributable to such investments, directly or indirectly, which is exempt herein shall be calculated proportionately to the investment made in one or more of the eligible infrastructure entity, in such manner, as prescribed; (g) where an eligible Non-Banking Financial Company has lending of less than 100% in one or more of the eligible infrastructure entity, income accrued or arisen or received or attributable to such lending, directly or indirectly, which is exempt herein shall be calculated proportionately to the lending made in eligible infrastructure entity, in such manner, as prescribed; (h) in case a sovereign wealth fund or pension fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exclusion from total income.

A	B	C	D
8.	Any income falling under section 10(*23F*) and (*23FA*) of the Income-tax Act, 1961 (43 of 1961), subject to the conditions as specified therein.		

Note 1: For the purposes of Sl. Nos. 1 and 2,—

"investment fund" shall have the meaning assigned to it in section 224(*10*)(*a*).

Note 2: For the purposes of Sl. No. 3,—

"special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the law under which such trust is granted registration.

Note 3: For the purposes of Sl. No. 4,—

"real estate asset" shall have the same meaning as assigned to it in regulation 2(*1*)(*zj*) of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Note 4: For the purposes of Sl. No. 6,—

(a) "venture capital company" means a company which—

(i) has been granted a certificate of registration, before the 21st May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(ii) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and which fulfils the following conditions:—

(A) it is not listed on a recognised stock exchange;

(B) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and

(C) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding 10% of its equity share capital) holds, either individually or collectively, equity shares in excess of 15% of the paid-up equity share capital of such venture capital undertaking;

(b) "venture capital fund" means a fund—

(i) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), which—

(A) has been granted a certificate of registration, before the 21st May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(B) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations or as referred to regulation 18(2) of the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and which fulfils the following conditions:—

(I) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(II) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of 15% of the paid-up equity share capital of such venture capital undertaking; and

(III) the units, if any, issued by it are not listed in any recognised stock exchange; or

(IV) any other condition as prescribed; or

(ii) operating as a venture capital scheme made by the Unit Trust of India ;

(c) "venture capital undertaking" means—

(i) a venture capital undertaking as defined in clause (*n*) of regulation 2 of the Venture Capital Funds Regulations; or

(ii) a venture capital undertaking as defined in clause (*aa*) of regulation 2(*1*) of the Alternative Investment Funds Regulations.

Note 5: For the purposes of Sl. No. 7,—

(a) “specified person” means—

(i) a wholly owned subsidiary of the Abu Dhabi Investment Authority, which—

(A) is a resident of the United Arab Emirates; and

(B) makes investment, directly or indirectly, out of the fund owned by the Government of Abu Dhabi;

(ii) a sovereign wealth fund, which satisfies the following conditions, namely:—

(A) it is wholly owned and controlled, directly or indirectly, by the government of a foreign country;

(B) it is set up and regulated under the law of such foreign country;

(C) the earnings of the said fund are credited either to the account of the government of that foreign country or to any other account designated by that government so that, no portion of the earnings inures any benefit to any private person;

(D) the asset of the said fund vests in the government of such foreign country upon dissolution;

(E) the provisions of items (*C*) and (*D*) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;

(F) it does not participate in the day-to-day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee; and

(G) it is specified by the Central Government, by notification for this purpose and fulfils the conditions specified in such notification;

(iii) a pension fund, which—

(A) is created or established under the law of a foreign country including the laws made by any of its political constituents, being a province, State or local body, by whatever name called;

(B) is not liable to tax in such foreign country or if liable to tax, exemption from taxation for all its income has been provided by such foreign country;

(C) it does not participate in the day-to-day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in day-to-day operations of the investee;

(D) is specified by the Central Government, by notification for this purpose and fulfils conditions specified in such notification; and

(E) satisfies such other conditions as prescribed;

(b) "investee" means a business trust or eligible infrastructure entity or eligible Alternate Investment Fund or eligible domestic company or eligible Non-Banking Financial Company, in which the sovereign wealth fund or the pension fund has made the investment directly or indirectly as provided herein;

(c) "loan and borrowing" means—

(i) any loan taken, or borrowing by a sovereign wealth fund from, or any deposit or investment made in a sovereign wealth fund by any person other than the Government of the country in which the sovereign wealth fund is set up;

(ii) any loan taken, or borrowing by a pension fund from, or any deposit or investment made in a pension fund by any person, but shall not include—

(A) the deposit or investment which represents statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability or death benefits; or

(B) any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be;

(d) "eligible infrastructure entity" means a company or enterprise or an entity carrying on the business of—

(i) developing;

(ii) operating and maintaining; or

(iii) developing, operating and maintaining an infrastructure facility as defined in section 138(*11*) or such other business as the Central Government may, by notification, specify in this behalf;

(e) "eligible Alternate Investment Fund" means Category-I or Category-II Alternative Investment Fund—

(i) regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(ii) having not less than 50% investment in one or more of the eligible infrastructure entity or eligible domestic company or eligible Non-Banking Financial Company or in an eligible InvIT, computed in such manner as prescribed;

(f) "eligible domestic company" means a domestic company—

(i) set up and registered on or after the 1st April, 2021; and

(ii) having minimum 75% investments in one or more of the eligible infrastructure entities, computed in such manner, as prescribed;

(g) "eligible Non-Banking Financial Company" means—

(i) a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund or a non-banking finance company as referred to in the Infrastructure Debt Fund - Non-Banking Financial Companies (Reserve Bank) Directions, 2011, issued by the Reserve Bank of India; and

(ii) having minimum 90% lending to one or more of eligible infrastructure entities, computed in such manner, as prescribed; and

(h) "eligible InvIT" means an Infrastructure Investment Trust referred to in section 2(*21*)(*a*).

SCHEDULE VI

(*See* section 11)

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF CERTAIN ELIGIBLE PERSONS IN INTERNATIONAL FINANCIAL SERVICES CENTRE OR HAVING INCOME THEREFROM

In computing the total income of a tax year of any eligible person, as mentioned in column C of the Table below, the income mentioned in column B of the said Table and the income as mentioned in savings clause shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table, shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
A	B	C	D
1.	Any income accrued or arisen to, or received, as a result of transfer of capital asset referred to in section 70(*1*)(*r*) where such transfer takes place on a recognised stock exchange located in any International Financial Services Centre.	Any specified fund.	(a) Consideration is paid or payable in convertible foreign exchange; (b) Income shall not be included in the total income to the extent such income is attributable to— (i) units held by non-resident (not being the permanent establishment of a non-resident in India); or (ii) the investment division of offshore banking unit; and (c) The income exempt shall be computed in such manner as prescribed.
2.	Any income accrued or arisen to, or received, as a result of transfer of securities (other than shares in a company resident in India).	Any specified fund.	As specified in clauses (*b*) and (*c*) of Column D against Sl. No. 1.
3.	Any income from securities issued by a non-resident where such securities are not issued by a permanent establishment of a non-resident in India.	Any specified fund.	(a) Such income otherwise does not accrue or arise in India; (b) As specified in clauses (*b*) and (*c*) of Column D against Sl. No. 1.
4.	Any income from a securitisation trust, which is chargeable under the head "Profits and gains of business or profession".	Any specified fund.	As specified in clauses (*b*) and (*c*) of Column D against Sl. No. 1.

A	B	C	D
5.	Any income accrued or arisen to, or received as a result of— (a) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or (b) distribution of income on offshore derivative instruments.	Non-resident.	(a) Such contract, instrument or derivative is entered into with an offshore banking unit of an International Financial Services Centre or any Foreign Portfolio Investor being a unit of an International Financial Services Centre; and (b) it fulfils such conditions, as prescribed.
6.	Any income by way of royalty or interest on account of lease of an aircraft or a ship in a tax year.	Non-resident.	(a) Such royalty or interest is paid by a unit of an International Financial Services Centre; and (b) such unit has commenced its operations on or before the 31st March, 2030.
7.	Any income received from— (a) portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of the non-resident; or (b) such activity carried out by such person, as notified by the Central Government.	Non-resident.	(a) Such income is received in an account maintained with an Offshore Banking Unit in any International Financial Services Centre; and (b) the income not to be included in the total income shall be to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.
8	Any income by way of Capital gains arising from the transfer of equity shares of domestic company where such domestic company is a Unit of an International Financial Services Centre.	A non-resident, or a Unit of an International Financial Services Centre, engaged primarily in the business of leasing of aircraft or ship.	(a) The domestic company— (i) it is engaged primarily in the business of leasing of aircraft or ship; (ii) has commenced operations on or before the 31st March, 2030; and (b) exclusion from total income shall be available for capital gains arising from the transfer of equity shares of such domestic company in a tax year falling within— (i) ten tax years beginning with the tax year in which the domestic company has commenced operations; or

A	B	C	D
			(ii) ten tax years beginning with the tax year commencing on the 1st April, 2023, where the period referred to in sub-clause (*i*) ends before the 1st April, 2033.
9.	Any income accruing or arising to, or received from a specified fund or on transfer of units in a specified fund.	A unit holder of a specified fund.	
10.	Any income of the nature of Capital gains, arising or received on account of transfer of share of a company resident in India.	Any non-resident or a specified fund.	(a) The Capital gain is on account of transfer of shares by the resultant fund or a specified fund; and (b) such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and the Capital gains on such shares were not chargeable to tax if that relocation had not taken place; and (c) income not to be included in the total income shall be to the extent attributable to units held by the non-resident (not being a permanent establishment of a non-resident in India) in such manner, as prescribed.
11.	Any income by way of dividends from a company being a Unit of an International Financial Services Centre primarily engaged in the business of leasing of an aircraft or ship.	A Unit of any International Financial Services Centre.	Such Unit is primarily engaged in the business of leasing of aircraft or ship.
12.	Any income by way of interest payable.	Non-resident.	Such interest is payable by a Unit of an International Financial Services Centre in respect of monies borrowed by it on or after the 1st September, 2019.

Note 1: For the purposes of Sl. Nos. 1 to 4,—

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 and the rules made thereunder;

(b) "investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre and which has commenced its operations on or before the 31st March, 2030;

(c) "manager" shall have the same meaning as assigned to it in regulation 2(*1*)(*q*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(d) "permanent establishment" shall have the meaning assigned to it in section 173 (*c*);

(e) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and shall also include such other securities or instruments as notified by the Central Government in this behalf;

(f) "securitisation trust" shall have the meaning assigned to it in section 221 (*6*)(*d*);

(g) "specified fund" means—

(i) a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,—

(A) which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated—

(I) under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992; or

(II) regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(B) which has been granted a certificate as a retail scheme or an Exchange Traded Fund, and is regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and satisfies such conditions, as prescribed;

(C) which is located in any International Financial Services Centre; and

(D) of which all the units are held by non-residents except—

(I) the unit held by a sponsor or manager;

(II) where any unit holder or holders, being non-resident during the tax year when such unit or units were issued, becomes resident under section 6(*2*) or (*3*) or (*4*) or (*5*) or (*6*) or (*7*) in any tax year subsequent to that year;

(III) in case of sub-item (*II*), aggregate value and the number of units held by such resident unit holder or holders do not exceed 5% of the total units issued and shall fulfil such other conditions as prescribed; or

(ii) investment division of an offshore banking unit, which has been—

(A) granted a certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities Exchange Board of India Act, 1992 (15 of 1992) and which has commenced its operations on or before the 31st March, 2025; and

(B) fulfils such conditions including maintenance of separate accounts for its investment division, as prescribed;

(h) "sponsor" shall have the same meaning as assigned to it in regulation 2(*1*)(*w*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992;

(i) "trust" means a trust established under the Indian Trusts Act, 1882 or under any other law;

(j) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests.

Note 2: For the purposes of Sl. No. 5,—

"Foreign Portfolio Investor" shall mean a person registered as per the provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992.

Note 3: For the purposes of Sl. Nos. 6, 8 and 11,—

(a) "aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

(b) "ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof.

Note 4: For the purposes of Sl. No. 7,—

"portfolio manager" shall have the same meaning as assigned to it in regulation 2(*1*)(*z*) of the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019.

Note 5: For the purposes of Sl. No. 9,—

(a) "specified fund" shall have the same meaning as assigned to it in Note 1(*g*);

(b) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests.

Note 6: For the purposes of Sl. No. 10,—

(a) "original fund", "relocation" and "resultant fund" shall have the meanings respectively assigned to them in section 70(*2*);

(b) "specified fund" shall have the meaning assigned to it in Note 1(*g*).

Note 7: For the purposes of Sl. No. 12,—

"Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005.

SCHEDULE VII

(*See* section 11)

PERSONS EXEMPT FROM TAX

Persons not liable to pay tax on total income.—Any eligible person, mentioned in column B of the Table below, shall not be liable to pay income-tax on the total income for any tax year, subject to the conditions mentioned in column C of the said Table, and the expression used in columns B and C of the said Table, shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	Eligible persons	Conditions
A	B	C
1.	Any regimental Fund or Non-public Fund established by the armed forces of the Union.	Such Fund is for the welfare of the past and present members of the armed forces or their dependants.
2.	Any fund established for such purposes as may be notified by the Board for the welfare of employees or their dependants and such employees are members of such fund.	(a) Such fund— (i) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and (ii) invests its funds and contributions and other sums received by it in the forms or modes specified in section 350; (b) such fund is approved by the Principal Commissioner or Commissioner in such manner as prescribed; and such approval shall at any one time have effect for such tax year or years not exceeding three tax years as specified in the order of approval.
3.	Any fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st August, 1996 or any other insurer under a pension scheme.	(a) The contribution is made to such pension scheme by any person for the purpose of receiving pension from such fund; and (b) such scheme is approved by the Controller of Insurance or the Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
4.	An authority (whether known as the Khadi and Village Industries Board or by any other name).	Such authority is established in a State by or under a State Act or Provincial Act for the development of khadi or village industries in the State.

A	B	C
5.	Any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central Act or State Act or Provincial Act.	(a) Such body or authority provides for the administration of any one or more of public religious or charitable trusts or endowments (including mosques, temples, gurudwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies for religious or charitable purposes, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law; and (b) exclusion from total income as provided herein shall not be available to any trust, endowment or society referred to therein.
6.	SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th December, 1985 by the Charter of the South Asian Association for Regional Cooperation.	
7.	Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).	
8.	Central Electricity Regulatory Commission constituted under section 76(*1*) of the Electricity Act, 2003 (36 of 2003).	
9.	Prasar Bharati (Broadcasting Corporation of India) established section 3(*1*) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990).	
10.	The Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND).	
11.	The Prime Minister's Fund (Promotion of Folk Art).	
12.	The Prime Minister's Aid to Students Fund.	
13.	The National Foundation for Communal Harmony.	
14.	The Swachh Bharat Kosh, set up by the Central Government.	
15.	The Clean Ganga Fund set up by the Central Government.	

A	B	C
16.	The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in section 133(*1*)(*a*)(*xv*).	
17.	Any University or other educational institution wholly or substantially financed by the Government.	(a) It exists solely for educational purposes and not for purposes of profit; and (b) if the Government grant to such University or other educational institution exceeds such percentage of the total receipts including any donations, as prescribed, of such University or other educational institution, it shall be considered as being substantially financed by the Government during the relevant tax year.
18.	Any hospital or other institution wholly or substantially financed by the Government.	(a) It is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation; (b) it exists solely for philanthropic purposes and not for profit; and (c) if the Government grant to such hospital or other institution exceeds such percentage of the total receipts including any donations, as prescribed, of such hospital or other institution, it shall be considered as being substantially financed by the Government during the relevant tax year.
19.	(a) Any University or other educational institution; (b) any hospital or other institution.	(a) Such University or other educational institution exists solely for educational purposes and not for profit; (b) such hospital or other institution is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation; (c) such hospital or other institution exists solely for philanthropic purposes and not for profit; and (d) the aggregate of annual receipts of the person from such University or Universities or educational institution or institutions, as well as, from such hospital or hospitals or institution or institutions, does not exceed ₹ 5,00,00,000.

A	B	C
20.	A Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder.	
21.	Any Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India.	Such conditions as the Central Government may, by notification, specify.
22.	A recognised provident fund.	
23.	An approved superannuation fund.	
24.	An approved gratuity fund.	
25.	Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948).	
26.	Deposit-linked Insurance Fund established under section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).	
27.	Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948).	
28.	An agricultural produce market committee or board constituted under any law.	Such committee or board is constituted for the purpose of regulating the marketing of agricultural produce.
29.	A corporation established by a Central Act or State Act or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by the Government).	Such corporation or other body or institution or association has been established or formed for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes, or of any two, or all of them.
30.	A corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.	
31.	Any corporation established by a Central Act or State Act or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.	
32.	Any co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes, or both.	Membership of such co-operative society shall consist of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies.
33.	Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).	

A	B	C
34.	Rubber Board constituted under section 4(*1*) of the Rubber Board Act, 1947 (24 of 1947).	
35.	Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).	
36.	Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975).	
37.	Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972).	
38.	Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986).	
39.	Spices Board constituted under section 3(*1*) of the Spices Board Act, 1986 (10 of 1986).	
40.	Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953).	
41.	New Pension System Trust established on the 27th February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1882).	
42.	Any body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central Act or State Act with one or more of the following purposes,— (a) dealing with and satisfying the need for housing accommodation; (b) planning, development or improvement of cities, towns and villages; (c) regulating, or regulating and developing, any activity for the benefit of the general public; or (d) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.	Such body or authority or Board or Trust or Commission is notified by the Central Government.
43.	National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government.	
44.	A credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited.	

A	B	C
45.	Credit Guarantee Fund Trust for Micro and Small Enterprises, being a trust created by the Central Government and the Small Industries Development Bank of India established under section 3(*1*) of the Small Industries Development Bank of India Act, 1989 (39 of 1989).	
46.	An infrastructure debt fund.	Such fund is set up as per the guidelines issued by the Central Government, by notification.
47.	An institution established for financing the infrastructure and development set up under an Act of Parliament.	Such exclusion from total income is ten consecutive tax years, beginning from the tax year in which such institution is set up and such institution is notified by the Central Government.
48.	A developmental financing institution, licensed by the Reserve Bank of India under an Act of Parliament referred to against serial number 47.	(a) Such institution is notified by the Central Government; (b) exclusion of such income from the total income is for five consecutive tax years beginning from the tax year in which the developmental financing institution is set up; and (c) the Central Government may, by notification extend the period of exclusion for a further period, not exceeding five more consecutive tax years, subject to fulfilment of such conditions as specified in the said notification.

Note 1: For the purposes of Sl. No 3,—

"Controller of Insurance" shall have the same meaning as assigned to it in section 2(*5B*) of the Insurance Act, 1938 (4 of 1938).

Note 2: For the purposes of Sl. No 4,—

"khadi" and "village industries" shall have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956).

Note 3: For the purposes of Sl. No 21,—

"public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013).

Note 4: For the purposes of Sl. No 29,—

(a) Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in article 366(24) or (25) of the Constitution;

(b) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as notified by the Central Government or any State Government.

Note 5: For the purposes of Sl. No 30,—

"minority community" means a community notified as such by the Central Government.

Note 6: For the purposes of Sl. No 31,—

"ex-servicemen" means persons—

(i) who have served in any rank, whether as combatant or non-combatant;

(ii) in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army);

(iii) for a continuous period of not less than six months after attestation;

(iv) have been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency; and

(v) includes their wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-servicemen, immediately before their death or incapacitation, in case of deceased or incapacitated ex-servicemen.

SCHEDULE VIII

[*See* section 12]

INCOME NOT TO BE INCLUDED IN THE TOTAL INCOME OF POLITICAL PARTIES AND ELECTORAL TRUSTS

In computing the total income of a tax year of any eligible person, being a political party or an electoral trust, as mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table, shall have the meanings respectively assigned to them in the Note below the said Table:

Table

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
A	B	C	D
1.	Any income which is chargeable under the head "Income from house property" or "Income from other sources" or "Capital gains" or any income by way of voluntary contributions received from any person.	A political party registered under section 29**A(**)** of the Representation of the People Act, 1951 (43 of 1951)	(a) Such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom; (b) in respect of each such voluntary contribution other than contribution by way of electoral bond in excess of ₹ 20,000, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; (c) the accounts of such political party are audited by an accountant; (d) no donation exceeding ₹ 2,000 is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as prescribed or through electoral bond; (e) the treasurer of such political party or any other person authorised by that political party in this behalf submits a report under section 29C (*3*) of the Representation of the People Act, 1951 (43 of 1951) for such tax year; and (f) such political party furnishes a return of income for the tax year as per the provisions of section 263(*1*)(*a*)(*iii*) on or before the due date under that section.
2.	Any voluntary contributions received.	An electoral trust.	(a) Such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said tax year, 95% of the aggregate donations received by it during the said tax year along with the surplus, if any, brought forward from any earlier tax year; and (b) such electoral trust functions as per the rules made by the Central Government.

Note: For the purposes of this Schedule, "electoral bond" means a bond referred to in the Explanation to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934 (2 of 1934).

SCHEDULE IX

(*See* section 48)

DEDUCTION FOR TEA DEVELOPMENT ACCOUNT, COFFEE DEVELOPMENT ACCOUNT AND RUBBER DEVELOPMENT ACCOUNT FOR COMPUTING INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION"

1. Quantum of deduction.—(*1*) An assessee shall be allowed deduction of,—

(a) the amount or aggregate of the amounts deposited by the assessee in the account as specified in paragraph 2; or

(b) 40 % of the profits of such business computed under the head "Profits and gains of business or profession" before making any deduction under this paragraph,

whichever is less.

(2) The deduction shall be allowed before allowing set off of loss, if any, brought forward from earlier tax years as per section **(**)*112***.

(3) Any interest credited in the specified account shall be deemed to be a deposit.

2. Conditions for claiming deduction.—(*1*) The deduction under paragraph 1 shall be allowed if the assessee—

(a) is carrying on the business of growing and manufacturing tea or coffee or rubber in India during the tax year; and

(b) has***, before the expiry of six months from the end of the tax year or before the due date of furnishing the return of his income, whichever is earlier,*** deposited any amount in the specified account being,—

(i) a special account maintained with the National Bank in accordance with, and for the purposes specified in the special scheme; or

(ii) a deposit account in accordance with, and for the purposes specified in the deposit scheme;

(c) gets the accounts of such business for the relevant tax year audited by an accountant before the specified date referred to in section 63 and furnishes the audit report, in such form and manner as prescribed and verified by such accountant, by that date.

(2) Where the assessee is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of sub-paragraph (*1*)(*c*), if such person—

(a) gets the accounts of such business audited under such law before the specified date referred to in section 63; and

(b) furnishes by that date the report of such audit along with report by an accountant in the form referred to in sub-paragraph (*1*)(*c*).

(3) If any deduction has been allowed under paragraph 1 in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

(4) Where the assessee referred to in paragraph 1 is a firm or an association of persons or body of individuals, deduction under paragraph 1 shall not be allowed in computing the income of any of the partners or members of such assessee.

3. Withdrawal from special account or deposit account.—(*1*) Any amount standing to the credit of the assessee in the specified account shall not be allowed to be withdrawn except for the purpose specified in the special scheme or, in the deposit scheme, or in the circumstances specified below:—

(a) closure of business; or

(b) death of an assessee; or

(c) partition of a Hindu undivided family; or

(d) dissolution of a firm; or

(e) liquidation of a company.

(2) If any amount standing to the credit of the assessee in the specified account, is withdrawn during any tax year by the assessee in the circumstance referred to in sub-paragraph (*1*)(*a*) and (*1*)(*d*), the whole of such amount shall be deemed to be the profits and gains of business or profession of that tax year and shall accordingly be charged to income-tax for that tax year, as if the business had not been closed or, the firm had not been dissolved respectively.

(3) Irrespective of anything contained in sub-paragraph (*1*), if —

(a) any amount standing to the credit of the assessee in the specified account is released by the National Bank or withdrawn by the assessee from the Deposit account, during any tax year; and

(b) such amount is utilised for the purchase of specified articles or thing,

then whole of such amount so utilised shall be deemed to be the profits and gains of business of that tax year and shall accordingly be charged to income-tax for that tax year.

(4) If any amount standing to the credit of the assessee in the specified account which is—

(a) released by the National Bank; or

(b) withdrawn by the assessee from the deposit account,

during any tax year for utilisation for the purposes of such business as per the special scheme or deposit scheme and the same is not so utilised, either wholly or partly, within that tax year, such amount not so utilised shall be deemed to be the profits and gains of business of that tax year and shall accordingly be charged to income-tax for that tax year.

(5) The provisions of sub-paragraph (*4*) shall not apply in cases where amount is released during any tax year on closure of the account in circumstances referred to in sub-paragraph (*1*)(*b*), (*1*)(*c*) and (*1*)(*e*).

(6) In sub-paragraph (*3*), "specified article or thing" means—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one tax year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in Schedule XIII.

4. No deduction of expenditure met through the amount withdrawn from specified account.—If the amount standing to the credit of the assessee in specified account is utilised to incur any expenditure for the purpose of such business as per the special scheme or deposit scheme, no deduction against such expenditure shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

5. Sale or transfer of asset acquired as per special scheme or deposit scheme.—(1) Any asset,—

(a) which is acquired in accordance with the special scheme or the deposit scheme; and

(b) is sold or transferred to any person in the tax year at any time before expiry of eight years from the end of tax year in which such asset was acquired,

then, the part of cost of asset which is relatable to the deduction allowed under paragraph 1 shall be deemed to be the profits and gains of business of the tax year in which such asset is sold or transferred and shall accordingly be charged to income-tax for that tax year.

(2) The provisions of sub-paragraph (*1*) shall not apply, if the asset is sold or transferred—

(a) by the assessee to the specified person; or

(b) by a firm to a company in view of succession of business or profession of the firm by such company subject to the following conditions:—

(i) the provisions of specified scheme or deposit scheme is applicable to the company in the same manner as it applied to the firm;

(ii) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(iii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iv) all the shareholders of the company were partners of the firm immediately before the succession.

(3) In this paragraph, "specified person" means,—

(a) Government; or

(b) a local authority; or

(c) a corporation established by or under a Central, State or Provincial Act; or

(d) a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013).

6. Interpretation.—In this Schedule,—

(a) "Coffee Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(b) "deposit account" means an account opened by the assessee for making deposits by the assessee in accordance with and for the purposes specified in the deposit scheme;

(c) "deposit scheme" means the scheme made by the Tea Board or the Coffee Board or the Rubber Board, with the prior approval of the Central Government;

(d) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(e) "Rubber Board" means the Rubber Board constituted under section 4(*1*) of the Rubber Act, 1947 (34 of 1947);

(f) “Special account” means an account maintained by the assessee with the National Bank for making deposits in accordance with and for the purposes specified in the special scheme;

(g) “specified account” means a special account or a deposit account;

(h) “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).

SCHEDULE-X

(*See* section 49)

DEDUCTION FOR SITE RESTORATION FUND FOR COMPUTING INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION

1. Quantum of deduction.—(*1*) An assessee shall be allowed deduction of,—

(a) the amount or aggregate of the amount deposited by the assessee in the account maintained with the State Bank of India as specified in paragraph 2; or

(b) 20% of the profits of such business computed under the head "Profits and gains of business or profession" before making any deduction under this paragraph,

whichever is less.

(2) The deduction shall be allowed before allowing set off of loss, if any, brought forward from earlier tax years as per section 112.

(3) Any interest credited in the specified account shall be deemed to be a deposit.

2. Conditions for claiming deduction.—(*1*) Deduction under paragraph 1 shall be allowed if the assessee—

(a) is, during the tax year, carrying on the business consisting of the prospecting for, or extraction or production of, petroleum or natural gas, or both in India, and has entered into an agreement with the Central Government for such business;

(b) has, before the end of the tax year, deposited any amount in the specified account, being,—

(i) a special account in accordance with, and for the purposes specified in the special scheme; or

(ii) a site restoration account in accordance with, and for the purposes specified in the deposit scheme; and

(c) gets the accounts of such business for the relevant tax year audited by an accountant before the specified date referred to in section 63 and furnishes the audit report, in such form and manner, as prescribed and verified by such accountant, by that date.

(2) Where the assessee is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of sub-paragraph (*1*)(*c*), if such person—

(a) gets the accounts of such business audited under such law before the specified date referred to in section 63; and

(b) furnishes by that date the report of such audit along with report by an accountant in such form referred to in sub-paragraph (*1*)(*c*).

(3) If any deduction has been allowed under paragraph 1 in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

(4) Where the asseessee referred to in paragraph 1 is a firm or an association of persons or body of individuals, deduction under paragraph 1 shall not be allowed in computing the income of any of the partners or members of such assessee.

3. Withdrawal from specified account.—(*1*) Any amount standing to the credit of the assessee in the specified account shall not be allowed to be withdrawn except for the purposes specified in the special scheme or in the deposit scheme.

(*2*)(*a*) Irrespective of anything contained in sub-paragraph (*1*), if—

(i) any amount standing to the credit of the assessee in the specified account is released or withdrawn from the special account or the site restoration account, during any tax year; and

(ii) the amount is utilised for the purchase of specified articles or things,

then, whole of such amount so utilised shall be deemed to be the profits and gains of business of that tax year and shall accordingly be charged to income-tax for that tax year;

(b) for the purposes of this paragraph, "specified article or thing" means—

(i) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(ii) any office appliances (except computers);

(iii) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one tax year;

(iv) any new machinery or plant **to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of (**)** any **(**)** ***article or thing*** listed in the Schedule XIII.

(3) Where any amount standing to the credit of the assessee in specified account is withdrawn on closure of such account in any tax year, then the amount computed as under shall be deemed to be the profits and gains of business or profession for the tax year and accordingly the following sum shall be charged to income-tax for that tax year:

A = B-C

where,—

A = deemed profits and gains of business or profession of that tax year;

B = amount withdrawn from the specified account on its closure; and

C = amount, if any, payable to the Central Government by way of profit or production share as provided in agreement referred to in section 54.

(4) Where any amount is withdrawn on closure of specified account in a tax year in which the business of the assessee is no longer in existence, sub-paragraph (*3*) shall apply as if the business is in existence in that tax year.

(5) If any amount standing to the credited of the assessee in the specified account which is—

(a) released by the State Bank of India; or

(b) withdrawn by the assessee from the site restoration account,

during any tax year for utilisation for the purposes of such business as per the special scheme or deposit scheme and the same is not so utilised, either wholly or in part, shall be deemed to be the profits and gains of business of that tax year and accordingly be charged to income-tax for that tax year.

4. No deduction of expenditure met through amount withdrawn from specified account.—(*1*) If the amount standing credit to the assessee in the specified account is utilised to incur any expenditure for the purpose of business as per the special scheme or deposit scheme, no deduction against such expenditure shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(*2*) In this paragraph, "amount standing credit to the assessee in the specified account" includes interest to such accounts.

5. Sale or transfer of asset acquired as per special scheme or deposit scheme.—(1) Any asset,—

(a) which is acquired as per the special scheme or the deposit scheme; and

(b) sold or transferred to any person in the tax year at any time before the expiry of eight years from the end of tax year in which it was acquired,

then, the part of cost of asset as is relatable to the deduction allowed under paragraph 1 shall be deemed to be the profits and gains of business of the tax year in which such asset is sold or transferred and shall accordingly be charged to income-tax for that tax year.

(2) Sub-paragraph (*1*) shall not apply, if the asset is sold or transferred by—

(a) the assessee to the specified person; or

(b) a firm to a company in view of succession of business or profession of the firm by such company subject to the following conditions:—

(i) the provisions of special scheme or deposit scheme is applicable to the company in the same manner as it applied to the firm;

(ii) all the properties of the firm relating to the business or profession immediately before the succession becomes the properties of the company;

(iii) all the liabilities of the firm relating to the business or profession immediately before the succession becomes the liabilities of the company; and

(iv) all the shareholders of the company were partners of the firm immediately before the succession.

(3) In this paragraph, "specified person" means—

(a) Government; or

(b) a local authority; or

(c) a corporation established by or under a Central, State or Provincial Act; or

(d) a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013).

6. Interpretation.—For the purposes of this Schedule,—

(a) "amount standing to the credit of the assessee" pertaining to the specified account includes interest accrued to such accounts;

(b) "deposit scheme" means a scheme made in this behalf by the Ministry of Petroleum and Natural Gas;

(c) "specified account" means a special account or site restoration account;

(d) "special account" means an account maintained with the State Bank of India for making deposits in accordance with, and for the purposes specified in the special scheme;

(e) "special scheme" means a scheme approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas;

(f) "site restoration account" means an account opened by the assessee for making deposits in accordance with, and for the purposes specified in the deposit scheme;

(g) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955).

SCHEDULE XI

[*See* section 2(*91*)]

PART A

RECOGNISED PROVIDENT FUNDS

1. Application of Part.— This Part shall not apply to any provident fund to which the Provident Funds Act, 1925(19 of 1925), applies.

2. Definitions.—In this Part, unless the context otherwise requires,—

(a) "approving authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(b) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being—

(i) a Hindu undivided family, company, firm or other association of persons, or

(ii) an individual engaged in a business or profession, the profits and gains whereof are assessable to income-tax under the head "Profits and gains of business or profession";

(c) "employee" means an employee participating in a provident fund, excluding personal or domestic servant;

(d) "contribution" means any sum credited by or on behalf of any employee from his salary, or by an employer from his own funds, to the individual account of an employee, excluding any sum credited as interest;

(e) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time;

(f) "annual accretion", in relation to the balance to the credit of an employee means the yearly increase to such balance, from contributions and interest;

(g) "accumulated balance due to an employee" means the balance to his credit, or portion thereof claimable by the employee under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

(h) "regulations of a fund" means the specific regulations governing the constitution and administration of a particular provident fund; and

(i) "salary" includes dearness allowance, if provided for in the terms of employment, but excludes all other allowances and perquisites.

3. Recognition to provident fund and its withdrawal.—(*1*) The approving authority may grant recognition to a provident fund, which in his opinion, satisfies the conditions prescribed in paragraph 4 and the rules made by the Board in this regard and may, at any time, withdraw such recognition if, in his opinion, the provident fund violates any of those conditions

(2) An order granting recognition shall take effect on such date specified by the approving authority as per any rules made by Board in this behalf, such date not being later than the last day of the tax year in which the order is made.

(3) An order withdrawing recognition shall take effect from the date on which it is made.

(4) An order according recognition to a provident fund shall not, unless the approving authority otherwise directs, be affected by the fact that—

(a) the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained; or

(b) the fund subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.

4. Conditions to be satisfied by recognised provident funds.—In order to receive and retain recognition, a provident fund, shall, subject to the provisions of paragraph 5, satisfy the following conditions and any other conditions as prescribed —

(a) all employees shall be employed in India, or employed by an employer whose principal place of business is in India;

(b) the contributions of an employee in any year shall be a fixed proportion of his salary for that year, deducted by the employer from each periodical payment of salary in that proportion and credited to the employee's individual account in the fund;

(c) the employer's contributions to the employee's account in any year shall not exceed the employee's contribution in year, and shall be credited to the employee's account at intervals not exceeding one year;

(d) the fund shall be vested in two or more trustees or the Official Trustee under a trust which shall not be revocable, except with the consent of all the beneficiaries;

(e) the fund shall consist only of—

(i) contributions as specified above, received by the trustees;

(ii) accumulations thereof;

(iii) interest credited in respect of such contributions and accumulations;

(iv) securities purchased there with; and

(v) any capital gains arising from the transfer of capital assets of the fund;

(f) the fund shall be the fund of an establishment—

(i) to which the provisions of section 1(*3*) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply; or

(ii) notified by the Central Provident Fund Commissioner under section 1(*4*) of the said Act,

and such establishment shall be exempted from the operation of all or any of the provisions of any scheme mentioned in section 17 of the said Act;

(g) the employer, subject to clause (*h*), shall not be entitled to recover any sum from the fund, except when the employee—

(i) is dismissed for misconduct; or

(ii) voluntarily leaves his employment otherwise than due to ill-health or other unavoidable cause before the end of the term of service specified in the regulations of the fund;

(h) for the purposes of clause (*g*), the recovery made by the employer shall be limited to—

(i) the contributions made by him to the individual account of the employee;

(ii) interest credited in respect of such contributions as per the regulations of the fund; and

(iii) the accumulations thereof;

(i) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund;

(j) except as provided in clause (*i*) or as per conditions and restrictions prescribed, no portion of the balance to the credit of an employee shall be payable to him.

5. Relaxation of conditions.—(*1*) Irrespective of anything contained in paragraph 4(*a*), the approving authority may, if he thinks fit and subject to such conditions that he thinks proper to attach to such recognition, record recognition to a fund which is—

(a) maintained by an employer whose principal place of business is outside India; and

(b) the proportion of employees employed outside India does not exceed 10 %.

(2) Irrespective of anything contained in paragraph 4(*b*), an employee who retains his employment—

(a) while serving in the armed forces of the Union; or

(b) when taken into or employed in the national service under any law for the time being in force,

may, contribute to the fund during such service in the armed forces or employment in the national service, a sum not exceeding the amount he would have contributed had he continued to serve the employer, whether he received any salary or not from the employer.

(3) Irrespective of anything contained in paragraph 4(*e*) or paragraph 4(*i*),—

(a) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may agree to retain the whole or any part of the accumulated balance to be drawn by him at any time on demand;

(b) when the accumulated balance due to such employee is retained in the fund as per clause (*a*), the fund may also include interest in respect of such accumulated balance; and

(c) the fund may also consist of any amount and interest thereof transferred from the employee's individual account in any recognised provident fund maintained by his former employer.

(4) Subject to any rules made by the Board, the approving authority may relax the provisions of paragraph 4(c) for any particular fund,—

(a) to permit the payment of larger contributions by an employer to the employee's individual account whose salary does not exceed five hundred rupees per month; and

(b) to permit the employers to credit the employees' individual accounts with periodical bonuses or contributions of a contingent nature, when the calculation and payment of such bonuses or contributions is provided for on definite principles by the regulations of the fund.

(5) Irrespective of anything contained in paragraph 4(*j*), in order to allow an employee to pay the amount of tax assessed on his total income under paragraph 11(*4*), such employee shall be allowed to withdraw from the balance amount to his credit in the recognised provident fund, a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in paragraph 11(*2*) had not been included in the total income.

6. Employer's annual contributions, when deemed to be income received by employee.—The portion of the annual accretion in the tax year to the employee's balance in a recognised provident fund consisting of—

(a) contributions made by the employer exceeding 12% of the employee's salary; and

(b) interest credited on the balance to the credit of an employee in so far as it is allowed at a rate exceeding such rate as fixed by the Central Government by notification,

shall be deemed to have been received by the employee and included in his total income for that tax year and shall be liable to income tax.

7. Exemption for employee's contributions.—An employee participating in a recognised provident fund shall, in respect of his own contributions to his individual account in the fund in the tax year, be entitled to a deduction in the computation of his total income of an amount determined as per section 123.

8. Exclusion from total income of accumulated balance.—(1) Subject to the provisions of sub-paragraph (*2*), the accumulated balance due and payable to an employee shall be excluded from the computation of his total income—

(a) if the employee has rendered continuous service with his employer for five years or more;

(b) even if, the employee has not served continuously, the service was terminated due to—

(i) the employee's ill-health; or

(ii) by the contraction or closure of the employer's business; or

(iii) other cause beyond the control of the employee;

(c) if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer; or

(d) the entire balance standing to the employee's credit is transferred to his account under a pension scheme referred to in section 124 and notified by the Central Government;

(*2*) Where the accumulated balance due and payable to an employee includes any amount transferred from another recognised provident fund or funds of a previous employer or employers, the continuous service period for the purposes of sub-paragraph (*1*)(*a*) or (*g*) shall include the period or periods served under the aforesaid previous employer or employers.

9. Tax on accumulated balance.—Where the accumulated balance due to an employee is included in his total income owing to the provisions of paragraph 8 not being applicable, then—

(a) the Assessing Officer shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund; and

(b) the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other tax for which he may be liable for the tax year in which the accumulated balance due to him becomes payable.

10. Deduction at source of tax payable on accumulated balance.—In cases where paragraph 9 applies—

(a) the trustees of a recognised provident fund; or

(b) any person authorised by the regulations of the fund to make payment of accumulated balances due to employees,

shall deduct from the accumulated balance at the time of payment, the amount payable under the rule and the provisions of Chapter XIX-B shall apply as if the accumulated balance were income chargeable under the head "Salaries".

11. Treatment of balance in newly recognised provident fund.—(*1*) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect,—

(a) showing the balance to the credit of each employee on such day; and

(b) containing such further particulars as prescribed.

(2) The account shall also show in respect of balance to thecredit of each employee—

(a) the amount thereof to be transferred to the employee's account in the recognised provident fund (hereinafter called his transferred balance); and

(b) such "transferred balance" shall be shown as balance to his credit in the recognised provident fund on the date on which the recognition takes effect, and sub-paragraph (*4*) and paragraph 5(*5*) shall apply accordingly.

(3) Any part of the balance to the credit of each employee in the existing fund not transferred to the recognised fund shall be excluded from the recognised fund's account and shall be liable to income-tax as per the provisions of this Act, other than this Part.

(4) Subject to rules made by the Board in this behalf,—

(a) the Assessing Officer shall calculate the aggregate of all amounts in the transferred balance that would have been liable to income-tax if this Part had been in force since the fund's institution, without regard to any tax which may have been paid on any amount;

(b) the aggregate of amounts in a transferred balance, if any, shall be deemed to be income received by the employee in the tax year in which the recognition of the fund takes effect and shall be included in the employee's total income for that tax year;

(c) for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance.

(5) In cases of serious accounting difficulty, the approving authority may, subject to rules, make a summary calculation of the aggregate as provided in sub-paragraph (4).

(6) Nothing in this paragraph shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee prior to recognition, in any manner permitted by law.

12. Accounts of recognised provident funds.—(*1*) The accounts of a recognised provident fund shall be maintained by the trustees of the fund in such form, for such period, and contain such particulars, as prescribed.

(*2*) The accounts shall be available to inspection by the income-tax authorities at all reasonable times, and the trustees shall provide the Assessing Officer with the abstracts of such accounts as prescribed.

13. Appeals.—(*1*) An employer objecting to an order of the approving authority not granting recognition or withdrawing recognition from a provident fund may appeal to the Board, within sixty days of such order

(*2*) The appeal shall be in such form and verified in such manner, and subject to the payment of such fee as prescribed.

14. Treatment of fund transferred by employer to trustee.—(*1*) When an employer who maintains a provident fund, whether recognised or not, for the benefit of his employees and has not transferred the fund or portion of it, transfers such fund or portion to trustees in trust for the participating employees, the transferred amount shall be deemed to be of the nature of capital expenditure.

(*2*) When an employee receives the accumulated balance due to him from the fund, any portion of such balance representing the employee's share of the amount transferred to the trustees (without addition of interest and exclusive of employee's contributions and interest thereon) shall be deemed to be,—

(a) employer's expenditure under 34;

(b) incurred in the tax year in which the accumulated balance due to the employee is paid,

provided an arrangement for deduction of tax at source has been made from the amount of such share by the employer.

PART B

APPROVED SUPERANNUATION FUNDS AND GRATUITY FUNDS

1. Interpretation.—In this Part, unless the context otherwise requires, "approving authority", "employer", "employee", "contribution" and "salary", in relation to superannuation funds and gratuity funds shall have, the meanings as assigned to those expressions in paragraph 2(*a*), (*b*), (*c*), (*d*) and (*i*) of Part A in relation to provident funds.

2. According approval to superannuation fund and its withdrawal.—(*1*) The approving authority may grant approval to any superannuation fund or its part, or any gratuity fund, as the case may be, which in his opinion satisfies the conditions prescribed in paragraph 3, and may withdraw such approval at any time, if, in his opinion, the circumstances cease to warrant such approval.

(2) The approving authority shall inform the trustees of the fund, in writing, the grant of approval with the date on which the approval is to take effect and the conditions subject to which such approval is granted, if any.

(3) The approving authority shall inform the trustees of the fund, in writing, any withdrawal of approval along with the reasons and the date on which the withdrawal is to take effect.

(4) The approving authority shall not refuse or withdraw any approval without giving the trustees a reasonable opportunity of being heard.

3. Conditions for approval.—In order to receive and retain approval, a superannuation fund or a gratuity fund, as the case may be, shall satisfy the following conditions, and any other conditions as prescribed:—

(a) the fund shall be established under an irrevocable trust in connection with a trade or an undertaking carried on in India, with at least 90% employees employed in India;

(b) the sole purpose of the fund shall be to the provision of annuities or gratuity, as the case may be, for employees in the trade or undertaking—

(i) upon their retirement at or after a specified age;

(ii) upon incapacitation before retirement;

(iii) on termination of employment after a minimum period of service specified in the rules of the gratuity fund; or

(iv) for the widows, children or dependants of such employees on their death;

(c) the employer in the trade or undertaking shall contribute to the fund; and

(d) all annuities, pensions and other benefits, granted from the fund shall be payable only in India.

4. Application for approval.—(*1*) An application for approval of a superannuation fund or part of it, or any gratuity fund, as the case may be, shall be made in writing by the trustees to the Assessing Officer by whom the employer is assessable, and shall be accompanied by—

(a) a copy of the instrument establishing the fund and two copies of the rules thereof; and

(b) two copies of the accounts of the fund relating to such earlier year or years (not more than three years immediately preceding the year in which the said application is made) for which the accounts have been made up, if the fund has been in existence before the financial year in which the application for approval is made.

(2) In addition to the documents referred to in sub-paragraph (*1*), the approving authority may require such further information to be furnished as he thinks proper.

(3) If any alteration is made to the rules, constitution, objects or conditions of the fund after the date of the application for approval,—

(a) the trustees shall immediately inform such alterations to the Assessing Officer mentioned in sub-paragraph (*1*); and

(b) failure to inform such alterations may result in the approval given, if any, be deemed to be withdrawn from the date on which the alteration took effect, unless the approving authority orders otherwise.

5. Contributions by employer when deemed to be income of employer.—If a gratuity is paid to an employee during his lifetime, the gratuity shall be treated as salary paid to the employee for the purposes of this Act.

6. Amount deemed to be income of employer.—When contributions by an employer (including the interest, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of income-tax to be the income of the employer of the tax year in which they are so repaid.

7. Deduction of tax on contributions paid to an employee.—(*1*) When any contributions made by an employer to an approved superannuation fund, including interest are paid to an employee during his lifetime under conditions other than those specified in Schedule II (Table: Sl. No. 8), tax on the amounts so paid shall be deducted at the average rate of tax applicable to the employee—

(a) during the previous three years; or

(b) during the period for which the employee was a member of the fund, if the period is less than three years.

(*2*) The trustees shall pay the tax so deducted to the Central Government within the time and manner, as prescribed.

8. Deduction from pay of contributions on behalf of employee to be included in return.—When an employer deducts contributions from the emoluments of the employee or pays on his behalf any contribution to an approved superannuation fund, all such deductions or payments shall be included in the statement which is required under section 397(*3*)(*b*).

9. Appeal.—(*1*) An employer objecting to an order of the approving authority refusing to grant approval to a superannuation fund, or a gratuity fund, as the case may be, or withdrawing such approval may appeal to the Board within sixty days of such order.

(*2*) The appeal shall be in such form and verified in such manner and subject to the payment of such fee, as prescribed.

10. Liability of trustees on cessation of approval.—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part.

11. Liabilities of trustees.—If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees shall nevertheless remain liable to tax on any gratuity paid to any employee.

12. Particulars to be furnished in respect of superannuation funds.—The trustees of an approved superannuation fund or an approved gratuity fund and any employer who contributes to such a fund shall furnish such returns, statement, particulars or information, as required by notice from the Assessing Officer within the specified period, not being less than twenty-one days from the date of the notice.

PART C

POWER TO MAKE RULES FOR PROVIDENT FUNDS, SUPERANNUATION FUNDS AND GRATUITY FUNDS

1. Power of Board to make rules for fund.—In addition to powers granted by Part A and Part B of this Schedule, the Board may make rules for a fund (provident fund or superannuation fund or gratuity fund) in respect of the following:—

(a) to provide for the statements and information to be submitted along with an application for approval or recognition for a fund;

(b) to provide for the returns, statements, particulars, or information which the Assessing Officer may require from the trustees of an approved superannuation fund or from the employer;

(c) to limit the ordinary annual and other contributions of an employer to the gratuity fund or an approved superannuation fund;

(d) to limit the contributions to a recognised provident fund by employees who are shareholders in the company;

(e) to regulate investment or deposit of the moneys of a recognised or an approved fund, subject to the condition that no rule shall require more than 50% of the fund's money to be invested in Government securities as defined in section 2 of the Public Debt Act, 1944;

(f) to provide for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised or an approved fund;

(g) to determine the extent and manner of exemption from payment of tax on contributions and interest credited to the individual account of the employee in a provident fund from which recognition has been withdrawn;

(h) to determine the extent and manner of exemption from payment of tax on any payment made from a superannuation fund from which approval has been withdrawn;

(i) to provide for the withdrawal of the approval of a superannuation fund or gratuity fund, which ceases to satisfy the requirements of this Part or the rules made thereunder; and

(j) to carry out any other the purpose of this Part and to secure such further control over the recognition or approval of the funds and the administration of such funds as it may deem requisite.

2. Rules to be subject section 534.—All rules made under this Part shall be subject to section 534.

SCHEDULE XII

(*See* section 51)

PART A

MINERALS

1. Aluminium ores.

2. Apatite and phosphatic ores.

3. Beryl.

4. Chrome ore.

5. Coal and lignite.

6. Columbite, Samarskite and other minerals of the "rare earths" group.

7. Copper.

8. Gold.

9. Gypsum.

10. Iron ore.

11. Lead.

12. Manganese ore.

13. Molybdenum.

14. Nickel ores.

15. Platinum and other precious metals and their ores.

16. Pitchblende and other uranium ores.

17. Precious stones.

18. Rutile.

19. Silver.

20. Sulphur and its ores.

21. Tin.

22. Tungsten ores.

23. Uraniferous allanite, monazite and other thorium minerals.

24. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.

25. Vanadium ores.

26. Zinc.

27. Zircon.

PART B

GROUPS OF ASSOCIATED MINERALS

1. Apatite, Beryl, Cassiterite, Columbite, Emerald, Felspar, Lepidolite, Mica, Pitchblende, Quartz, Samarskite, Scheelite, Topaz, Tantalite, Tourmaline.

2. Iron, Manganese, Titanium, Vanadium and Nickel minerals.

3. Lead, Zinc, Copper, Cadmium, Arsenic, Antimony, Bismuth, Cobalt, Nickel, Molybdenum, and Uranium minerals, and Gold and Silver, Arsenopyrite, Chalcopyrite, Pyrite, Pyrrhotite and Pentlandite.

4. Chromium, Osmiridium, Platinum and Nickel minerals.

5. Kyanite, Sillimanite, Corundum, Dumortierite and Topaz.

6. Gold, Silver, Tellurium, Selenium and Pyrite.

7. Barytes, Fluorite, Chalcocite, Selenium, and minerals of Zinc, Lead and Silver.

8. Tin and Tungsten minerals.

9. Limestone, Dolomite and Magnesite.

10. Ilmenite, Monazite, Zircon, Rutile, Garnet and Sillimanite.

11. Sulphides of Copper and Iron.

12. Coal, Fire clay and Shale.

13. Magnetite and Apatite.

14. Magnesite and Chromite.

15. Talc (Soapstone and Steatite) and Dolomite.

16. Bauxite, Laterite, Aluminous Clays, Lithomarge, Titanium, Vanadium, Gallium and Columbium minerals.

SCHEDULE XIII

[*See* section 45(*2*)(*c*) and (*d*)]

LIST OF ARTICLES OR THINGS

1. Beer, wine and other alcoholic spirits.

2. Tobacco and tobacco preparations, such as, cigars and cheroots, cigarettes, biris, smoking mixtures for pipes and cigarettes, chewing tobacco and snuff.

3. Cosmetics and toilet preparations.

4. Tooth paste, dental cream, tooth powder and soap.

5. Aerated waters in the manufacture of which blended flavouring concentrates (including synthetic essence) in any form are used.

6. Confectionery and chocolates.

7. Gramophones, including record players, and gramophone records.

8. Projectors.

9. Photographic apparatus and goods.

10. Office machines and apparatus such as typewriters, calculating machines, cash registering machines, cheque writing machines, intercom machines and teleprinters including all machines and apparatus used in offices, shops, factories, workshops, educational institutions, railway stations, hotels and restaurants for doing office work and for data processing including calculating machines and calculating devices not being computers.

11. Steel furniture, whether made partly or wholly of steel.

12. Safes, strong boxes, cash and deed boxes and strong room doors.

13. Latex foam sponge and polyurethane foam.

14. Crown corks, or other fittings of cork, rubber, polyethylene or any other material.

15. Pilfer-proof caps for packaging or other fittings of cork, rubber, polyethylene or any other material.

SCHEDULE XIV

(*See* section 55)

INSURANCE BUSINESS

A.—Life insurance business

1. Profits of life insurance business to be computed separately.—If a person is engaged in life insurance business during the tax year, the profits and gains of such business shall be computed separately from profits and gains of any other business.

2. Computation of profits of life insurance business.—(*1*) The profits and gains from life insurance business shall be the annual average of the surplus after adjusting the surplus or deficit disclosed by the actuarial valuation made as per the Insurance Act, 1938 (4 of 1938) for the last inter-valuation period ending before the commencement of tax year, so as to exclude from it any surplus or deficit from any earlier inter-valuation period.

(*2*) Any expenditure which is inadmissible under section 34 in computing the profits and gains of a business, shall be added to such profits and gains of life insurance business.

3. Adjustment of tax paid by deduction at source.—When an assessment of the life insurance business profits is made based on the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax, payable for that year credit shall—

(a) not be given as per section **(**)** **390** for the income-tax paid in the preceding tax year;

(b) be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

B.—Other insurance business

4. Computation of profits and gains of other insurance business.—(*1*)The profits and gains of any insurance business other than life insurance shall be the profit before tax and appropriations as disclosed in the profit and loss account prepared as per the Insurance Act, 1938 (4 of 1938) or the rules made thereunder or the Insurance Regulatory and Development Authority Act, 1999 (4 of 1999) or the regulations made subject to the following adjustments:—

(a) any expenditure or allowance including any amount debited to profit and loss account either by way of a provision for any tax, dividend, reserve, or any other provision as prescribed, which is inadmissible under sections 28 to 54 shall be added back;

(b) gain or loss from realisation of investments shall be added or deducted, if not already credited or debited to the profit and loss account;

(c) provision for diminution in investment value debited to the profit and loss account, shall be added back; and

(d) such amount carried over to a reserve for unexpired risks as prescribed shall be allowed as a deduction.

(*2*) The amount payable under section 37, added under paragraph (*1*)(*a*) shall be allowed as deduction in the tax year in which it is actually paid.

C.—Other provisions

5. Profits and gains of non-resident person.—(*1*) The profits and gains of a non-resident person who is engaged in the insurance business through its branches in India may, in the absence of reliable data, be deemed to be that proportion of his global income which corresponds to the proportion the premium income derived from India bears to his total premium income.

(*2*) In this paragraph, the global income in relation to life insurance business of a person not resident in India shall be computed as per this Act for computing the profits and gains of life Insurance business carried on in India.

6. Interpretation.—(*1*) In this schedule,—

(a) "investments" includes securities, stocks and shares; and

(b) "life insurance business" means life insurance business as defined in section 2(*11*) of the Insurance Act, 1938 (4 of 1938).

(*2*) References of the Insurance Act, 1938 (4 of 1938) in this Schedule regarding the Life Insurance Corporation of India shall be treated as references to that Act or section 43 of the Life Insurance Corporation Act, 1956 (31 of 1956).

SCHEDULE XV

(*See* section 123)

DEDUCTION IN RESPECT OF LIFE INSURANCE PREMIA, CONTRIBUTION TO PROVIDENT FUND, SUBSCRIPTION TO CERTAIN EQUITY SHARES, ETC.

1. Sums qualifying as deduction.—The amounts paid or deposited in the tax year by the assessee, which qualify as deduction for the purpose of section 123 are—

(a) premium paid for a life insurance policy—

(i) in the case of an individual, on life of such individual, spouse of the individual and any child of the individual;

(ii) in the case of a Hindu undivided family, on life of any member of the Hindu undivided family,

subject to paragraph 2;

(b) sum paid under a deferred annuity contract other than the annuity plan referred to in clause (*l*) on life of the individual, spouse of the individual and any child of the individual, and such contract does not contain an option to receive cash payment *in lieu* of the annuity;

(c) sum deducted from salary payable by or on behalf of the Government to any individual for securing deferred annuity or making provision for his spouse or children, to the extent of 20% of salary;

(d) contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(e) contribution to an account with any provident fund, set up and notified by the Central Government, in the name of,—

(i) in the case of an individual, such individual, spouse of the individual and any child of the individual;

(ii) in the case of a Hindu undivided family, any member thereof;

(f) contribution by an employee to a recognised provident fund;

(g) contribution by an employee to an approved superannuation fund;

(h) subscription to any security or deposit scheme notified by the Central Government in the name of an individual or any girl child of that individual, or any girl child for whom such person is the legal guardian, if the scheme so specifies;

(i) subscription to savings certificate as mentioned in section 3(*k*) of the Government Savings Banks Act, 1873, (5 of 1873), as notified by the Central Government;

(j) contribution for participation in Unit-linked Insurance Plan, 1971 specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002),—

(i) in the case of an individual, in the name of such individual, spouse of the individual and any child of the individual;

(ii) in the case of a Hindu undivided family, in the name of any member thereof;

(k) contribution for participation in unit-linked insurance plan of Life Insurance Corporation Mutual Fund, referred to in Schedule VII (Table: Sl. No. 20 or 21), as notified by the Central Government,—

(i) in the case of an individual, in the name of such individual, spouse of the individual and any child of the individual;

(ii) in the case of a Hindu undivided family, in the name of any member thereof;

(l) sum paid towards contract for annuity plan of the Life Insurance Corporation or any other insurer notified by the Central Government;

(m) subscription to any units of—

(i) any Mutual Fund referred to in serial number 20 or 21 of the Table in Schedule VII; or

(ii) the Administrator; or

(iii) the specified company,

under any plan formulated as per such scheme notified by the Central Government;

(n) contribution by an individual to any pension fund set up by—

(i) any Mutual Fund referred to in Schedule VII (Table: Sl. No. 20 or 21); or

(ii) the Administrator; or

(iii) the specified company,

as notified by the Central Government;

(o) subscription to a deposit scheme or contribution to a pension fund, set up by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), as notified by the Central Government;

(p) subscription to any deposit schemes of—

(i) a public sector company engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(ii) an authority constituted in India by any law, for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as notified by the Central Government;

(q) tuition fees (excluding any development fees or donation or payment of similar nature) paid by an individual to any University, college, school or other educational institution situated in India (at the time of admission or thereafter), for full time education of any two children of such individual;

(r) payment made for purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the own residence of the assessee, have been chargeable to tax under that head), subject to satisfaction of conditions laid down in paragraph 3;

(s) term deposit for a fixed period of not less than five years with a scheduled bank, and which is as per such scheme framed and notified by the Central Government;

(t) subscription to bonds issued by the National Bank for Agriculture and Rural Development, as notified by the Central Government;

(u) deposit in an account under the Senior Citizen Savings Scheme Rules, 2004;

(v) five years term deposit in an account under the Post Office Time Deposit Rules, 1981;

(w) contribution by an employee of the Central Government to an additional account referred to in section 20(*3*) of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) of the pension scheme notified by the Central Government,—

(a) for a fixed period of not less than three years; and

(b) which is as per the scheme as notified by the Central Government for the purposes of this clause;

(x) contribution made from income chargeable to tax to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII (Table: Sl. No. 3);

(y) contribution made by an individual to a pension scheme notified by the Central Government, to the extent of—

(i) 10% of salary, including dearness allowance, if the terms of employment so provide, but excluding all other allowances and perquisites, during the tax year in the case of an employee of the Central Government or any other employer; or

(ii) 20% of gross total income during the tax year in the case of any other individual;

(z) subscription to—

(i) equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form;

(ii) any units of any mutual fund referred to in Schedule VII (Table: Sl. No. 20 or 21) and approved by the Board on an application made by such mutual fund in the prescribed form and if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

2. Payment on insurance policy.—(*1*) The deductions shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity,—

(a) as is up to 20% of the actual capital sum assured, in respect of a policy issued on or before the 31st March, 2012;

(b) as is up to 10% of the actual capital sum assured, in respect of a policy issued on or after the 1st April, 2012;

(c) as is up to 15% of the actual capital sum assured, if the policy is issued on or after the 1st April, 2013 and where such policy covers the life of,—

(i) a person with a disability or severe disability as referred to in section 154; or

(ii) a person suffering from a disease or ailment specified in the rules made under section 128.

(*2*) In this paragraph, "actual capital sum assured" shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account—

(a) the value of any premiums agreed to be returned; or

(b) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

3. Payments made for purchase or construction of residential house property.—The deduction in respect of amount spent for purchase or construction of a residential house property as provided in paragraph 1(*r*) shall—

(a) include payments that are made towards or by way of—

(i) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(ii) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(iii) repayment of the amount borrowed by the assessee from—

(A) the Central Government or any State Government; or

(B) any bank, including a co-operative bank; or

(C) the Life Insurance Corporation; or

(D) the National Housing Bank; or

(E) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under section 32(*e*); or

(F) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses; or

(G) the employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central Act or State Act; or

(H) the employer of the assessee where such employer is a public company or a public sector company or a University established by law or a college affiliated to such University or a local authority or a co-operative society; or

(iv) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee;

(b) not include any payment towards or by way of—

(i) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(ii) the cost of any addition or alteration to, or renovation or repair of, the house property, which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue it, or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf, or been let out; or.

(iii) any expenditure in respect of which deduction is allowable under section 22.

4. Withdrawal of deduction and taxation of deduction already allowed.—The deductions in the nature of payments specified in column B of the Table below shall not be allowable in the tax year in which the conditions specified in column C of the said Table are fulfilled, and the aggregate amount of the deductions allowed thus far in the preceding tax year or tax years shall be deemed to be the income of the assessee and liable to tax in such tax year..

Table

Sl. No.	Nature of payment	Conditions for disallowance of the deduction in respect of payment provided in column B
A	B	C
1.	Premium paid for a life insurance policy.	Where the assessee terminates his contract of, by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,— (a) in case of any single premium policy, within two years after the date of commencement of insurance; or (b) in any other case, before premiums have been paid for two years.
2.	(a) Contribution for participation in the Unit-Linked Insurance Plan, 1971; (b) contribution for participation in the unit-linked insurance plan of Life Insurance Corporation Mutual Fund.	Where the assessee terminates his participation in such plan, by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years.
3.	Certain payments made for purchase or construction of residential house property.	Where the assessee— (a) transfers the house property before the expiry of five years from the end of the tax year in which possession of such property is obtained by him; or (b) receives back, whether by way of refund or otherwise, any sum specified in that clause.
4.	Certain payments for subscription to any equity shares or debentures forming part of any eligible issue of capital by a public company or by any public financial institution and approved by Board.	(a) Where the assessee sells or otherwise transfers to any person at any time within a period of three years from the date of their acquisition; and (b) such shares or debentures shall be treated as having acquired by the person on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

5. Taxation of receipts where deduction already allowed.—Where deductions in the nature of payments specified in column B of the Table below have been allowed, and the conditions specified in column C of the said Table are fulfilled in any tax year, the amounts received shall be taxed in such tax year in the manner as provided in column D of the said Table.

Table

Sl No.	Nature of payment	Condition for taxation	Manner and amount of taxation in the tax year in which condition in column C is fulfilled.
A	B	C	D
1.	(*a*) Deposit in an account under the Senior Citizen Savings Scheme Rules, 2004 (*b*) five year term deposit in an account under the Post Office Time Deposit Rules, 1981.	If any amount, including interest accrued, in respect of the account provided in column B, is withdrawn by the assessee, before the expiry of the period of five years from the date of its deposit.	(a) The amount so withdrawn shall be deemed to be the income of the assessee of the tax year in which the amount is withdrawn and shall be liable to tax in the said year; (b) the amount liable to tax, as referred in clause (*a*), shall not include the following amounts:— (i) any amount of interest, which has been included in the total income of the assessee of the tax year or years preceding such tax year; and (ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the tax year or years preceding such tax year.
2.	Contribution to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII (Table: Sl. No. 3).	Where any amount standing to the credit of the assessee in the pension fund, in respect of which a deduction has been allowed, together with the interest or bonus accrued or credited to the of the assessee account, if any, is received by the assessee or his nominee,— (a) on account of the surrender of the annuity plan whether in whole or in part, in any tax year; or	An amount equal to the whole of the amount referred to in column C (*a*) or (*b*) shall be deemed to be the income of the assessee or his nominee, in the tax year in which such withdrawal is made or, pension is received, and shall be liable to tax in the said year.

A	B	C	D
		(b) as pension received from the annuity plan.	
3.	Contribution by an individual to a pension scheme notified by the Central Government.	Where any amount standing to the credit of the assessee in the pension scheme, in respect of which a deduction has been allowed, together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any tax year, and if such amount is not used for purchasing an annuity plan in the same year— (*a*) on account of closure or his opting out of the pension scheme (except when received by the nominee on the death of the assessee); or (*b*) as pension received from the annuity plan purchased or taken on such closure or opting out.	The whole of the amount referred to in column C (*a*) or (*b*) shall be deemed to be the income of the assessee or his nominee, in the tax year in which such amount is received, and shall be liable to tax in the said year.

6. Interpretation.—In this Schedule,—

(a) "Administrator" means the Administrator as referred to in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(b) "contribution" to any fund shall not include any sums in repayment of loan;

(c) "insurance" shall include,—

(i) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date irrespective that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(ii) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(d) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(e) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(f) "security" means a Government security as defined in section 2(*2*) of the Public Debt Act, 1944 (18 of **(**) 1944**);

(g) "specified company" means a company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(h) "transfer" shall be deemed to include also the transactions referred to in section 269UA(*f*) of the Income-tax Act, 1961 (43 of 1961);

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in section **(**) 138**;

(j) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013).

SCHEDULE XVI

(*See* section 350)

PERMITTED MODES OF INVESTMENT OR DEPOSITS

FORMS OR MODES OF INVESTMENT OR DEPOSITS BY A CHARITABLE OR RELIGIOUS TRUST OR INSTITUTION

1. The modes of investing or depositing the money referred to in section 350 shall be the following:—

(1) investment in savings certificates as defined in section 2(*c*) of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(2) deposit in any account with the Post Office Savings Bank;

(3) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

(4) investment in units of the Unit Trust of India;

(5) investment in any security for money created and issued by the Central Government or a State Government;

(6) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(7) investment or deposit in any public sector company subject to the condition that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(a) such investment made in the shares of such company shall be deemed to be an investment made under this clause for three years from the date on which such public sector company ceases to be a public sector company;

(b) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(8) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under section 32(*e*);

(9) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under section 32(*e*);

(10) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India;

(11) investment in immovable property;

(12) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(13) investment in the units issued under any scheme of the mutual fund referred to in Schedule VII (Table: Sl. No.20) or (Table: Sl. No.21);

(14) any transfer of deposits to the Public Account of India;

(15) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(16) investment by way of acquiring equity shares of a depository as defined in section 2(*1*)(*e*) of the Depositories Act, 1996 (22 of 1996);

(17) investment made by a recognised stock exchange referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter referred to as investor) in the equity share capital of a company (hereafter referred to as investee)—

(a) which is engaged in dealing with securities or mainly associated with the securities market;

(b) whose main object is to acquire the membership of another recognised stock exchange for the sole purpose of facilitating the members of the investor to trade on the said stock exchange through the investee as per the directions or guidelines issued under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by the Securities and Exchange Board of India established under section 3 of that Act; and

(c) in which at least 51% of equity shares are held by the investor and the balance equity shares are held by members of such investor;

(18) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), in the equity share capital or bonds or debentures of a company—

(a) which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the Reserve Bank of India for this purpose; and

(b) in which at least 51% of equity shares are held by National Payments Corporation of India;

(19) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), in the equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd, being a company incorporated under section 7(*2*) read with section 8(*1*) of the Companies Act, 2013 (18 of 2013), for participating in network based open protocol models which enable digital commerce and interoperable digital payments in India;

(20) investment by way of acquiring equity shares of an incubatee by an incubator;

(21) investment by way of acquiring shares of National Skill Development Corporation;

(22) investment in debt instruments issued by any infrastructure Finance Company registered with the Reserve Bank of India;

(23) investment in "Stock Certificate" as defined in clause (*c*) of paragraph 2 of the Sovereign Gold Bonds Scheme, 2015, published in the Official Gazette *vide* notification number G.S.R. 827(*E*), dated the 30th October, 2015;

(24) investment by way of Acquiring Units of Powergrid Infrastructure Investment Trust;

(25) shares in a public sector company;

(26) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st June, 1973;

(27) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st June, 1998, where it was approved at that time under the provisions of section 10(*23C*) of the Income-tax Act, 1961 (43 of1961);

(28) any accretion to the shares, forming part of the corpus mentioned in clause (*1*) or (*2*), by way of bonus shares allotted to the trust or institution;

(29) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st March, 1983;

(30) any asset, not being an investment or deposit in any of the forms or modes specified in clause (*1*), where such asset is not so held after the expiry of one year from the end of the tax year in which such asset is acquired;

(31) any funds representing the profits and gains of business, being profits and gains of any tax year relevant to the tax year commencing on the 1st April, 1984 or any subsequent tax year so, however, where it has any other income in addition to profits and gains of business, these provisions shall not apply unless it maintains separate books of account in respect of such business;

(32) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification specify;

2. Interpretation- In this schedule,—

(a) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(c) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(d) "Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(e) "incubatee" shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;

(f) "incubator" shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as notified by the Government of India in the Ministry of Science and Technology.

STATEMENT OF OBJECTS AND REASONS

The Income-tax Act passed in 1961 has been subjected to numerous amendments since its passage sixty years ago. As a result of these amendments the basic structure of the Income-tax Act has been overburdened and language has become complex, increasing cost of compliance for taxpayers and hampering efficiency of direct-tax administration. Tax administrators, practitioners and taxpayers have also raised concerns about the complicated provisions and structure of the Income-tax Act.

Therefore, the Government in the budget in July 2024 announced that a time bound comprehensive review of the Income-tax Act, 1961 would be undertaken to make the Act concise, lucid, easy to read and understand. Accordingly, the Income-tax Bill, 2025 has been prepared which proposes to repeal and replace the Income-tax Act, 1961.

The Notes on clauses explain in detail the various provisions contained in the Bill.

NEW DELHI;
The 8*th February*, 2025.

NIRMALA SITHARAMAN.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 370134/18/2025 - TPL dated 10 February 2025 from Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Income-tax Bill, 2025, recommends the introduction and consideration of the Bill in Lok Sabha under article 117(1) and (3), read with clause (1) of article 274 of the Constitution.

Clause 1 of the Bill provides for the short title, extent and commencement of the proposed legislation.

Clause 2 of the Bill provides for definition of various terms and expressions used in the proposed legislation.

Clause 3 of the Bill provides for definition of "tax year".

Clause 4 of the Bill provides for charge of income-tax.

Clause 5 of the Bill defines the scope of total income for a person who is a resident or a non-resident in India.

Clause 6 of the Bill seeks to provide for the conditions for determining the residential status of a person in India.

Clause 7 of the Bill seeks to deal with income deemed to be received.

Clause 8 of the Bill provides for income on receipt of capital asset or stock in trade by specified person from specified entity.

Clause 9 of the Bill provides for income deemed to accrue or arise in India, including those from a business connection and provides the source rule for income from Interest, dividend, royalty, fee for technical services, transfer of a capital asset situated in India, etc.

Clause 10 of the Bill deals with apportionment of income between spouses governed by Portuguese Civil Code.

Clause 11 of the Bill seeks to provide for incomes not included in total income and, *inter alia*, provides for details of certain income enumerated in Schedules II, III, IV, V and VI which are not to be included in computing the total income of any person for a tax year. It also deals with certain persons enumerated in Schedule VII who are not chargeable to tax under the proposed legislation for a tax year.

Clause 12 of the Bill provides for income not to be included in total income of political parties and electoral trust enumerated in Schedule VIII which are not to be included in computing their total income for a tax year.

Clause 13 of the Bill provides for classification under various heads of income for the purposes of charge of income-tax and computation of total income.

Clause 14 of the Bill provides for disallowance of certain expenditure incurred in relation to income which does not form part of the total income and expenditure in relation to such income.

Clause 15 of the Bill provides for under the head salaries.

Clause 16 of the Bill provides for different payments made by an employer to an employee which may be taxed under this head of income which include wages, annuity or pension, gratuity, commission, perquisites, profits in lieu of salary, leave encashment, etc.

Clause 17 of the Bill provides for exclusion of certain benefits from the definition of perquisites.

Clause 18 of the Bill seeks to define different payments in the nature of "profits in lieu of salary" and also seeks to specify the payments that are not to be regarded as "profits in lieu of salary".

Clause 19 of the Bill provides for deductions available against salary income. It also seeks to provide for calculation of the eligible amount of deduction with the help of formula.

Clause 20 of the Bill provides for the charge of income-tax under the head "Income from house property" on the annual value of property consisting of any buildings or lands appurtenant thereto.

Clause 21 of the Bill provides for determination of annual value and also seeks to define the annual value of property.

Clause 22 of the Bill provides for deductions from income from house property.

Clause 23 of the Bill provides for taxability of arrears or unrealised rent received subsequently irrespective of ownership of the property in tax year.

Clause 24 of the Bill provides for taxability of co-owners of the property with definite and ascertainable shares.

Clause 25 of the Bill provides for interpretation relating to Chapter IV-C and definition of an "owner" in relation to a property.

Clause 26 of the Bill seeks to provide charging of income-tax on income under the head "Profits and gains of business or profession". It further seeks to provide inclusive definition of income under the head "Profits and gains of business or profession".

Clause 27 of the Bill provides for the manner of computing income under the head "Profits and gains of business or profession".

Clause 28 of the Bill provides for deduction for expenses on account of rent, repairs, insurance premium, local taxes, etc.

Clause 29 of the Bill seeks to provide the deduction related to employee welfare including contribution to various funds, etc., that need to be allowed while computing the income under the head "Profits and gains of business or profession".

Clauses 30 to 32 of the Bill provides for deduction on expenditure incurred towards insurance premium relating to destruction of stock, provision for bad debts, written off, bonus, commission paid to employees, interest paid on borrowed capital.

Clause 33 of the Bill provides for deduction in respect of tangible and intangible assets owned and used for the purposes of business.

Clause 34 of the Bill provides for general conditions for allowing expenditure (other than capital and personal expenditure) incurred wholly and exclusively for the purposes of business or profession being carried on by assessee.

Clauses 35 and 36 of the Bill provides for amounts not to be allowed while computing the income under the head "Profit and gains of business or profession".

Clause 37 of the Bill provides for certain deductions allowed on certain expenditures which is to be made only on actual payment basis.

Clause 38 of the Bill provides for certain sums that are liable to be deemed as profit and gains of business or profession where the sums have been earlier allowed as expenditure or deduction for the purpose of computation of income.

Clause 39 of the Bill provides for certain definitions such as actual cost, written down value, speculative transactions, etc.

Clause 40 of the Bill provides for special provision for computation of cost of acquisition of certain assets.

Clause 41 of the Bill provides for written down value of depreciable asset and, inter alia, provides certain definitions such as actual cost, written down value, speculative transactions, etc.

Clauses 42 and 43 of the Bill provide for capitalising the impact of foreign exchange fluctuation and taxation of foreign exchange fluctuation at the time of acquisition of assets and payments therefor in foreign currency by appropriately adding or reducing the quantum of variation in such liability. The said clauses further provide for treating profits or loss on account of fluctuation in exchange rate.

Clause 44 of the Bill provides for amortisation of certain preliminary expenses insured by specified businesses before commencement of such businesses.

Clause 45 of the Bill provides for deduction of certain capital expenditure (other than cost of land) or revenue expenditure incurred for scientific research.

Clause 46 of the Bill provides for deduction of certain capital expenditure of specified business incurred subject to fulfilment of certain conditions.

Clause 47 of the Bill provides for deduction of expenses incurred for agricultural extension projects and skill development projects.

Clauses 48 and 49 of the Bill provide for tea development account, coffee development account and rubber development account and Site Restoration Fund which, *inter alia,* seek to deal with deduction of deposits in tea, coffee or rubber development accounts by the assessee or site restoration account engaged in prospecting or extracting or producing petroleum or natural gas or both.

Clause 50 of the Bill provides for deduction in the case of specified associations for the interest and welfare of members of such association when there is a shortfall in expenditure for the welfare of its members with reference to contributions by its members.

Clause 51 of the Bill provides for amortisation of expenditure for prospecting certain minerals.

Clause 52 of the Bill provides for amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme of voluntary retirement, etc., and deductions for spectrum or license fee paid in the telecommunication business.

Clause 53 of the Bill provides for full value of consideration for transfer of assets other than capital assets in certain cases and for adoption of stamp duty value as full value of consideration at the time of transfer of assets (other than capital assets) in specific cases.

Clause 54 of the Bill provides for deduction of certain capital expenditure expenses incurred in business of prospecting for mineral oils

Clause 55 of the Bill provides for the manner of computation of profits or gains in cases of insurance business.

Clause 56 of the Bill provides for computation of interest income of specified financial institutions.

Clause 57 of the Bill provides for revenue recognition for construction and service contracts.

Clause 58 of the Bill provides for special provision for computing profits and gains of business of profession on presumptive basis in case of certain residents.

Clause 59 of the Bill provides for chargeability of royalty and fee for technical services in hands of non-residents.

Clause 60 of the Bill seeks to provide the manner for computation for allowing the deduction of head office expenditure in case of non-residents.

Clause 61 of the Bill provides for special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents

Clause 62 of the Bill provides for maintenance of books of accounts and seeks to deal with maintenance of books of account.

Clause 63 of the Bill provides for tax audit and also provides for auditing of books account by specified accountant under certain conditions.

Clause 64 of the Bill provides for facilitating payments in electronic modes.

Clause 65 of the Bill provides for special provision for computing deductions in case of business reorganisation of co-operative banks.

Clause 66 of the Bill provides for interpretation of Chapter IV-D which deals with various definitions related to income under the head “Profit and gains of business or profession”.

Clause 67 of the Bill provides for capital gains and also seeks to provide the chargeability of Income-tax under the head “Capital gains” for various kinds of transfer of capital assets.

Clause 68 of the Bill provides for capital gains on distribution of assets by companies in liquidation.

Clause 69 of the Bill provides for capital gains arising to shareholders or holders of specified securities, when a company purchases its own shares or specified securities.

Clause 70 of the Bill provides for delineation all the transactions which will not be regarded as transfer of capital asset for taxation as capital gains.

Clause 71 of the Bill provides for conditions wherein exemption from taxation as capital gains are withdrawn.

Clause 72 of the Bill provides for mode of computation of capital gains.

Clause 73 of the Bill provides for the cost of acquisition of the asset with reference to certain modes of acquisition.

Clause 74 of the Bill provides for special provision for computation of capital gains in case of depreciable assets. The said clause seeks to tabulate the methodology for arriving at the cost of acquisition for different capital assets.

Clause 75 of the Bill provides for computation of capital gains with respect to assets that are depreciable, as well as the provision for their cost of acquisition.

Clause 76 of the Bill provides for special provision for computation of capital gains in case of Market Linked Debenture.

Clause 77 of the Bill provides for the computation of capital gains in the scenario of a slump sale of a capital asset.

Clauses 78 and 79 of the Bill provide for special provision for full value of consideration in certain cases and special provision for full value of consideration for transfer of share other than quoted share, respectively.

Clause 80 of the Bill provides for the fair market value shall be deemed to the full value of consideration as a result of transfer of a capital asset by an assessee where the consideration is not ascertainable or cannot be determined.

Clause 81 of the Bill provides for advance money received regarding the transfer of a capital asset.

Clause 82 of the Bill provides for the capital gains arising from profits on sale of residential properties.

Clause 83 of the Bill provides for capital gains on transfer of land used for agricultural purposes not to be charged in certain cases.

Clause 84 of the Bill provides for capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases.

Clause 85 of the Bill provides for capital gains not to be charged on investment in certain specific bonds.

Clause 86 of the Bill provides for non-chargeability of capital gains in specific scenarios of investment in residential house.

Clauses 87 and 88 of the Bill provide for exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area and exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

Clause 89 of the Bill provides for scenarios for extension of time for acquiring new assets or depositing or investing amounts, with respect to capital gains.

Clause 90 of the Bill provides for meaning of “adjusted”, “cost of improvement” and “cost of acquisition” and also seeks to delineate the meaning of terms and expressions with respect to capital gains.

Clause 91 of the Bill provides for reference to Valuation Officer for ascertaining the fair market value of a capital asset.

Clause 92 of the Bill provides for a non-exhaustive list of the incomes which are chargeable to tax under the head “Income from other sources”.

Clause 93 of the Bill provides for deductions for eligible expenses for computing the taxable income under the head “Income from other sources”.

Clause 94 of the Bill seeks to enumerate the deductions that are allowable to be set off against incomes referred to in clause 92.

Clause 95 of the Bill seeks to propose that any benefit in cash or otherwise obtained on account of remission or cessation of any liability, for which a deduction has been allowed in an earlier year, shall be taxable in the year in which the benefit has been obtained.

Clause 96 of the Bill seeks to provide that the income which is transferred to any other person without the transfer of the assets from which such income arises shall be clubbed in the income of the transferor but not the transferee (person to whom such income has been transferred).

Clause 97 of the Bill seeks to propose that the provisions relating to the clubbing of income in the hands of transferor and transferee in case where transfer of assets is revocable and the transfer of assets is irrevocable for a specified period.

Clause 98 of the Bill provides for definitions of the expressions "Transfer" and "revocable transfer".

Clause 99 of the Bill provides for clubbing of income which means adding or including the income of another person (mostly family members) to one's own income.

Clause 100 of the Bill provides for the tax liability of the person in respect of the income which is included in the income of any other person.

Clause 101 of the Bill provides that in computing the total income of an assessee, there shall be included all income on which no income-tax is payable under sub-part 4 of part A of Chapter XVII.

Clause 102 of the Bill provides for the circumstances or conditions in which any sum found credited in the books of account maintained by the assessee shall be considered as unexplained credits and be included in the total income of the assessee.

Clause 103 of the Bill provides for unexplained investment. It also seeks to provide the circumstances or conditions in which any investment made by the assessee shall be deemed as unexplained investment and be included in the total income of the assessee.

Clause 104 of the Bill provides for the circumstances or conditions in which any asset owned by or belonging to the assessee shall be deemed as unexplained asset and be included in the total income of the assessee.

Clause 105 of the Bill provides for the circumstances or conditions in which any expenditure incurred by the assessee shall be deemed to be unexplained expenditure and be included in the total income of the assessee.

Clause 106 of the Bill seeks to provide that where any amount is borrowed on a hundi and other instruments like hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount.

Clause 107 of the Bill seeks to provide that income referred to in clauses 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of clause 195.

Clause 108 of the Bill provides for set off of losses under the same head of income in the manner specified therein.

Clause 109 of the Bill provides for set off of losses under any other head of income in the manner provided therein.

Clause 110 of the Bill provides for carry forward and set off of loss against income from house property.

Clause 111 of the Bill provides for carry forward and set off of loss from capital gains and seeks to provide for carry forward and set off of loss from capital gains. The said clause further defines "unabsorbed capital loss" for this purpose.

Clause 112 of the Bill provides for carry forward and set off of business loss. It further defines the expression "unabsorbed business loss".

Clause 113 of the Bill provides for set off and carry forward of losses from speculation business and provides for set off and carry forward of losses from speculation business. It also defines the expressions "speculation business" and "unabsorbed speculation business loss".

Clause 114 of the Bill provides for set off and carry forward of losses from specified business. The said clause also defines the expressions "specified business" and "unabsorbed loss from the specified business".

Clause 115 of the Bill seeks to provide for set off and carry forward of losses from specified activity.

Clause 116 of the Bill seeks to provide for carry forward and set off of losses and unabsorbed depreciation in case of specified business amalgamation.

Clause 117 of the Bill provides that in a case of amalgamation the accumulated loss and depreciation of amalgamating entity shall be deemed to be loss and depreciation of amalgamated entity specified therein.

Clause 118 of the Bill seeks to provide for carry forward and set off of losses and unabsorbed depreciation in business reorganisation of co-operative banks.

Clause 119 of the Bill provides for carry forward and set off of losses not permissible in certain cases and also provides that subject to certain conditions specified therein, carry forward and set off of losses shall not be permissible in cases including constitution of firm and on succession of a business or profession by another person in such capacity or shall be permissible in case of change in shareholding of a company.

Clause 120 of the Bill seeks to provide that no set off of loss or unabsorbed depreciation shall be allowed against undisclosed income, consequent to search, requisition and survey.

Clause 121 of the Bill provides for submission of return for losses and also that no loss shall be carried forward and set off which has not been determined in pursuance of a return filed.

Clause 122 of the Bill provides for the statutory compliance requirements, time limits and overall limits for claiming the deductions enumerated in Chapter VIII to eligible.

Clause 123 of the Bill provides for deduction for insurance premia, deferred annuity, contributions to provident fund, etc. and to provide deduction to an assessee being an individual or Hindu undivided family in respect of payments made on account of insurance premia, deferred annuity, contribution to provident fund etc. specified in the relevant proposed Schedule.

Clause 124 of the Bill seeks to provide for deduction in respect of employer contribution to pension scheme of Central Government.

Clause 125 of the Bill seeks to provide for deduction in respect of contribution to *Agnipath* Scheme.

Clause 126 of the Bill seeks to provide for deduction in respect of health insurance premia.

Clause 127 of the Bill seeks to provide for deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

Clause 128 of the Bill seeks to provide for deduction in respect of medical treatment, etc.

Clause 129 of the Bill seeks to provide for deduction in respect of interest on loan taken for higher education.

Clause 130 of the Bill seeks to provide for deduction in respect of interest on loan taken for certain house property.

Clause 131 of the Bill provides for deduction in respect of interest on loan taken for certain house property and to provide for deduction in respect of interest on loan taken for certain house property in case of an individual to whom clause 130 is not applicable.

Clause 132 of the Bill seeks to provide for deduction in respect of purchase of electric vehicle.

Clause 133 of the Bill seeks to provide for deduction in respect of donations to certain funds, charitable institutions, etc.

Clause 134 of the Bill seeks to provide that deduction to an assessee being an individual in respect of any expenditure incurred by him towards payment of rent for any accommodation occupied by him for the purpose of his own residence.

Clause 135 of the Bill seeks to provide for deduction in respect of certain donations for scientific research or rural development.

Clause 136 of the Bill seeks to provide for deduction in respect of contributions given by companies to political parties.

Clause 137 of the Bill seeks to provide for deduction in respect of contributions given by any person to political parties.

Clause 138 of the Bill seeks to provide for deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Clause 139 of the Bill seeks to provide for deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

Clause 140 of the Bill seeks to provide deduction to eligible start up in respect of profits and gains of eligible businesses, which have high potential of employment generation, subject to certain conditions specified therein.

Clause 141 of the Bill provides for deduction in respect of profits and gains from certain industrial undertakings and provides for deduction for industrial undertakings in North-eastern region and also in respect of undertakings promoting housing projects.

Clause 142 of the Bill provides for deductions in respect of profits and gains of business of developing and building housing projects.

Clause 143 of the Bill provides for special provisions in respect of profits and gains of certain undertakings with respect to production of eligible article or things in North-Eastern States.

Clause 144 of the Bill provides for deduction in respect of profits and gains of newly established units in Special Economic Zones.

Clause 145 of the Bill seeks to provide for deduction for businesses engaged in collecting and processing of bio-degradable waste.

Clause 146 of the Bill provides for deduction in respect of additional employee cost and deduction in respect of additional employee cost in certain cases for specified period and shall be subject to conditions specified therein.

Clause 147 of the Bill provides for deductions for income of Offshore Banking Units and Units of International Financial Services Centre. The said clause also seeks to provide for deductions for income of Offshore Banking Units and Units of International Financial Services Centre.

Clause 148 of the Bill seeks to provide for deduction in respect of certain inter-corporate dividends.

Clause 149 of the Bill seeks to provide for deduction in respect of income of co-operative societies.

Clause 150 of the Bill seeks to provide for deduction in respect of certain income of Producer Companies.

Clause 151 of the Bill provides for deduction in respect of royalty income, etc., of authors of certain books other than text-books.

Clause 152 of the Bill provides for deduction in respect of royalty on patents.

Clause 153 of the Bill provides for certain deduction for interest on savings account deposits (excluding time deposits) for individuals and Hindu undivided families.

Clause 154 of the Bill provides for deduction in case of a person with disability and to provide for deduction for an individual resident who is certified by a medical authority as a person with disability or severe disability.

Clause 155 of the Bill seeks to provide for rebate to be allowed in computing income-tax.

Clause 156 of the Bill seeks to provide for rebate of income-tax in case of certain individuals.

Clause 157 of the Bill seeks to provide for relief when salary, etc, is paid in arrears or in advance.

Clause 158 of the Bill seeks to provide for relief from taxation in income from retirement benefit account maintained in a notified country.

Clause 159 of the Bill provides for agreement with foreign countries or specified territories and adoption by the Central Government of agreement between specified associations for double taxation relief. It also seeks to provide for double taxation relief where the Central Government has entered into an agreement with other countries. The said clause further provides for exchange of information for the prevention of evasion, avoidance and recovery of income-tax.

Clause 160 of the Bill seeks to provide for deduction from the Indian income-tax payable by a person who has paid tax outside India in a country with which no agreement exists in respect of his income which accrued or arose during that tax year outside India.

Clause 161 of the Bill provides for computation of income from international transaction and specified domestic transaction having regard to arm's length price.

Clause 162 of the Bill seeks to define the expression "associated enterprise".

Clause 163 of the Bill seeks to define the expression "international transaction".

Clause 164 of the Bill seeks to define the expression "specified domestic transaction".

Clause 165 of the Bill provides for determination of arm's length price and the methods for determining the arm's length price.

Clause 166 of the Bill provides for referral of cases by the Assessing Officer to the Transfer Pricing Officer for determining the arm's length price.

Clause 167 of the Bill provides for power of Board to make safe harbour rules to simplify compliance and reduce litigation.

Clause 168 of the Bill provides for advance pricing agreement between the taxpayer and the tax authorities to pre-determine the arm's length price for specified transactions.

Clause 169 of the Bill, *inter alia*, seeks to provide for giving effect to advance pricing agreement entered into by an assessee and consequential procedures.

Clause 170 of the Bill provides for secondary adjustment in certain cases to ensure that the actual allocation of profits between the associated enterprises aligns with the arm's length price.

Clause 171 of the Bill provides for maintenance, keeping and furnishing of information and document by certain persons and documents by entities involved in international or specified domestic transactions.

Clause 172 of the Bill provides for report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction.

Clause 173 of the Bill provides for definitions of certain terms relevant to determination of arm's length price, etc.

Clause 174 of the Bill provides for avoidance of income-tax by transactions resulting in transfer of income to non-residents also that the income arising of such transaction be deemed to be income.

Clause 175 of the Bill provides for avoidance of tax by certain transactions in securities arising from such securities for such year shall be deemed to be the income of persons specified therein.

Clause 176 of the Bill seeks to provide for special measures in respect of transactions with persons located in notified jurisdictional area.

Clause 177 of the Bill seeks to provide for limitation on interest deduction in certain cases.

Clause 178 of the Bill provides for the framework for the applicability of General Anti-Avoidance Rule.

Clause 179 of the Bill seeks to define impermissible avoidance arrangements under the General Anti-Avoidance Rule.

Clause 180 of the Bill seeks to outline the conditions under which an arrangement shall be deemed to lack commercial substance.

Clause 181 of the Bill provides for consequences of impermissible avoidance arrangement under the General Anti-Avoidance Rule.

Clause 182 of the Bill provides for treatment of connected person and accommodating party under the General Anti-Avoidance Rule.

Clause 183 of the Bill seeks to provide for the applicability of General Anti-Avoidance Rule.

Clause 184 of the Bill seeks to provide for definition of General Anti-Avoidance Rule.

Clause 185 of the Bill seeks to provide, *inter alia*, for restrictions on taking or accepting loan, deposit and specified sum in cash with certain exceptions.

Clause 186 of the Bill provides, *inter alia*, for restriction on receiving an amount of rupees two lakh and above in the modes other than the modes specified therein.

Clause 187 of the Bill seeks to provide for accepting payment through prescribed electronic modes.

Clause 188 of the Bill provides, *inter alia*, for restrictions on repayment of certain loans, deposit or specified advance in cash with certain exceptions.

Clause 189 of the Bill seeks to provide for definitions of certain expressions which, *inter alia*, includes banking company, specified sum, etc.

Clause 190 of the Bill provides for the mode of computation of total income if it includes any income on which no income tax is payable.

Clause 191 of the Bill seeks to provide for tax on accumulated balance of recognised provident fund.

Clause 192 of the Bill provides for the tax liability on the total income in search cases.

Clause 193 of the Bill provides for, *inter alia*, for special rates of tax on resident individuals employed by an entity engaged in a specified knowledge-based industry or services on income from Global Depository Receipts.

Clause 194 of the Bill provides for taxation of earnings from lotteries, cross word puzzles, horse race, card games, online games, income from transfer of virtual digital assets. The said clause further provides for a concessional tax rate on royalty income on patents earned by a resident, income on transfer of carbon credits and profits and gains from insurance business.

Clause 195 of the Bill provides for tax on certain income referred to in clauses 102 to 106.

Clause 196 of the Bill provides for taxation of short-term capital gains in case of a transfer of short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust subject to certain conditions.

Clause 197 of the Bill provides for taxation of long-term capital gains where the capital gains arise from the transfer of a long-term capital asset (other than an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust).

Clause 198 of the Bill provides for taxation of long-term capital gains where the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust.

Clause 199 of the Bill provides for beneficial rate of tax on manufacturing companies subject to satisfaction of certain conditions.

Clause 200 of the Bill provides for the (optional) concessional tax rate applicable to companies other than those covered under clauses 199 and 201, if they do not claim specific deductions. The said clause further provides for the manner of opting, method of computing the income and also implications for Unit in the International Financial Services Centre.

Clause 201 of the Bill provides for an incentivized tax rate on income of new manufacturing domestic companies subject to satisfaction of certain conditions.

Clause 202 of the Bill provides for a simplified tax regime for individuals, Hindu undivided families and other specified persons.

Clause 203 of the Bill provides for the (optional) concessional tax rate applicable to co-operative societies other than those covered under clause 204, if they do not claim specific deductions.

Clause 204 of the Bill provides for an incentivized tax rate of 15% on the manufacturing income of new manufacturing co-operative societies subject to satisfaction of certain conditions.

Clause 205 of the Bill provides for the conditions for the concessional rate of taxes applicable under clauses 199, 200, 201, 203 and 204.

Clause 206 of the Bill provides for provisions relating to taxation on book profits and deals with minimum alternate tax and alternate minimum tax.

Clause 207 of the Bill provides special rates of taxes for non-residents on certain types of income (like dividends, interest, distributed income, income in respect of units, royalties and fees for technical services).

Clause 208 of the Bill provides for special rates of taxes for offshore funds on investments made in foreign currency.

Clause 209 of the Bill provides for special rates of taxes for non-residents on Global Depository Receipts including income by way of interest, dividend and income on transfer of such Global Depository Receipts.

Clause 210 of the Bill provides for special rates of tax on income earned by Foreign Institutions Investors including dividend and interest on securities and capital gains on transfer of their securities.

Clause 211 of the Bill provides for special rates of tax on non-residents sportsmen or sports associations with respect to certain incomes earned in India.

Clause 212 of the Bill provides for Interpretation relating to Chapter XIII-E. The said clause seeks to provide the definitions of certain terms for the purposes of clauses 213 to 218.

Clause 213 of the Bill provides for the method of computing the taxable income for non-resident Indians.

Clause 214 of the Bill provides for the special rates of taxes on investment income and long terms capital gains earned by non-resident Indians.

Clause 215 of the Bill provides for the non-taxation of long term capital gains earned by non-resident Indians, if they make specific investment(s).

Clause 216 of the Bill provides for the exemption from filing of the return of income of non-resident Indians, if certain conditions are satisfied.

Clause 217 of the Bill provides for the optional grandfathering of the taxation of income from investments made by a non-resident Indian if he becomes a resident at a later year.

Clause 218 of the Bill provides for the method for opting out of the provisions of the clauses 212 to 217.

Clause 219 of the Bill provides for relaxation from capital gains tax and entitlement to carry forward losses, etc., when an Indian branch of a foreign bank is converted into an Indian company.

Clause 220 of the Bill provides for the implications where a foreign company is said to be a resident in India.

Clause 221 of the Bill provides for special taxation regime for income from a securitization trust earned by its investors.

Clause 222 of the Bill seeks to provide for tax on income in case of venture capital undertakings.

Clause 223 of the Bill provides for special taxation regime for Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 and Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 and their unit holders.

Clause 224 of the Bill provides for special taxation regime for income of investment fund and its unit holders.

Clause 225 of the Bill seeks to provide for income from the business of operating qualifying ships and the option to tax payers to opt for the scheme of tonnage tax.

Clause 226 of the Bill seeks to provide for tonnage tax scheme and defines that a company operating ships and giving the manner of computation of income under tonnage tax scheme for a tonnage tax company for its tonnage income.

Clause 227 of the Bill seeks to provide for computation of tonnage income.

Clause 228 of the Bill seeks to provide for relevant shipping income and exclusion from book profit.

Clause 229 of the Bill provides for manner of calculation of depreciation along with treatment of capital gains in case of the transfer of capital asset forming part of qualifying assets as well as treatment given to the written down value of the qualifying assets and other assets whenever they are moved between the qualifying and non- qualifying businesses.

Clause 230 of the Bill seeks to provide for general exclusion of losses, deductions and set off including the accrued losses incurred or claimed prior to opting of tonnage tax scheme by the company.

Clause 231 of the Bill seeks to provide for the method of opting of tonnage tax scheme and validity.

Clause 232 of the Bill seeks to provide for certain conditions for applicability of tonnage tax scheme.

Clause 233 of the Bill seeks to provide for continuance of and validity of the scheme in the case of amalgamation and demerger.

Clause 234 of the Bill seeks to provide for avoidance of tax and exclusion from tonnage tax scheme in case of abuse of the provisions by way of any arrangement made to avail tax advantage.

Clause 235 of the Bill provides for definition of certain terms relating to tonnage tax scheme.

Clause 236 of the Bill provides for various classes of income-tax authorities beginning from, the Central Board of Direct Taxes and up to Inspectors of Income-tax.

Clause 237 of the Bill seeks to provide for the appointment of income-tax authorities by the Central Government by framing rules and orders for regulating conditions of service and to authorise the Board or subordinate authorities, to appoint income-tax authorities below the rank of a Deputy or Assistant Commissioner and also other executive or ministerial staff.

Clause 238 of the Bill provides for the income-tax authorities to be subordinate to another income-tax authorities as per the notification issued by the Board.

Clause 239 of the Bill provides for the power of the Board to issue orders, instructions and directions to other income-tax authorities.

Clause 240 of the Bill empowers the Board towards administration of Charter for Taxpayers.

Clause 241 of the Bill provides for the power and performance of the income-tax authorities in accordance with such directions as the Board may issue or by other income-tax authorities as specified by the Board.

Clause 242 of the Bill provides for jurisdiction of Assessing Officers over an area.

Clause 243 of the Bill provides for the power of the specified income-tax authority to transfer any case from one Assessing Officer to another Assessing Officer.

Clause 244 of the Bill provides for the jurisdiction of the succeeding income-tax authority to continue with any proceeding from the stage at which his predecessor has left.

Clause 245 of the Bill seeks to provide for the faceless jurisdiction of the income-tax authorities who will exercise all powers and performance assigned leading to greater efficiency, transparency and accountability among other things.

Clause 246 of the Bill seeks to provide for powers of income tax authorities regarding discovery or production of evidence etc. as are vested in court under Code of Civil Procedure, 1908 in respect of specified matters.

Clause 247 of the Bill provides for dealing with powers and procedures relating to search and seizure under the proposed legislation.

Clause 248 of the Bill provides for powers to requisition books of account, etc., which have been taken into custody by any officer or authority under any other law.

Clause 249 of the Bill provides for reasons for search and seizure not to be disclosed.

Clause 250 of the Bill seeks to provide for application of seized or requisitioned assets under the provisions of the proposed legislation.

Clause 251 of the Bill seeks to provide for authority and procedures to deal with books of accounts and documents seized or requisitioned under clauses 247 and 248 of the proposed legislation and provides time limitations for their retention by the authorities concerned.

Clause 252 of the Bill provides for power to call for information of the income-tax authorities to call for information.

Clause 253 of the Bill provides for powers of survey, i.e., entry into business premises of an assessee, restrictions imposed in exercises of this power and duties of the assesses during survey action.

Clause 254 of the Bill seeks to provide for powers of authorities to collect certain information which may be useful, or relevant to the purposes of the proposed legislation.

Clause 255 of the Bill seeks to provide for power to inspect registers of companies by income-tax authorities.

Clause 256 of the Bill seeks to provide for the powers of Assessing Officer under the proposed legislation in relation to making enquiries to competent authority, i.e., higher authorities.

Clause 257 of the Bill provides to treat proceedings before the income-tax authorities at par with the judicial proceedings.

Clause 258 of the Bill provides for restrictions on disclosure of information in respect of assessees by income-tax authorities.

Clause 259 of the Bill provides the power of income-tax authority to call for information by prescribed income-tax authority.

Clause 260 of the Bill empowers the Board to make any scheme by notification for faceless collection of information under certain clauses.

Clause 261 of the Bill provides for definitions of various expressions used in this Chapter XIV.

Clause 262 of the Bill seeks to provide for obtaining and quoting of Permanent Account Number and linking of Aadhar Number to Permanent Account Number.

Clause 263 of the Bill provides for obligation of persons to file return of income and timelines for filing of return of income.

Clause 264 of the Bill seeks to provide for scheme for submission of return through Tax Return Preparer.

Clause 265 of the Bill seeks to provide for verification of returns of income by assessee and the persons competent to verify the returns of income.

Clause 266 of the Bill provides for payment of tax together with interest and fee while filing return of income.

Clause 267 of the Bill provides for payment of self-assessment tax on updated return along with the interest and fee payable.

Clause 268 of the Bill seeks to provide for inquiry before assessment, to call for statement of all assets and liabilities and making a reference for special audit.

Clause 269 of the Bill seeks to provide for making a reference by Assessing Officer to a Valuation Officer to estimate the fair market value of any asset, property or investment.

Clause 270 of the Bill seeks to provide for processing of returns filed and the powers to make *prima facie* adjustments and also selecting returns for the assessment.

Clause 271 of the Bill seeks to provide for completion of assessment to the best of judgment of the assessing officer.

Clause 272 of the Bill empowers the Joint Commissioner to issue directions to the assessing officer during assessment proceedings.

Clause 273 of the Bill seeks to provide for faceless assessment of eligible cases assigned by National Faceless Assessment Centre to a specific Assessment Unit through an automated allocation system.

Clause 274 of the Bill seeks to provide for making a reference by Assessing Officer to the Principal Commissioner or Commissioner during the course of pending assessments or reassessments to declare an arrangement as an impermissible tax avoidance arrangement and determining the consequences of such an alignment.

Clause 275 of the Bill provides for scheme for reference to the Dispute Resolution Panel.

Clause 276 of the Bill seeks to provide for method of accounting to be followed for computation of income under the heads "Profits and gains of business or profession" and "Income from Other sources".

Clause 277 of the Bill seeks to provide for valuation of inventory and securities as per income computation and disclosure standards.

Clause 278 of the Bill seeks to provide for taxability of interest, compensation or enhanced compensation and escalation claims in respect of contract or export incentives.

Clause 279 of the Bill seeks to provide for assessment of any income chargeable to tax which has escaped assessment.

Clause 280 of the Bill seeks to provide for issue of notice where income has escaped assessment.

Clause 281 of the Bill seeks to provide for procedure to be followed before issuance of notice under clause 280.

Clause 282 of the Bill provides for time limit for notices in the cases of income escaping assessment.

Clause 283 of the Bill seeks to provide provision for cases where assessment is in pursuance of an order on appeal, directions from approving panel.

Clause 284 of the Bill provides for sanction for issue of notice in cases of income escaping assessment.

Clause 285 of the Bill provides for other provisions pertaining to assessment or re-assessment or re-computation made.

Clause 286 of the Bill provides for time limits for completion of assessment, re-assessment and re-computation in various situations.

Clause 287 of the Bill provides for rectifying any mistake apparent on the face of the record by amending orders passed by an income-tax Authority under the provisions of the proposed legislation.

Clause 288 of the Bill provides for time limits for passing of rectification orders in certain cases.

Clause 289 of the Bill provides for notice of demand payable (tax, interest, penalty, fine or any other sum).

Clause 290 of the Bill provides for modification and revision of demand notice issued in certain cases.

Clause 291 of the Bill seeks to provide for intimation of loss the purposes of carrying forward and set-off of such losses.

Clause 292 of the Bill provides for scheme of block assessment in a search case.

Clause 293 of the Bill provides for computation of total income of block period in search cases.

Clause 294 of the Bill seeks to provide procedure for block assessment.

Clause 295 of the Bill seeks to provide for procedure for block assessment of any other person in search cases.

Clause 296 of the Bill seeks to provide time limit for completion of block assessment.

Clause 297 of the Bill seeks to provide that certain interests and penalties not to be imposed in case of assessment of search cases.

Clause 298 of the Bill seeks to provide for levy of interest and penalty in search cases.

Clause 299 of the Bill seeks to provide authorities competent to make assessments of block period.

Clause 300 of the Bill provides for saving clause with respect to application of other provisions of the Act.

Clause 301 of the Bill provides for interpretation of various expressions related to assessment of search cases.

Clause 302 of the Bill provides for tax liability of the legal representative in the event of the demise of the assessee.

Clause 303 of the Bill explains the concept of representative assessee for the income of a non-resident or trust or minor, lunatic or idiot, etc.

Clause 304 of the Bill provides for the responsibility of the representative assessee and taxation of income received in the capacity of representative assessee.

Clause 305 of the Bill deals with the rights of the representative assessee to recover the taxes paid by him in his capacity as representative assessee.

Clause 306 of the Bill seeks to deal with persons to act as an agent in relation to a non-resident.

Clause 307 of the Bill seeks to provide for the charge of tax of certain representative assesses in a situation where the share of the beneficiaries is unknown or indeterminate.

Clause 308 of the Bill provides for charge of tax in case of oral trust.

Clause 309 of the Bill seeks to provide for the method of computing a member's share in income of association of persons or body of individuals.

Clause 310 of the Bill deals with share of member of an association of persons or body of individuals in income of association or body.

Clause 311 of the Bill seeks to provide for charge of tax in the hands of the association of persons or body of individuals where shares of members in such association or body is either known or unknown, represented in the form of a table.

Clause 312 of the Bill seeks to provide for the chargeability of tax on the income of the estate of the deceased in the hands of the Executor and the right of the executor to recover the tax paid.

Clause 313 of the Bill seeks to deal with the assessment of the income and the taxability of the same pertaining to a business in which there is a succession otherwise than a death.

Clause 314 of the Bill seeks to deal with effect of order of tribunal or court in respect of business reorganisation in cases where either proceeding is pending or an assessment is completed.

Clause 315 of the Bill seeks to deal with assessment of the income of a Hindu undivided family where a partition has taken place and the joint and several liability of the members of such family.

Clause 316 of the Bill provides for levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

Clause 317 of the Bill provides for taxability of income of any individual who may leave India.

Clause 318 of the Bill seeks to provide for the taxation of the income of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose and likely to be dissolved soon after that event.

Clause 319 of the Bill provides for assessment of the income of persons who are likely to transfer any property with a view to avoiding payment of any liability under the proposed legislation.

Clause 320 of the Bill seeks to provide for accelerated assessment in cases of discontinuance of business or profession in any year.

Clause 321 of the Bill seeks to provide for chargeability of any liability under the proposed legislation in cases of discontinuance of business or profession or dissolution of an association of persons.

Clause 322 of the Bill provides for the procedures to be followed by companies in liquidation and the responsibilities of the liquidator

Clause 323 of the Bill seeks to provide for the liability of the directors of a private company on tax and other dues as per the provisions of this Bill.

Clause 324 of the Bill seeks to provide for the charge of tax in case of a firm.

Clause 325 of the Bill deals with the provisions of assessment of a partnership firm including compliances to certain conditions.

Clause 326 of the Bill deals with consequences in the assessment of a partnership firm in case of non-compliance to the conditions made by rules.

Clause 327 of the Bill seeks to provide for assessment of a partnership firm in cases where there is a change in constitution of the firm.

Clause 328 of the Bill provides for taxation in the hands of the predecessor and successor in the case of succession of one firm by another firm.

Clause 329 of the Bill seeks to provide for joint and several liability of partners for tax payable by firm.

Clause 330 of the Bill seeks to provide for assessment and liability in the hands of the firm even after its dissolution or discontinuance of the business.

Clause 331 of the Bill provides for joint and several liability of partners of a limited liability partnership in liquidation.

Clause 332 of the Bill provides for provisions related to registration of non-profit organisation.

Clause 333 of the Bill seeks to provide provision related to switching over of regimes by a registered non-profit organisation .

Clause 334 of the Bill seeks to provide taxability of income of a registered non-profit organisation.

Clause 335 of the Bill provides the meaning of regular income of a registered non-profit organisation .

Clause 336 of the Bill seeks to deal with the taxable regular income of a registered non-profit organisation.

Clause 337 of the Bill provides for the provisions related to specified income of a registered non-profit organisation.

Clause 338 of the Bill seeks to provide for the provisions related to income not to be included in regular income of a registered non-profit organisation.

Clause 339 of the Bill provides for the meaning of corpus donation of a registered non-profit organisation.

Clause 340 of the Bill provides for the provision related to deemed corpus donation of a registered non-profit organisation.

Clause 341 of the Bill provides for the provision related to application of income of a registered non-profit organisation.

Clause 342 of the Bill seeks to provide the provision related to accumulated income of a registered non-profit organisation.

Clause 343 of the Bill provides for the provisions related to deemed accumulated income of a registered non-profit organisation.

Clause 344 of the Bill seeks to provide for the provisions related to business undertaking held as property of a registered non-profit organisation.

Clause 345 of the Bill seeks to provide the provision related to restriction on commercial activities of a registered non-profit organisation.

Clause 346 of the Bill seeks to provide for the provisions relating to restriction on commercial activities of a registered non-profit organisation which has advancement of any other object of general public utility as any of its objects.

Clause 347 of the Bill provides for provision related to books of account of a registered non-profit organisation.

Clause 348 of the Bill seeks to provide the provision related to audit of a registered non-profit organisation.

Clause 349 of the Bill seeks to provide the provision related to return of income of a registered non-profit organisation.

Clause 350 of the Bill seeks to provide provision related to permitted modes of investment.

Clause 351 of the Bill seeks to provide provisions related to specified violation of a registered non-profit organisation.

Clause 352 of the Bill seeks to provide provision related to tax on accreted income of a registered non-profit organisation.

Clause 353 of the Bill seeks to provide provision related to other violations of a registered non-profit organisation.

Clause 354 of the Bill seeks to provide provisions related to approval for purpose of exemption on donation.

Clause 355 of the Bill seeks to provide the meaning of different terms used in this Chapter.

Clause 356 of the Bill seeks to provide for appeals to Joint Commissioner (Appeals) against certain orders.

Clause 357 of the Bill seeks to provide for appeals to Commissioner (Appeals) against certain orders.

Clause 358 of the Bill seeks to provide for form of appeal and limitation.

Clause 359 of the Bill seeks to provide for procedure in appeal.

Clause 360 of the Bill deal with the powers of Joint Commissioner (Appeals) and the Commissioner (Appeals).

Clause 361 of the Billprovides for constitution of Income tax Appellate Tribunal.

Clause 362 of the Bill seeks to provide for appeals to the Income tax Appellate Tribunal.

Clause 363 of the Bill seeks to provide for the orders passed by the Income tax Appellate Tribunal.

Clause 364 of the Bill seeks to provide for the powers and functions of the Income tax Appellate Tribunal.

Clause 365 of the Bill seeks to provide for appeals to the High Court.

Clause 366 of the Bill provide for appeals to the High Court to be heard by not less than two Judges.

Clause 367 of the Bill seeks to provide for appeals to Supreme Court.

Clause 368 of the Bill seeks to provide for hearing before the Supreme Court.

Clause 369 of the Bill seeks to provide that tax to be paid irrespective of filing of appeal before High Court or Supreme Court.

Clause 370 of the Bill seeks to provide for execution for costs awarded by Supreme Court.

Clause 371 of the Bill provides for amendment of assessment on account of appeal in certain cases.

Clause 372 of the Bill seeks to provide for exclusion of time taken to obtain copy of the order.

Clause 373 of the Bill seeks to provide for filing of appeals by income tax authority and empowers Board to issue instructions from time to time.

Clause 374 of the Bill provides for the definition of "High Court" for the purpose of filing of appeal under this Chapter.

Clause 375 of the Bill provides for procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

Clause 376 of the Bill seeks to prescribe procedure where an identical question of law is pending before High Courts or Supreme Court.

Clause 377 of the Bill provides for revision of orders prejudicial to Revenue by Principal Commissioner or Commissioner.

Clause 378 of the Bill seeks to provide for revision of orders in certain cases which are not prejudicial to revenue.

Clause 379 of the Bill provides for constitution of Dispute Resolution Committee to resolve disputes in certain cases.

Clause 380 of the Bill seeks to define certain expressions used in the context of Advance Rulings.

Clause 381 of the Bill provides for constitution of Board for Advance Rulings.

Clause 382 of the Bill seeks to deal with proceedings in case of vacancies in the Board for Advance Rulings.

Clause 383 of the Bill provides for filing of application before the Board for Advance Rulings.

Clause 384 of the Bill seeks to provide for procedure to process the application made for advance rulings.

Clause 385 of the Bill seeks to provide that certain authorities not to proceed to decide in certain cases where application for advance ruling has been made.

Clause 386 of the Bill seeks to provide that advance ruling to be void in certain circumstances.

Clause 387 of the Bill seeks to provide for powers of the Board for Advance Rulings.

Clause 388 of the Bill seeks to empower the Board for Advance Rulings to regulate its own procedure.

Clause 389 of the Bill provides for appeal to High Court on the rulings pronounced by the Board for Advance Rulings.

Clause 390 of the Bill provides for the provisions relating to tax deduction at source, tax collection at source, advance payment, etc., as modes of tax payment.

Clause 391 of the Bill provides for provisions relating to direct payment of tax by assessee in certain conditions.

Clause 392 of the Bill provides for provisions relating to tax deduction at source on salary and accumulated balance to an employee.

Clause 393 of the Bill provides for provisions relating to tax deduction at source on various payments.

Clause 394 of the Bill provides for provisions relating to tax collection at source on various transactions.

Clause 395 of the Bill provides for provisions relating to issuance of certificate for lower deduction of tax.

Clause 396 of the Bill seeks to provide the certain sums which shall be deemed as income received for the purposes of computing the income of the assessee.

Clause 397 of the Bill seeks to provide for compliance and reporting requirements for tax deduction at source and tax collection at source.

Clause 398 of the Bill seeks to provide for consequence for failure to deduct or collect or pay tax.

Clause 399 of the Bill seeks to provide for processing of statements of tax deduction at source and tax collection at source filed.

Clause 400 of the Bill empowers the Central Government to relax the provisions of tax deduction at source and tax collection at source.

Clause 401 of the Bill seeks to provide for provisions relating to bar against the demand on assessee to the extent tax has been deducted.

Clause 402 of the Bill seeks to provides for definition of certain expressions used in the chapter of collection and recovery of tax.

Clause 403 of the Bill seeks to provide for liability for payment of advance tax during the tax year in respect of total income of an assessee.

Clause 404 of the Bill seeks to provide for conditions where assessee shall be required to pay advance tax.

Clause 405 of the Bill seeks to provides for the provisions relating to the method for computation of advance tax payable in a tax year.

Clause 406 of the Bill seeks to provide for payment of advance tax by assessee on his own accord.

Clause 407 of the Bill provides for payment of advance tax by an assessee in pursuance of an order of the Assessing Officer.

Clause 408 of the Bill provides for payment of advance tax in four instalments and by the due dates as made by the rules.

Clause 409 of the Bill seeks to provide for deeming an assessee to be in default for failure to pay advance tax as per the order of the Assessing Officer.

Clause 410 of the Bill seeks to provide for giving credit for advance tax paid by or recovered from an assessee as a payment of tax in respect of the income of the tax year.

Clause 411 of the Bill seeks to provide for the provisions relating to notice of demand, tax payable and when assessee is deemed to be in default.

Clause 412 of the Bill seeks to provide for penalty which shall be payable when assessee is in tax default.

Clause 413 of the Bill seeks to provide for drawing up of a certificate in respect of an assessee in default by the Tax Recovery Officer, specifying the amount of arrears due from the assessee and the recovery thereof.

Clause 414 of the Bill seeks to specify the Tax Recovery Officer by whom recovery is to be effected.

Clause 415 of the Bill empowers the Tax Recovery Officer to stay the recovery proceedings of his own accord or in pursuance of reduction in demand because of an appeal or other proceedings under the proposed legislation.

Clause 416 of the Bill empowers the Assessing Officer with modes of recovery where no certificate is drawn up by the Tax Recovery Officer.

Clause 417 of the Bill provides for recovery of tax through State Government in any area where recovery of tax has been entrusted to a State Government under article 258(1) of the Constitution.

Clause 418 of the Bill provides for recovery of tax on behalf of the Government of any foreign country under an agreement between the two Governments from a resident of India or a person having any property in India through a Tax Recovery Officer.

Clause 419 of the Bill provides for the provisions relating to recovery of penalties, fine, interest and other sums in the same manner as provided for recovery of tax.

Clause 420 of the Bill seeks to provide for the requirement of a no objection certificate to be issued by the prescribed authority to a person who is not domiciled in India and has come to India in connection with business, profession or employment and who has income derived from any source in India for leaving India.

Clause 421 of the Bill seeks to provide that recovery by suit or under other law will not be affected notwithstanding tax due being recovered under any mode prescribed in the proposed legislation.

Clause 422 of the Bill seeks to provide for recovery of tax arrears from a non-resident from his assets.

Clause 423 of the Bill seeks to provide that the assessee shall be liable to pay interest for default in furnishing return of income.

Clause 424 of the Bill seeks to provide that the assessee shall be liable to pay interest for failure to pay advance tax or where the advance tax paid by the assessee falls short of 90% of the assessed tax.

Clause 425 of the Bill seeks to provide that the assessee shall be liable to pay interest for failure to pay full amount of any instalment of advance tax by the due date for that instalment.

Clause 426 of the Bill seeks to provide that the assessee shall be liable to pay interest on any amount refunded to him in excess of the refund actually due.

Clause 427 of the Bill seeks to provide that the assessee shall be liable to pay fee of for delay in furnishing of statement regarding taxes deducted or collected at source.

Clause 428 of the Bill seeks to provide that the assessee shall be liable to pay a fee for failure to furnish a return of income by the prescribed due date.

Clause 429 of the Bill seeks to provide that the assessee shall be liable to pay a fee of for delay in furnishing of prescribed statement or certificate relating to expenditure on scientific research and by an institution or fund established in India for charitable purposes.

Clause 430 of the Bill seeks to provide that the assessee shall be liable to pay a fee for failure to intimate his Aadhaar number by the prescribed date.

Clause 431 of the Bill provides for refund of excess amount paid by an assessee where the tax paid is more than the tax actually chargeable.

Clause 432 of the Bill provides that the legal representative or the trustee or guardian or receiver, to claim or receive refund for the benefit of a person who is unable to claim or receive the refund due to him on account of death, incapacity, insolvency, liquidation or other cause or his estate.

Clause 433 of the Bill seeks to provide that every claim of refund shall be made by furnishing a return of income.

Clause 434 of the Bill seeks to provide for refund of tax deducted and paid to the Central Government by a person by whom the income is payable and who was required by an agreement to bear such tax deductible on the income on a claim made by him that no tax was required to be deducted on such income.

Clause 435 of the Bill seeks to provide that the Assessing Officer shall refund any amount becoming due to the assessee as a result of any appellate order without the assessee being required to make any claim in this regard.

Clause 436 of the Bill seeks to provide that the assessee shall not be entitled to question the correctness of any assessment or other matter which has become final or to claim any other relief except refund of tax wrongly paid or paid in excess.

Clause 437 of the Bill seeks to provide that the assessee shall be entitled to receive interest in addition to the refund due to him.

Clause 438 of the Bill seeks to provide for setting off the amount to be refunded or any part of that amount, against any sum remaining payable under this Bill by such person after giving prior intimation to such person.

Clause 439 of the Bill seeks to impose penalty for under-reporting and mis-reporting of income.

Clause 440 of the Bill deals with the conditions and circumstances under which immunity from imposition of penalty and initiation of prosecution proceedings.

Clause 441 of the Bill seeks to impose penalty for failure to keep, maintain or retain books of account, documents, etc.

Clause 442 of the Bill seeks to impose penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

Clause 443 of the Bill seeks to provide for imposition of penalty, if the income which includes any cash credits, unexplained investment, unexplained money, unexplained expenditure, amount of investment, etc., not fully disclosed in books of account and amount borrowed or repaid on *hundi*.

Clause 444 of the Bill seeks to impose penalty for false entry or omitted entry in the books of account.

Clause 445 of the Bill seeks to impose penalty for violation of certain provisions by specified persons.

Clause 446 of the Bill seeks to provide for imposition of penalty for failure to get accounts audited.

Clause 447 of the Bill seeks to provide for imposition of penalty for failure to furnish a report from an accountant as required by clause 172.

Clause 448 of the Bill seeks to provide for imposition of penalty for failure to deduct tax at source.

Clause 449 of the Bill seeks to provide for imposition of penalty for failure to collect tax at source.

Clause 450 of the Bill provides for imposition of penalty if a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of clause 185.

Clause 451 of the Bill provides for imposition of penalty for failure to comply with the provisions of clause 186.

Clause 452 of the Bill provides for imposition of penalty for failure to comply with the provisions of clause 187.

Clause 453 of the Bill provides for imposition of penalty for failure to comply with the provision of clause 188.

Clause 454 of the Bill seeks to provide for imposition of penalty for failure to furnish statement of financial transaction or reportable account.

Clause 455 of the Bill seeks to provide for imposition of penalty for furnishing inaccurate statement of financial transaction or reportable account.

Clause 456 of the Bill seeks to provide for imposition of penalty for failure to furnish statement or information or document by an eligible investment fund.

Clause 457 of the Bill seeks to provide for imposition of penalty for failure to furnish statement or information or document under clause 171.

Clause 458 of the Bill seeks to provide for imposition of penalty for failure to furnish information or document under clause 506.

Clause 459 of the Bill seeks to provide for imposition of penalty for failure to furnish report or for furnishing inaccurate report under clause 511.

Clause 460 of the Bill seeks to provide for imposition of penalty for failure to submit statement under clause 505.

Clause 461 of the Bill seeks to provide for imposition of penalty for failure to submit statement as required under clause 397(*3*)(*b*).

Clause 462 of the Bill seeks to provide for imposition of penalty for failure to furnish information or furnishing inaccurate information as required under clause 397(*3*)(*d*).

Clause 463 of the Bill seeks to provide for imposition of penalty for furnishing incorrect information in reports or certificates by any accountant or merchant banker or registered valuer.

Clause 464 of the Bill seeks to provide for imposition of penalty for failure to furnish statements by certain institutions or funds.

Clause 465 of the Bill seeks to provide for imposition of penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

Clause 466 of the Bill seeks to provide for imposition of penalty for failure to comply with the provisions of clause 254.

Clause 467 of the Bill seeks to provide for imposition of penalty for failure to comply with the provisions of clause 262.

Clause 468 of the Bill seeks to provide for imposition of penalty for failure to comply with the provisions of clause 397(*1*).

Clause 469 of the Bill seeks to provide for power to reduce or waive penalty, etc., in certain cases.

Clause 470 of the Bill seeks to provide that penalty in certain cases shall not be imposed for reasonable cause.

Clause 471 of the Bill seeks to provide for the procedure for levy of penalty.

Clause 472 of the Bill provides for bar of limitation for imposing penalty.

Clause 473 of the Bill seeks to provide for punishment for contravention of order passed under clause 247 (*1*)(*viii*) or (*4*).

Clause 474 of the Bill seeks to provide for punishment for failure to comply with clause 247 (*1*)(*b*)(*ii*).

Clause 475 of the Bill seeks to provide for punishment for the removal, concealment, transfer or delivery of property to evade tax recovery.

Clause 476 of the Bill seeks to provide for punishment for failure to pay tax to the credit of Central Government as required under Chapter XIX-B.

Clause 477 of the Bill seeks to provide for punishment for failure to pay collected tax to the credit of Central Government.

Clause 478 of the Bill seeks to provide for punishment for wilful attempt to evade tax, penalty, etc.

Clause 479 of the Bill seeks to provide for punishment for failure to furnish return of income.

Clause 480 of the Bill seeks to provide for punishment for failure to furnish return of income in search cases.

Clause 481 of the Bill seeks to provide for punishment for failure to produce accounts and documents.

Clause 482 of the Bill seeks to provide for punishment for making of false statement in verification, etc.

Clause 483 of the Bill seeks to provide for punishment for falsification of books of account or document, etc., to evade tax.

Clause 484 of the Bill seeks to provide for punishment for abetment of false return, etc.

Clause 485 of the Bill seeks to provide for punishment for second and subsequent offences.

Clause 486 of the Bill seeks to provide for that punishment shall not be imposed in certain cases for reasonable cause.

Clause 487 of the Bill seeks to provide for punishment for offences by companies.

Clause 488 of the Bill seeks to provide for punishment for Hindu undivided family.

Clause 489 of the Bill seeks to provide for presumption as to assets, book of accounts, etc., in certain cases.

Clause 490 of the Bill seeks to provide for presumption as to culpable mental state.

Clause 491 of the Bill seeks to provide for previous sanction of the Commissioner or Principal Commissioner or Joint Commissioner (Appeals) or Commissioner (Appeals) or Principal Chief Commissioner to launch prosecution of certain offences.

Clause 492 of the Bill seeks to provide for certain offences to be non-cognizable irrespective of the provisions contained in the Bharatiya Nagarik Suraksha Sanhita, 2023.

Clause 493 of the Bill seeks to provide that entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence.

Clause 494 of the Bill provides for punishment for contravention of clause 258(*3*) relating to disclosure of information by public servants.

Clause 495 of the Bill seeks to provide for trial of offences under the Bill by special Court.

Clause 496 of the Bill seeks to provide for trial of offences under the Bill by special Court irrespective of the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Clause 497 of the Bill seeks to provide for trial of offences as summons case.

Clause 498 of the Bill seeks to provide for application of the Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court.

Clause 499 of the Bill seeks to provide that transfers of assets shall be void as against any claim in respect of any tax payable by the assessee as a result of the completion of the pending proceeding or otherwise.

Clause 500 of the Bill empowers the Assessing Officer to provisionally attach any property belonging to the assessee during the pendency of an assessment, reassessment or penalty proceeding, to protect the interests of the revenue.

Clause 501 of the Bill seeks to provide mode of service of a notice, summon, requisition, order or any other communication.

Clause 502 of the Bill provides for manner of authentication of a notice or other document shall be issued by any income-tax authority.

Clause 503 of the Bill seeks to provide for service of notice on partition of a Hindu undivided family or on dissolution of a firm.

Clause 504 of the Bill seeks to provide for service of notice to be made in the case of a discontinued business or profession.

Clause 505 of the Bill provides for submission of statement a non-resident, having a liaison office in India set up as per the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999.

Clause 506 of the Bill seeks to provide for furnishing information or documents by an Indian concern in certain cases to the prescribed income-tax authority.

Clause 507 of the Bill seeks to provide for submission of statements by persons carrying on the production of a cinematograph film or engaged in any specified activity.

Clause 508 of the Bill seeks to provide for furnishing of statement by a prescribed reporting financial institution in respect of a specified financial transaction or reportable account to the prescribed income-tax authority.

Clause 509 of the Bill seeks to provide for furnishing of information in respect of a transaction of a crypto-asset.

Clause 510 of the Bill seeks to provide that the prescribed income-tax authority or the person authorised by such authority shall provide an annual information statement in the prescribed manner.

Clause 511 of the Bill seeks to provide for furnishing of reports in respect of international group.

Clause 512 of the Bill seeks to provide for publication of information in respect of proceedings or prosecution in certain cases.

Clause 513 of the Bill seeks to provide that any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding relating to valuation of any asset may be represented by a registered valuer.

Clause 514 of the Bill seeks to provide for the procedure for registration of valuers.

Clause 515 of the Bill seeks to provide that an assessee, entitled or required to attend before an income-tax authority or Appellate Tribunal for any proceeding under this Bill, may attend through an authorised representative.

Clause 516 of the Bill seeks to provide for rounding off of amount of total income, or tax payable or payable or refundable.

Clause 517 of the Bill seeks to provide that a receipt shall be given for any money paid or recovered under this Bill.

Clause 518 of the Bill seeks to provide that every person deducting, retaining, or paying any tax in pursuance of this clause in respect of an income belonging to another person shall be indemnified for the deduction, retention, or payment thereof.

Clause 519 of the Bill seeks to provide for the power to tender immunity from prosecution to the Central Government.

Clause 520 of the Bill provides that no court inferior to that of a Judicial Magistrate of First Class shall try any offence under this Bill.

Clause 521 of the Bill seeks to provide for the barring of the application of the Probation of Offenders Act, 1958 and section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to persons convicted under the Bill who are not under the age of 18 years.

Clause 522 of the Bill seeks to that no return of income, assessment, notice, summons or other proceeding shall be invalid merely by reason of any mistake, defect or omission.

Clause 523 of the Bill seeks to provide that where an assessee has appeared in any proceeding or cooperated in any inquiry related to an assessment or reassessment, it shall be deemed that any notice has been duly served upon him.

Clause 524 of the Bill provides for a rebuttable presumption with respect to books of account, other documents, money, bullion, jewellery or other valuable article or thing found in the possession or control of any person in the course of a search or survey.

Clause 525 of the Bill seeks to provide for authorisation and assessment in case of search or requisition.

Clause 526 of the Bill seeks to provide for bar of suits in civil courts in relation to proceedings under the Bill.

Clause 527 of the Bill seeks to empower the Central Government to make exemption, etc., in relation to participation in business of prospecting for, extraction, etc., of mineral oils.

Clause 528 of the Bill seeks to empower the Central Government or Board to condone delays in obtaining approval.

Clause 529 of the Bill seeks to specify for withdrawal of approval where Central Government or Board have the power to grant any such approval.

Clause 530 of the Bill seeks to provide for effectivity for charge of tax in case of pending legislative provision.

Clause 531 of the Bill seeks to provide for rescinding exemption in relation to certain Union territories already granted.

Clause 532 of the Bill seeks to empower the Board, subject to the control of the Central Government, to make Schemes.

Clause 533 of the Bill seeks to empower the Board, subject to the control of the Central Government, to make rules.

Clause 534 of the Bill seeks to provide for laying of rules and certain notifications before Parliament.

Clause 535 of the Bill seeks to empower the Central Government to remove difficulties.

Clause 536 of the Bill seeks to provide for repeal of the Income-tax Act, 1961 and saving of certain actions taken thereunder.

FINANCIAL MEMORANDUM

This Bill seeks to repeal the Income-tax Act, 1961 and re-enact the proposed legislation so that no additional expenditure of significance, apart from what is being spent on the administration of the said Act, is contemplated by reason merely of passing of this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The provisions of the Bill, *inter alia*, empower the Central Government to issue notifications and the Board to make rules and issue guidelines for various purposes as specified therein.

2. Sub-clause (*4*) of clause 8 of the Bill empowers the Board to issue guidelines with the prior approval of the Central Government for removing any difficulty arising in giving effect to the provisions of the said clause and clause 67(*10*).

3. Sub-clause (*15*) of clause 166 of the Bill empowers the Board to issue guidelines with the prior approval of the Central Government for removing any difficulty arising in giving effect to the provisions of the sub-clauses (*9*) and (*12*) of the said clause.

4. Sub-clause (*2*) of clause 205 of the Bill empowers the Board to issue guidelines with the prior approval of the Central Government for removing any difficulty arising in giving effect to the provisions of the item (*b*) or (*c*) or (*d*) of the said sub-clause.

5. Sub-clause (*8*) of clause 267 of the Bill empowers the Board to issue guidelines with the prior approval of the Central Government for removing any difficulty arising in giving effect to the provisions of the said clause.

6. The Bill seeks to make provisions to lay the guidelines referred to in paragraphs 2 to 5 above shall be laid, as soon as may be, after it is made, before each House of Parliament.

7. Clause 533 of the Bill empowers the Board to make rules for carrying out the purposes of the proposed legislation, subject to the control of the Central Government. It, *inter alia*, seeks to empower the Board to make rules for (*a*) the ascertainment and determination of any class of income; (*b*) the manner in which and the procedure by which the income shall be arrived at in the case of (*i*) income derived in part from agriculture and in part from business; (*ii*) persons residing outside India; (*iii*) operations carried out in India by a non-resident; (*iv*) transactions or activities of a non-resident; (*v*) an individual who is liable to be assessed under clause 99(*3*) and (*4*); (*c*) the determination of the value of any perquisite chargeable to tax under the proposed legislation in such manner and on such basis as appears to the Board to be proper and reasonable; (*d*) the percentage on the written down value which may be allowed as depreciation for buildings, machinery, plant or furniture; (*e*) the matters specified in clause 62; (*f*) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under clause 134; (*g*) the matters specified in Chapter XI; (*h*) the time within which any person may apply for the allotment of a Permanent Account Number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which Permanent Account Number shall be quoted on documents relating to such transactions under clause 262; (*i*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under clause 263 (*2*)(*a*); (*j*) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under clause 263 (*2*)(*a*); (*k*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under clause 263(*2*)(*b*); (*l*) the form of the report of audit or inventory valuation and the particulars which such report shall contain under clause 268(*5*); (*m*) remuneration of Chairperson and members of the Approving Panel under clause 274(*21*) and procedure and manner for constitution of, functioning

and disposal of references by, the Approving Panel under clause 274(*24*); (*n*) the form and manner in which the information relating to payment of any sum may be furnished under clause 397(*3*)(*d*); (*o*) the authority to be prescribed for any of the purposes of the proposed legislation; (*p*) the procedure for giving effect to any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation entered into by the Central Government under the proposed legislation; (*q*) the procedure for granting of relief or deduction, of any income-tax paid in any country or specified territory outside India, under clause 159 or 160, against the income-tax payable under the proposed legislation; (*r*) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim; (*s*) the manner in which any document required to be filed under the proposed legislation may be verified; (*t*) the procedure to be followed on applications for refunds; (*u*) the procedure for calculating interest payable by assessees or by the Government to assessees under the proposed legislation, including the rounding off of periods when a fraction of a month is involved, and specifying the circumstances under which and the extent to which petty amounts of interest payable by assessees may be ignored; (*v*) the regulation of any matter for which provision is made in clause 420; (*w*) the form and manner in which any appeal or cross-objection may be filed under the proposed legislation, the fee payable in respect thereof and the manner in which intimation referred to in clause 358 (*3*)(*b*) may be served; (*x*) the circumstances, conditions and the manner in which, the Joint Commissioner (Appeals) or the Commissioner (Appeals) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Assessing Officer; (*y*) the form in which the statement under clause 507 shall be delivered to the Assessing Officer; (*z*) the maintenance of a register of persons other than legal practitioners or accountants practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in clause 515(*5*); (*za*) the issue of certificate verifying the payment of tax by assessees; and (*zb*) any other matter which is to be provided by rules under the proposed legislation.

8. Sub-clause (*3*) of clause 535 of the Bill seeks to provide that every removal of difficulty order made under the said clause shall be laid, as soon as may be, after it is made, before each House of Parliament.

9. The conditions specified in the Note to Table:2.C of Schedule II, *inter alia*, empowers the Board to issue guidelines with the prior approval of the Central Government for removing any difficulty arising in giving effect to the provisions of the said clause. The said clause further provides that the guidelines so issued shall be laid, as soon as may be, after it is made, before each House of Parliament.

10. The matters in respect of which rules may be made are matters of procedure and details and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

LOK SABHA

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BILL

to consolidate and amend the law relating to income-tax.

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(*Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs*)